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Material detention conditions, execution of custodial sentences and prisoner transfer in the EU Member States

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Principal
European Commission
DG Justice
(JLS/2009/JPEN/PR/0031/E4)



Institute for International
Research on Criminal Policy
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Acronyms and abbreviations

Acronym/ abbreviation	Meaning
APCTSP	Additional Protocol to the Convention on the Transfer of Sentenced Persons (CoE)
BOP	Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment (UN)
BPTP	Basic Principles for the Treatment of Prisoners (UN)
BPUF	Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (UN)
BR	Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) (UN)
CCLEO	Code of Conduct for Law Enforcement Officials
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women (UN)
CERD	Convention on the Elimination of all Forms of Racial Discrimination (UN)
CFREU	Charter of Fundamental Rights of the European Union
CoE	Council of Europe
The CPT	The Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CoE)
CPT	European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CoE)
CRC	Convention on the Rights of the Child (UN)
CSCSCRO	Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders (CoE)
CTSP	Convention on the Transfer of Sentenced Persons (CoE)
DIT	Directive of the European Parliament and of the Council on the Rights to Interpretation and to Translation in Criminal Proceedings (EU)
DOMHS	World Medical Association Declaration of Malta on Hunger Strikers
ECHR	European Convention for the protection of Human Rights and Fundamental Freedoms, as amended by Protocol No. 11 (CoE)
ECHRP1	Additional Protocol No. 1 (Right to Protection of Property and Education) to the ECHR, as amended by Protocol No. 11
ECHRP12	Additional Protocol No. 12 (General Prohibition on Discrimination) to the ECHR, as amended by Protocol No. 11
ECHRP13	Additional Protocol No. 13 (Abolition of the Death Penalty in all Circumstances) to the ECHR, as amended by Protocol No. 11
ECHRP4	Additional Protocol No. 4 (Prohibition of Expulsion of Nationals and Collective Expulsion of Aliens) to the ECHR, as amended by Protocol No. 11
ECHRP6	Additional Protocol No. 6 (Abolition of the Death Penalty except in Times of War) to the ECHR, as amended by Protocol No. 11
ECHRP7	Additional Protocol No. 7 (Procedural Safeguards relating to the Expulsion of Aliens, Right of Appeal in Criminal Matters, Compensation for Wrongful Conviction) to the ECHR, as amended by Protocol No. 11
ECtHR	European Court of Human Rights
EJN	European Judicial Network

ACCRONYMS AND ABBREVIATIONS

Acronym/ abbreviation	Meaning
EPR	Recommendation No. R(2006)2 on the European Prison Rules (CoE)
ERJO	Recommendation No. R(2008)11 on the European Rules for Juvenile Offenders subject to Sanctions or Measures (CoE)
EU	European Union
FDCS	Framework Decision on the application of the Principle of Mutual Recognition to Judgements in Criminal Matters imposing Custodial Sentences or Measures Involving Deprivation of Liberty for the Purpose of their Enforcement in the European Union (EU)
FDEAW	Framework Decision on the European Arrest Warrant and the Surrender Procedures between Member States (EU)
FDP	Framework Decision on the Application of the Principle of Mutual Recognition to Judgements and Probation Decisions with a View to the Supervision of Probation Measures and Alternative Sanctions (EU)
FDPR	Framework Decision enhancing the Procedural Rights of Persons and Fostering the Application of the Principle of Mutual Recognition to Decisions rendered in the Absence of the Person Concerned at the Trial (EU)
ICCPR	International Covenant on Civil and Political Rights (UN)
ICESCR	International Covenant on Economic, Social and Cultural Rights (UN)
OPCAT	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UN)
PME	Principles of Medical Ethics Relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UN)
PPPMI	Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care (UN)
R(2000)1469	Recommendation on Mothers and Babies in Prison (CoE)
R(2003)22	Recommendation concerning Conditional Release (CoE)
R(2003)23	Recommendation on the Management by Prison Administrators of Life Sentence and other Long-term Prisoners (CoE)
R(2004)10	Recommendation concerning the Protection of the Human Rights and Dignity of Persons with Mental Disorders (CoE)
R(79)14	Recommendation concerning the Application of the European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders (CoE)
R(82)16	Recommendation on Prison Leave (CoE)
R(82)17	Recommendation concerning Custody and Treatment of Dangerous Prisoners (CoE)
R(84)12	Recommendation concerning Foreign Prisoners (CoE)
R(89)12	Recommendation on Education in Prison (CoE)
R(93)6	Recommendation concerning Prison and Criminological Aspects of the Control of Transmissible Diseases including Aids and related Health Problems in Prison (CoE)
R(98)7	Recommendation concerning the Ethical and Organisational Aspects of Health Care in Prison (CoE)
R(99)22	Recommendation concerning Prison Overcrowding and Prison Population Inflation (CoE)

Acronym/ abbreviation	Meaning
Resolution (62)2	Resolution on Electoral, Civil and Social Rights of Prisoners (CoE)
Resolution (70)1	Resolution on the Practical Organisation of Measures for the Supervision and After-care of Conditionally Sentenced or Conditionally Released Offenders (CoE)
RPJDL	Rules for the Protection of Juveniles Deprived of their Liberty (UN)
RTFP	Recommendation on the Treatment of Foreign Prisoners (UN)
SMR	Standard Minimum Rules for the Treatment of Prisoners (UN)
SPOC	Single Point of Contact
TEU/TFEU	Treaty on European Union and the Treaty on the Functioning of the European Union
TGFD	Twenty Guidelines on Forced Return (CoE)
UN	United Nations
UNCAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UN)
UNHCR	United Nations High Commissioner for Refugees

Index of legal instruments and documents

Legally binding international instruments/documents and their ratification status

United Nations

<i>Instrument</i>	<i>Signed</i>	<i>Ratified</i>
CEDAW Convention on the Elimination of all Forms of Discrimination against Women (entered into force 3 September, 1981)	All EU Member States	All EU Member States
CERD Convention on the Elimination of all Forms of Racial Discrimination (entered into force January 4, 1969)	All EU Member States	All EU Member States
CRC Convention on the Rights of the Child (entered into force 2 September, 1990)	All EU Member States	All EU Member States
ICCPR International Covenant on Civil and Political Rights (entered into force March 23, 1976)	All EU Member States	All EU Member States
ICESCR International Covenant on Economic, Social and Cultural Rights (entered into force January 3, 1976)	All EU Member States	All EU Member States
UNCAT Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (entered into force 26 June, 1987)	All EU Member States	All EU Member States
OPCAT Optional Protocol to the Convention against Torture and Other	All EU Member States	All EU Member States

ACCRONYMS AND ABBREVIATIONS

<i>Instrument</i>	<i>Signed</i>	<i>Ratified</i>
Cruel, Inhuman or Degrading Treatment or Punishment (entered into force 22, June 2006)	except Hungary, Latvia, Lithuania and Slovakia	except Hungary, Latvia, Lithuania, Slovenia, Austria, Belgium, Finland, Ireland, Italy and Portugal

Council of Europe

<i>Instrument</i>	<i>Signed</i>	<i>Ratified</i>	<i>Entered into force</i>
ECHR Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocol No. 11 (Rome, 4.XI.1950)	All EU Member States	All EU Member States	All EU Member States
ECHRP1 Additional Protocol No. 1 (Right to Protection of Property and Education) to the ECHR, as amended by Protocol No. 11 (Paris, 20.III.1952)	All EU Member States	All EU Member States	All EU Member States
ECHRP4 Additional Protocol No. 4 (Prohibition of Expulsion of Nationals and Collective Expulsion of Aliens) to the ECHR, as amended by Protocol No. 11 (Strasbourg, 16.IX.1963)	All EU Member States except Greece	All EU Member States except Greece and the United Kingdom	All EU Member States except Greece and the United Kingdom
ECHRP6 Additional Protocol No. 6 (Abolition of the Death Penalty except in Times of War) to the ECHR, as amended by Protocol No. 11 (Strasbourg, 28.IV.1983)	All EU Member States	All EU Member States	All EU Member States
ECHRP7 Additional Protocol No. 7 (Procedural Safeguards relating to the Expulsion of Aliens, Right of Appeal in Criminal Matters, Compensation for Wrongful Conviction) to the ECHR, as amended by Protocol No. 11 (Strasbourg, 22.XI.1984)	All EU Member States except the United Kingdom	All EU Member States except Belgium, Germany, the Netherlands and the United Kingdom	All EU Member States except Belgium, Germany, the Netherlands and the United Kingdom
ECHRP12 Additional Protocol No. 12 (General Prohibition on Discrimination) to the ECHR, as amended by Protocol No. 11 (Strasbourg, 4.X.2000)	All EU Member States except Bulgaria, Denmark, France, Lithuania, Malta,	All EU Member States except Austria, Belgium, Bulgaria, Czech Republic,	All EU Member States except Austria, Belgium, Bulgaria, Czech Republic,

ACCRONYMS AND ABBREVIATIONS

<i>Instrument</i>	<i>Signed</i>	<i>Ratified</i>	<i>Entered into force</i>
	Poland, Sweden and the United Kingdom	Denmark, Estonia, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, Poland, Portugal, Slovakia, Slovenia, Sweden and the United Kingdom	Denmark, Estonia, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, Poland, Portugal, Slovakia, Slovenia, Sweden and the United Kingdom
ECHR P13 Additional Protocol No. 13 (Abolition of the Death Penalty in all Circumstances) to the ECHR, as amended by Protocol No. 11 (Vilnius, 3.V.2002)	All EU Member States	All EU Member States except Latvia and Poland	All EU Member States except Latvia and Poland
CPT European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, as amended by Protocol No. 1 (Strasbourg, 26. XI. 1987)	All EU Member States	All EU Member States	All EU Member States
CTSP Convention on the Transfer of Sentenced Persons (Strasbourg 21.11.1983)	All EU Member States	All EU Member States	All EU Member States
APCTSP Additional Protocol to the Convention on the Transfer of Sentenced Persons (Strasbourg 18.XII.1997)	All EU Member States except Slovakia, Slovenia and Spain.	All EU Member States except Italy, Portugal, Slovakia, Slovenia and Spain.	All EU Member States except Italy, Portugal, Slovakia, Slovenia and Spain.
CSCSCRO Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders (Strasbourg 30.XI.1964)	All EU Member States except Bulgaria, Cyprus, Finland, Hungary, Ireland, Latvia, Lithuania, Poland, Romania, Spain and the United Kingdom	All EU Member States except Bulgaria, Cyprus, Denmark, Finland, Germany, Greece Hungary, Ireland, Latvia, Lithuania, Malta, Poland, Romania, Spain and the United Kingdom	All EU Member States except Bulgaria, Cyprus, Denmark, Finland, Germany, Greece Hungary, Ireland, Latvia, Lithuania, Malta, Poland, Romania, Spain and the United Kingdom

ACCRONYMS AND ABBREVIATIONS

European Union

- **CFREU** Charter of Fundamental Rights of the European Union (2007, entered into force 2009)
- **DIT** Directive of the European Parliament and of the Council on the Rights to Interpretation and to Translation in Criminal Proceedings (October 2010, entry into force November 2010)
- **FDCS** Framework Decision on the application of the Principle of Mutual Recognition to Judgements in Criminal Matters imposing Custodial Sentences or Measures Involving Deprivation of Liberty for the Purpose of their Enforcement in the European Union (2008, entry into force 2011)
- **FDEAW** Framework Decision on the European Arrest Warrant and the Surrender Procedures between Member States (2002, final date for entry into force 2004)
- **FDP** Framework Decision on the Application of the Principle of Mutual Recognition to Judgements and Probation Decisions with a View to the Supervision of Probation Measures and Alternative Sanctions (2008, entry into force 2011)
- **FDPR** Framework Decision enhancing the Procedural Rights of Persons and Fostering the Application of the Principle of Mutual Recognition to Decisions rendered in the Absence of the Person Concerned at the Trial (2009, entry into force 2011)
- **TEU/TFEU** Treaty on European Union and the Treaty on the Functioning of the European Union (entered into force 2009)

Non-binding international instruments/documents

United Nations

- **BOP** Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment (1988)
- **BPTP** Basic Principles for the Treatment of Prisoners (1990)
- **BPUF** Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990)
- **BR** Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) (1985)
- **CLEO** Code of Conduct for Law Enforcement Officials, (1979)
- **PME** Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1982)
- **PPMI** Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care (1991)
- **RTEP** Recommendation on the Treatment of Foreign Prisoners (1980)
- **RPJDL** United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990)
- **SMR** Standard Minimum Rules for the Treatment of Prisoners (1957), amended (1977)

Council of Europe

- **EPR** Recommendation No. R(2006)2 on the European Prison Rules
- **ERJO** Recommendation No. R(2008)11 on the European Rules for Juvenile Offenders subject to Sanctions or Measures
- **R(79)14** concerning the Application of the European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders
- **R(82)16** on Prison Leave
- **R(82)17** concerning Custody and Treatment of Dangerous Prisoners
- **R(84)12** concerning Foreign Prisoners
- **R(89)12** on Education in Prison

ACCRONYMS AND ABBREVIATIONS

- **R(93)6** concerning Prison and Criminological Aspects of the Control of Transmissible Diseases including Aids and related Health Problems in Prison
- **R(98)7** concerning the Ethical and Organisational Aspects of Health Care in Prison
- **R(99)22** concerning Prison Overcrowding and Prison Population Inflation
- **R(2000)1469** on Mothers and Babies in Prison
- **R(2003)23** on the Management by Prison Administrators of Life Sentence and other Long-term Prisoners
- **R(2004)10** concerning the Protection of the Human Rights and Dignity of Persons with Mental Disorders
- **R(2003)22** concerning Conditional Release
- **Resolution (70)1** on the Practical Organisation of Measures for the Supervision and After-care of Conditionally Sentenced or Conditionally Released Offenders
- **Resolution (62)2** on Electoral, Civil and Social Rights of Prisoners
- **TGFD** Twenty Guidelines on Forced Return

Other

DOMHS World Medical Association Declaration of Malta on Hunger Strikers 1991

Executive summary

Introduction and background to the study

The adoption of mutual recognition as the cornerstone of judicial cooperation in criminal matters within the European Union has resulted in an extension of the EU acquis via a range of legal instruments designed to give effect to the 'area of freedom, security and justice' as envisaged by the Treaty of Amsterdam. One of these instruments is the 2008 Framework Decision on the application of the principle of mutual recognition to judgements in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the EU, due to be fully implemented by the end of 2011.

The introduction of this Framework Decision immediately sparked discussions as to whether the operation of the instrument would be compatible with its very objective, being the enhancement of detained persons' social rehabilitation prospects.

In an important speech to the European Law Academy given in March 2010, the European Commission Vice President, Viviane Reding, highlighted a range of concerns relating to prison conditions in EU Member States. She focused in particular on the problem of prison overcrowding, stating that in over 50% of EU countries the prison occupancy rate is now more than 100%; in four countries, this figure even exceeds 120%. Citing both the European Convention on Human Rights and the EU Charter of Fundamental Rights, the Commissioner warned that inhuman or degrading prison conditions had the potential to seriously undermine new EU rules on prisoner transfer.

However, prison conditions are not the only factor that has to be taken into account. Transferring detained people back to their respective Member State of residence and/or nationality is somewhat precarious in light of the often substantial variety of Member States' legal systems with regards to sentence execution modalities and variations in Member State's provisions of early/conditional release. These differences could result in a deteriorated detention position for the detainee as a consequence of a transfer to another Member State. In addition, the Framework decision implies a shift from a voluntary to an often obligatory transfer system, where the consent of the detained person is no longer necessary.

Study

In this context, and following a call for tender by the European Commission, the biggest study to date on Member States' material detention conditions as well as on early/conditional release and earned remission provisions and sentence execution modalities was conducted.

The project team collated information on key legislation and policy which impacts on prison conditions via an electronic online questionnaire. Completed legal framework questionnaires were received from 24 of the 27 EU Member States. The results not only provide a good account of Member States' legal systems, they also show the extent to which EU Member States have incorporated obligations arising from European and international norms and standards and/or jurisprudence from the European Court of Human Rights.

In addition to exploring the diversity of legal frameworks within the EU, the study also assessed practitioners' views on cross border execution of custodial sentences. Questionnaires were addressed to key legal practitioners with knowledge of issues concerning material detention conditions, custodial sentence execution and the transfer of prisoners across the EU and was executed, as above, using an electronic online system. Completed questionnaires were received from 46 legal practitioners - 14 judges, 20 advocates and 11 representatives from competent authorities. In total practitioners from 21 EU Member States participated in this survey. The questionnaire results provide information on whether, or to what extent, practitioners view the implementation of the Framework Decision as problematic, alongside testing the need for a

variety of flanking measures identified on the basis of a preliminary assessment of the instrument's deficiencies.

The study is divided in two parts. Part one is published in IRCP-Series volume 40 ('Cross-border execution of judgments involving deprivation of liberty in the EU. Overcoming legal and practical problems through flanking measures'). The problem description and analysis provided for in this volume are to a large extent based on the detailed Member State information that has been collected via the national legal framework questionnaire. This volume (41: 'Material detention conditions, execution of custodial sentences and prisoner transfer in the EU Member States') contains the answers to the questions of the national legal framework questionnaire, preceded by a factsheet based on the latest data of the International Centre for Prison Studies (ICPS). The information in the different chapters of this volume is complemented with a short analysis on 1) the international instrument compliance and 2) the national detention situation in practice based on desktop research undertaken by the project team. Volume 41 could be consulted as a background document to volume 40.

Main observations

The exercise conducted for this part of the study reflects the concerns relating to prison conditions in EU Member States highlighted by the European Commission Vice President, Viviane Reding, in March 2010. Prison overcrowding indeed seems to be a problem in prisons across the EU. As we know from inter alia CPT reports also, prison overcrowding is in fact the mother of many other problems relating to prison conditions, such as inter-prisoner violence, insufficient cell space per prisoner, staff shortage, inadequate programmes of activities, poor health conditions, etc. As a free comment to the legal questionnaire, the national contact persons, who filled out the questionnaire, could indicate what according to their opinion were the main problems concerning prison conditions in their country. Most of them indicated prison overcrowding as the number one problem. Old prison facilities was found to be a huge problem as well. Only one respondent mentioned supervision and mentoring after release, while another respondent mentioned prison work a number one problem. Sanitation facilities was mentioned by one Member State only as the number one problem. However, the overall survey results show that health care is a serious area of concern (see in this respect and for more areas of concern: paragraph 4.3.4 of volume 40).

This volume underpins the third problem identified in volume 40, which holds that the survey results identified often subordinate material detention conditions in most Member States, which could potentially infringe on prisoners' fundamental rights under the European Convention on Human Rights. In this regard it is alarming to acknowledge that a vast number of inferior standards derive from binding European and international norms and standards and/or ECtHR's jurisprudence, and that the only possible sanctioning of insufficient implementation by the Member States appears to be the ECtHR's jurisprudence, which implies that an immense burden of proof rests upon the prisoner (read more: chapter 4 of volume 40).

We see that many legally binding and non legally binding commitments have been incorporated in the different EU jurisdictions. However, this doesn't tell anything about the actual situation in practice, which is not always in line with what law and/or policy prescribe(s). In order to expose this gap between law in books and law in practice in greater detail, further and (perhaps) more empirical oriented research is needed..

1 Introduction and background to the study

The adoption of mutual recognition as the cornerstone of judicial cooperation in criminal matters within the European Union has resulted in an extension of the EU *acquis* via a range of legal instruments designed to give effect to the 'area of freedom, security and justice' as envisaged by the Treaty of Amsterdam. One of these instruments is the 2008 Framework Decision on the application of the principle of mutual recognition to judgements in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the EU, due to be fully implemented by the end of 2011 (for the purpose of this book: the Framework Decision (on Transfer of Prisoners)). The introduction of this Framework Decision immediately sparked discussions as to whether the operation of the instrument would be compatible with its very objective, being the enhancement of detained persons' social rehabilitation prospects.

In an important speech to the European Law Academy given in March 2010, the European Commission Vice President, Viviane Reding, highlighted a range of concerns relating to prison conditions in EU Member States. She focused in particular on the problem of prison overcrowding, stating that in over 50% of EU countries the prison occupancy rate is now more than 100%; in four countries, this figure even exceeds 120%. Citing both the European Convention on Human Rights and the EU Charter of Fundamental Rights, the Commissioner warned that inhuman or degrading prison conditions had the potential to seriously undermine new EU rules on prisoner transfer.

However, prison conditions are not the only factor that has to be taken into account. Transferring detained people back to their respective Member State of residence and/or nationality is somewhat precarious in light of the often substantial variety of Member States' legal systems with regards to sentence execution modalities and variations in Member State's provisions of early/conditional release. These differences could result in a deteriorated detention position for the detainee as a consequence of a transfer to another Member State. In addition, the Framework decision implies a shift from a voluntary to an often obligatory transfer system, where the consent of the detained person is no longer necessary.

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In addition to exploring the diversity of legal frameworks within the EU, the study also assessed practitioners' views on cross border execution of custodial sentences. Questionnaires were addressed to key legal practitioners with knowledge of issues concerning material detention conditions, custodial sentence execution and the transfer of prisoners across the EU and was executed, as above, using an electronic online system. Completed questionnaires were received from 46 legal practitioners - 14 judges, 20 advocates and 11 representatives from competent authorities. In total practitioners from 21 EU Member States participated in this survey. The questionnaire results provide information on whether, or to what extent, practitioners view the implementation of the Framework Decision as problematic, alongside testing the need for a variety of flanking measures identified on the basis of a preliminary assessment of the instrument's deficiencies.

The study is divided in two parts. Part one is published in IRCP-Series volume 40 ('Cross-border execution of judgments involving deprivation of liberty in the EU. Overcoming legal and practical problems through flanking measures'). The problem description and analysis provided for in this volume are to a substantial extent based on the detailed Member State information that has been collected via the national legal framework questionnaire. This volume (41: 'Material detention conditions, execution of custodial sentences and prisoner transfer in the EU Member States') contains the answers to the questions of the national legal framework questionnaire, preceded by a factsheet based on the latest data of the International Centre for Prison Studies (ICPS). Volume 41 could be consulted as a background document to volume 40.

The information in the different chapters is complemented with a short analysis entailing an 'international instrument compliance' and 'situation in practice'. The latter holds a description of the national detention situation in practice based on desktop research undertaken by the project team. Given that there is often a discrepancy between officially stated legal and policy positions and the day to day reality in custodial institutions, information for the detention situation in practice has been drawn from non-governmental sources to maximise objectivity. The following sources were used in the preparation of the exercise:

- Study on Pre-Trial Detention in the EU (for the EC) (Tilburg University);
- CPT country reports (both periodic and ad-hoc);
- CPT source documents;
- Reports issued by the CoE Commissioner For Human Rights;
- Reports issued by the UN Committee Against Torture;
- Reports issued by the UN Sub-Committee Against Torture;
- Reports issued by the UN High Commissioner for Refugees;
- Reports issued by independent national prison inspectorates;
- Reports issued by NGO.'s (e.g. Association for the Prevention of Torture, International Centre for Prison Studies, Amnesty International).

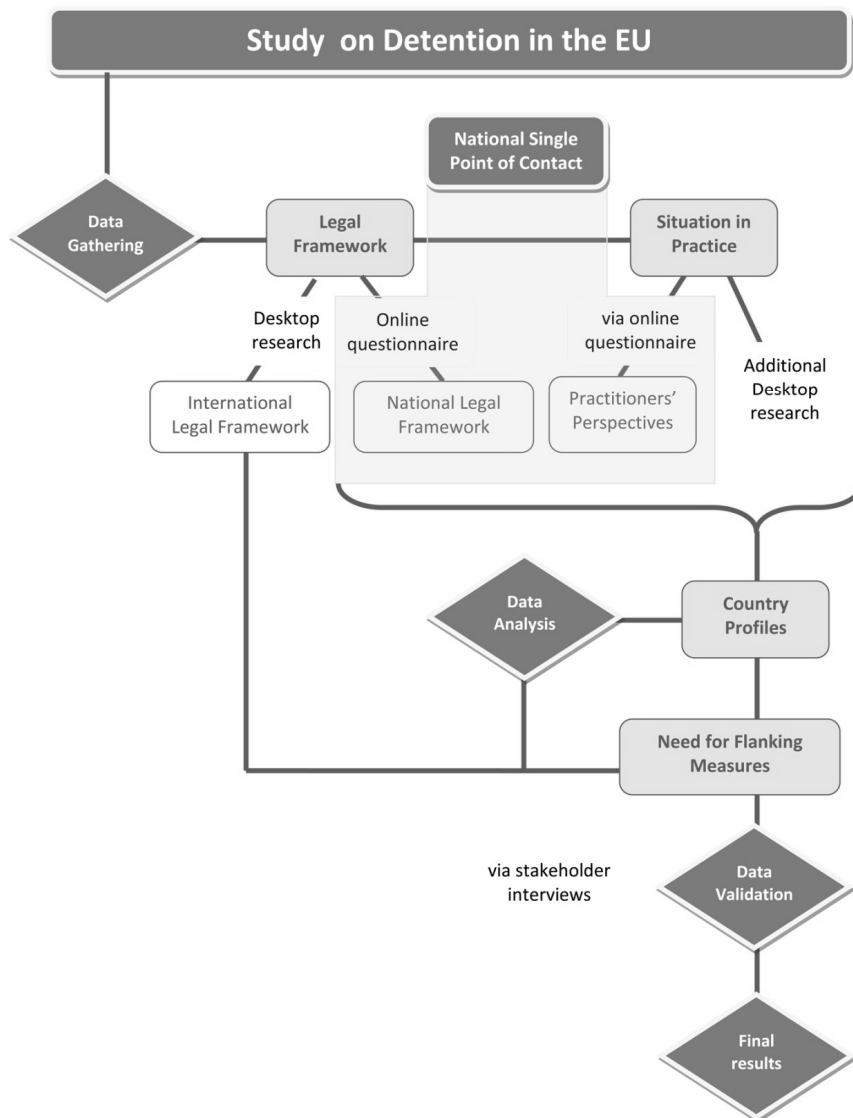
To ensure the information provided is as up to date as possible, only reports from the period 2006 onwards have generally been consulted. The information sourced from this analysis has been included in the relevant chapters of this volume.

It was not the intention to make an in-depth comparison between the officially stated legal and policy positions and the day to day reality in custodial institutions. In mapping out the detention situation in practice the project team was restricted to desktop research and relied to a large extent on the sources mentioned above. While conducting the desktop research we were aware of the fact that our description of the detention situation in practice does not provide for a full picture of the national detention situation in practice; empirical research would be a better method to create such a picture. The CPT findings consulted, for instance, are related 'only' to the prisons visited. The desktop research was conducted in order to give an impression of the day-to-day reality in prison establishments in the EU based on existing reports which give an insight of EU prisons; not to draw conclusions out of a comparison between law and practice. In this volume we herefore limit us to general main observations, which are to be find in the executive summary.

The research for this study ended in June 2011.

2 Methodology and approach

The broad nature of this project has involved various ways of collecting information so as to ensure the most complete understanding and overview of the issues involved. The chart below provides a summary overview. The following paragraphs provide more detail on the methodology and approach adopted.



2.1 Data gathering

The data gathering phase has consisted of two main components:

data gathering with respect to the legal framework (both from an international and national perspective), and

data gathering with respect to the situation in practice (including both practitioners' perspectives and additional desktop research concerning the practical reality of detention conditions in Member States).

2.1.1 *Legal framework*

2.1.1.1 *International legal framework*

2.1.1.1.1 Approach

A desktop research analysis was conducted by the project team providing details of the relevant international framework as regards detention conditions, custodial sentence execution and transfer of suspected persons and convicted prisoners.

2.1.1.1.2 Outcome

The analysis provided information on the:

- *scope* of existing international legal instruments and case law in this area (range of issues covered, consistency of provisions, overlap, gap analysis etc.), and
- *nature and strength* of commitments which the existing legal instruments confer on Member States (hard law, soft law etc.).

2.1.1.2 *National legal framework*

2.1.1.2.1 Approach

The project team collated information on *key legislation and policy* which impacts on prison conditions. This exercise has been executed via an electronic online questionnaire.

Completed legal framework questionnaires have been received from 24 of the 27 EU Member States. These states are: Austria, Belgium, Denmark, Finland, Ireland, the Netherlands, United Kingdom, Czech Republic, Estonia, Germany, Hungary, Latvia, Lithuania, Poland, Slovakia, Bulgaria, Cyprus, France, Greece, Italy, Malta, Romania, Slovenia and Spain.

Some Member States have delivered additional information to the project team on their legislation and policy after the fixed deadline had expired. The project team has not been able to incorporate this information in the results analysis. However, this additional information has been handed over to the European Commission.

2.1.1.2.2 Single points of contacts

To facilitate the data gathering process on the national legal framework and the practitioners' perspectives, the team designated one *Single Point of Contact* (SPOC) per Member State via whom all contacts with the country were to be channelled at the onset of the study. The identity of the various SPOCs can be made available to the Commission on request.

2.1.1.2.3 National legal framework questionnaire

The National legal framework questionnaire was designed to collect information on:

- the extent to which EU Member States have incorporated the obligations arising from the key international legal instruments concerning material detention conditions into their domestic law or policy,
- EU Member States’ legislation and policy relating to material detention conditions, the extent and nature of differences in the execution modalities of custodial sentences and measures involving deprivation of liberty across EU Member States,
- EU Member States’ legislation and policy governing sentence execution modalities, the extent and nature of differences in provisions governing the early and conditional release of prisoners across EU Member States, and
- EU Member States’ legislation and policy governing the early and conditional release of prisoners.
- The questionnaire has been completed by the SPOCs.

The themes covered in the questionnaire broadly mirror those of the European Prison Rules and were also the basis by which the project team undertook the comparative analysis of international legal instruments relating to material detention conditions. Based on this analysis, for each theme a series of closed questions was devised, derived from the commitments established by the European Prison Rules and other hard and soft law instruments emanating from the United Nations, Council of Europe (in particular the CPT (both standards as well as reports)), the European Union and other bodies. Reference was also made, where applicable, to jurisprudence emanating from the European Court of Human Rights.

The questions were designed to test the extent to which these commitments have been incorporated by Member States by way of legislation or policy. The SPOC completing the questionnaire was asked to upload the relevant legislation and policy documents at the end of each section of the questionnaire.

The questionnaire was also designed to collect information on the differing modalities for the execution of custodial sentences and provisions relating to the early and conditional release of prisoners. The categories used were drawn from a previous research project conducted by the UNISYS Belgium in conjunction with the IRCP¹ which charted *inter alia*, the differing modalities of sentence execution and early release provisions deployed in EU Member States. Again, the SPOC completing the questionnaire has been asked to upload the relevant legislation and policy documents at the end of each section of the questionnaire.

An in-depth analysis of the National legal framework questionnaire is provided in a subsequent section of this book (*infra* 4 - *Problem analysis*) while a more general result analysis can be found in Annex 1.

2.1.2 The situation in practice

The exercise above has been supplemented by two work tranches designed to collate information on the situation in practice. They comprise the canvassing of views from legal practitioners and desktop research undertaken by the project team concerning the practical reality of detention conditions in Member States.

¹ Review of National Criminal Records Systems in the European Union, Bulgaria and Romania with the view to the Development of a Common Format for the Exchange of Information on Criminal Records, UNISYS Belgium, IRCP, European Commission, 2006.

METHODOLOGY & APPROACH

2.1.2.1 Practitioner's perspectives

2.1.2.1.1 Practitioner's questionnaire

The Practitioner's questionnaire was addressed to key legal practitioners with knowledge of issues concerning material detention conditions, custodial sentence execution and the transfer of prisoners across the European Union and was executed, as above, using an electronic online system.

To ensure an appropriate response base, the project team attempted to identify three respondents per Member State to complete the questionnaire. Specifically, we sought responses from:

- a judge,
- a defence advocate, and
- a representative of the competent authority designated to implement the Framework Decision on Transfer of Prisoners in each Member State.

Completed questionnaires have been received from 46 legal practitioners – 14 judges, 20 advocates and 11 representatives from competent authorities. In total practitioners from 21 EU Member States participated in this survey: Belgium, Denmark, Finland, Ireland, The Netherlands, United Kingdom, Austria, Czech Republic, Estonia, Hungary, Latvia, Poland, Bulgaria, France, Greece, Italy, Malta, Portugal, Romania, Slovakia and Spain.

We additionally canvassed the views of lawyers specialising in the transfer of prisoners via the Legal Experts Advisory Panel, a network of lawyers supported by the British NGO Fair Trials International.

The questionnaire was designed to provide information on whether, or to what extent, practitioners viewed the implementation of the Framework Decision on Transfer of Prisoners as problematic, alongside testing the need for a variety of flanking measures identified by the project team on the basis of its preliminary assessment. The questionnaire was divided into two parts:

- Questions concerning the content of the Framework Decision. This section is sub-divided into specific themes: social rehabilitation, fundamental rights and offence/sentencing equivalence and early release. For each theme, respondents were asked to answer a number of general questions complemented by a scenario designed to test decision making thresholds in respect of key aspects of the Framework Decision.
- Questions concerning flanking measures required to ensure the successful operation of the Framework Decision in practice. The options include both infrastructural measures and those of a more legalistic nature. The section also affords respondents the opportunity to identify potential solutions thereby providing the project team with valuable information concerning viable future policy recommendations to the European Commission.

An in-depth analysis of the Practitioners questionnaire is provided in a section 4 of volume 40, while a more general result analysis can be found in Annex 2 to this volume.

2.1.2.1.2 Interviews with practitioners

The project team also conducted a number of interviews with practitioners who will be involved with the implementation of the Framework Decision. These practitioners included representatives from two Member State competent authorities, practising lawyers from the Legal Experts Advisory Panel (see above) and the European Judicial Network (EJN). The interviews gave the project team the opportunity to discuss potential flanking measures with those who have a direct interest in the operation of the EU's nascent prisoner transfer process.

2.1.1.2 Desktop research

The exercises focusing on international, European and domestic legislation and the perspectives of practitioners have been complemented by an analysis of the situation on detention conditions in practice for each Member State in which an illustration has been provided into the practical reality of detention conditions.

Given that there is often a discrepancy between officially stated legal and policy positions and the day to day reality in custodial institutions, information for this analysis was drawn from non-governmental sources to maximise objectivity.

The following sources were used in the preparation of the fact sheets:

- Study on Pre-Trial Detention in the EU (for the EC) (Tilburg University)
- CPT country reports (both periodic and ad-hoc)
- CPT source documents
- Reports issued by the CoE Commissioner For Human Rights
- Reports issued by the UN Committee Against Torture
- Reports issued by the UN Sub-Committee Against Torture
- Reports issued by the UN High Commissioner for Refugees
- Reports issued by independent national prison inspectorates
- Reports issued by NGO.'s (e.g. Association for the Prevention of Torture, International Centre for Prison Studies, Amnesty International)

To ensure the information provided is as up to date as possible, only reports from the period 2006 onwards have generally been consulted. The information sourced from this analysis has been included in this volume.

2.2 Validation – conferences and symposia

Information derived from the project team's preliminary assessment of the problems arising from the Framework Decisions on Transfer of Prisoners and the post-trial phase of the European Arrest Warrant, and from the assessment of the potential options for flanking measures, has been presented in a range of fora since the outset of the project.

They include:

- European Commission implementation seminars concerning the Framework Decision Mutual Recognition of Custodial Sentences – Leeuwarden, Berlin, Rome, 2010
- European Society for Criminology Conference – Liège, September 2010
- Discussion forum with the Director-General of the Belgian Prison Service – Ghent, September 2010
- International Corrections & Prisons Associations Conference – Ghent, November 2010
- Fair Trials International symposium on the Framework Decisions concerning the mutual recognition of custodial sentences and the European supervision order, London, February 2011
- Stockholm Criminology Symposium, June 2011

3 Austria

3.1 Introduction

The questionnaire was completed by Prof. Dr. Andreas Venier, Professor of Criminal Law at the Leopold-Franzens-Universität in Innsbruck and his assistant Eva-Maria Schmiderer.

Austria has been visited once by the Committee for the Prevention of Torture in the last five years (2009). In addition it was the subject of a report from the European Commissioner for Human Rights in 2007 and from UN Committee Against Torture in 2010. Additional information has also been sourced from the 2009 UNHCR Country Report on Human Rights Practices for Austria (drawing on source material provided by the US Department of State) and the International Centre for Prison Studies. These reports have been used as a basis for information on the situation in practice.

Country	Austria
Ministry responsible	Ministry of Justice
Prison administration	Prison Administration
Contact address	Museumstrasse 7, A-1016 VIENNA, Austria tel: +43 1 52 152 2216 fax: +43 1 52 152 2727 or 2822
Telephone/fax/website	Web: www.bmj.gv.at
Head of prison administration (and title)	Michael Neider Director General
Prison population total (including pre-trial detainees / remand prisoners)	8,671 at 1.5.2010 (national prison administration)
Prison population rate (per 100,000 of national population)	103 based on an estimated national population of 8.38 million at beginning of May 2010 (from Eurostat figures)
Pre-trial detainees / remand prisoners	
(percentage of prison population)	23.7% (1.5.2010)
Female prisoners (percentage of prison population)	6.2% (1.5.2010)
Juveniles / minors / young prisoners incl. definition (percentage of prison population)	2.6% (1.5.2010 - under 18)
Foreign prisoners (percentage of prison population)	45.8% (1.5.2010)
Number of establishments / institutions	28 (1.5.2010)
Official capacity of prison system	8,423 (1.5.2010)
Occupancy level (based on official capacity)	102.9% (1.5.2010)
Recent prison population trend (year, prison population total, prison population rate)	1992 6,913 (87) 1995 6,180 (78) 1998 6,962 (87) 2001 6,915 (86) 2004 9,000 (110) 2007 8,889 (107)

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3.2 Overarching Principles

This section focuses on the overarching principles governing the management of prisons and the treatment of prisoners. International legal instruments place a series of obligations on States in respect of the management of prisons and the treatment of prisoners. The questions in this section are based on these obligations.

2.1.1 Has your country adopted laws or policies specifically requiring that prisoners must be treated with respect for their human rights? ICCPR 10(1), UDHR 1, BOP 1, BPTP 1, EPR 1 & 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	19	7	1	2
Total Europe - %	92	79	29	4	8
Austria	X	X			

2.1.2 Has your country adopted laws or policies specifically requiring prisons to be managed in accordance with human rights standards? EPR 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	4	3	3
Total Europe - %	88	75	16	13	12
Austria	X	X			

2.1.3 Has your country adopted laws or policies explicitly prohibiting practices that could constitute torture, inhumane or degrading treatment or punishment of prisoners? ICCPR 7, BOP 6, ECHR 3, *Kalashnikov v Russia* (ECtHR 2003)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	1	3	2
Total Europe - %	92	88	4	12	8
Austria	X	X			

2.1.4 Has your country adopted laws or policies specifically requiring that prisoners be provided with a range of activities during their sentence (for example - educational, recreational, work/training and welfare programmes)? SMR 77 & 78, BOP 28, BPTP 6 & 8, EPR 25

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	0	0
Total Europe - %	100	96	29	0	0
Austria	X	X			

Analysis

International instrument compliance

In common with the majority of the other EU Member States, Austria has adopted all commitments relating to human rights of prisoners.

Situation in practice

Generally the reporters found the material conditions of the prisons visited to be satisfactory. Furthermore prisoners reported no physical ill-treatment and commended the correct attitude of the prison workers. The majority of sentenced prisoners were offered work, vocational training or other activities. Whilst a wide variety of activities are theoretically available, in reality they are frequently cancelled or temporarily suspended because of insufficient staff. In many prisons, prisoners were locked in for 'night' in the early afternoon because staff numbers on the later shift were insufficient to manage activities. Many prisoners also made complaints about inter-prisoner violence. The CPT took the view that this represented another symptom of staff shortages. The visiting regime in place in Austrian prisons visited was deemed highly satisfactory and indeed often the practice in individual prisons allowed for more visiting time than was legally required. However it was also noted that for certain prisons Perspex screens between prisoner and visitor are the norm.

3.3 Conditions Of Imprisonment

3.3.1 Admission

This section focuses on the treatment of prisoners upon their admission to prison. International legal instruments place a series of obligations on States in respect of prisoner admission. The questions in this section are based on these obligations.

3.1.1 Has your country adopted laws or policies requiring that all prisoner details are recorded at the time of committal including, inter alia, details of any visible injuries and the prisoner's personal belongings? SMR 7(1), EPR 15.1, 31.1, 31.2 & 31.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	7	1	7
Total Europe - %	71	63	29	4	29
Austria					X

3.1.2 Has your country adopted laws or policies requiring that upon admission, each prisoner is given a booklet outlining his/her rights, duties, obligations and privileges and the rules and regulations governing the prison which apply to the individual prisoner? The booklet shall be written in a language that the prisoner understands. CERD 7, SMR 35, BOP 13, EPR 30

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	6	1	6
Total Europe - %	63	54	25	4	25
Austria					X

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3.1.3 Has your country adopted laws or policies requiring that upon admission, every prisoner shall undergo a medical examination either by a nurse reporting to a doctor or by a doctor? SMR 24, BOP 24, R(98)7: 1, EPR 42.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	20	6	1	1
Total Europe - %	96	83	25	4	4
Austria					X

3.1.4 Has your country adopted laws or policies requiring the doctor/nurse to pay particular attention to the detection of injuries, mental illnesses, of withdrawal symptoms resulting from the use of drugs, medication or alcohol, of contagious and chronic conditions, and, to assess the prisoner's suicide/self-harm risk? SMR 24, R(98)7: 1, EPR 42.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	10	8	1	9
Total Europe - %	62	42	33	4	38
Austria					X

3.1.5 Has your country adopted laws or policies requiring injuries detected during such an examination to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner? EPR 15.1.e & 42.3.c

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	5	4	1	17
Total Europe - %	29	21	17	4	71
Austria					X

3.1.6 Has your country adopted laws or policies requiring upon admission that each prisoner be assessed to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves? ICCPR 6, UDHR 3, ECHR 2, R(2003)23: 12, EPR 52.1, *Keenan v The United Kingdom* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	5	1	13
Total Europe - %	46	42	21	4	54
Austria					X

3.1.7 Has your country adopted laws or policies requiring that such risks be managed for the duration of the prisoner's sentence? ICCPR 6, UDHR 3, ECHR 2, EPR 52.2, *Osman v The United Kingdom* (ECtHR 2000)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	3	1	12
Total Europe - %	50	50	13	4	50
Austria	X	X			

Analysis

International instrument compliance

Austria has adopted one out of seven commitments relating to admission in prison. However as the SPOC points out above, provisions/articles covering parts of the obligations ARE contained concerning medical examination and assessment in certain circumstances.

Situation in practice

It was reported that medical checks upon admission would often be carried out up to a week after arrival and were frequently only cursory in nature. Anecdotal evidence was provided of a young man with a seriously infected open wound on his hand which had not been recorded during the initial check up. A few days later emergency surgery was necessary to save his arm from amputation.

3.3.2 Allocation

This section focuses on the allocation of prisoners to a particular prison. International legal instruments place a series of obligations on States in respect of prisoner allocation. The question in this section is based on these obligations.

3.2.1 Has your country adopted laws or policies requiring prisoners to be assigned to a prison as near to their home area as possible in order to maintain relationships with families and friends, subject to the maintenance of good order and security? BOP 20, EPR 17.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	15	6	1	5
Total Europe - %	79	63	25	4	21
Austria	X	X			

Analysis

International instrument compliance

This commitment has been incorporated into Austrian law.

3.3.3 Accomodation

This section focuses on the living conditions of prisoners. International legal instruments place a series of obligations on States in respect of the accommodation of prisoners. The questions in this section are based on these obligations.

3.3.1 Has your country adopted laws or policies requiring that where possible prisoners should have individual cells to sleep in? SMR 9(1), EPR 18.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	3	0	10
Total Europe - %	58	54	13	0	42
Austria	X	X			

3.3.2. Has your country adopted laws or policies stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation? ICCPR 6(1), UDHR 3, SMR 9(2), ECHR 2, EPR 18.6 & 18.7, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	4	0	14
Total Europe - %	42	29	17	0	58
Austria					X

3.3.3 Has your country adopted laws or policies requiring that the size of a cell must be suitable for its purpose? The suitability of the cell size should be dependent on the number of hours spent in the cell, the number of prisoners accommodated in the cell and the availability of in-cell-sanitation facilities that ensure privacy. SMR 9, 10, 11 & 12, EPR 18 & 19.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	8	2	1	15
Total Europe - %	37	33	8	4	63
Austria					X

3.3.4 Has your country adopted laws or policies requiring that cells should not be used to accommodate more prisoners than the intended design capacity, unless justified in exceptional circumstances? SMR 9(1) & 10, EPR 18.1, 18.3, 18.4 & 18.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Austria					X

3.3.5 Has your country adopted laws or policies requiring that cells be suitable for accommodating prisoners in respect of size, lighting, heating, ventilation and fittings? SMR 9, 10, 11, 12 & 13, EPR 18

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	16	4	0	6
Total Europe - %	75	67	17	0	25
Austria	X	X			

3.3.6 Has your country adopted laws or policies requiring that all prisoners have in-cell access to a working alarm bell that attracts the attention of staff at all times? ICCPR 6(1), UDHR 3, ECHR 2, EPR 18.2.c & 52.4, IPR 18(4), *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	13	2	0	4
Total Europe - %	83	54	8	0	17
Austria					X

Analysis

International instrument compliance

Two out of six commitments relating to accommodation have been incorporated into national law. The two commitments set out in questions 3.3.2 en 3.3.6 based on legally binding international legal instruments have however, not been adopted.

Situation in practice

The UNHCR reported that prison conditions did not always comply with international standards citing in particular that overcrowding remained a problem in some institutions. Overcrowding and understaffing in the Josefstadt and Simmerig II prisons in Vienna was also noted by the UN Committee Against Torture in its 2010 report.

CPT inspectors in contrast noted that the overall prison population has been on the decline and stood at a little over 8,000 at the beginning of 2009. At the same time, the official capacity of Austrian prisons had been increased from 8,074 to 8,501 places. The delegation was informed that the reduction of the prison population was the result of various legislative measures that had been taken in the recent past (so-called "Haftentlastungspaket"). In particular, the waiting period for conditional release had been reduced from 2/3 to half of the prison term and the possibilities for imposing non-custodial sanctions (such as community service) on fine defaulters had been enhanced. In addition, due to the introduction of stricter rules for the imposition of remand detention, the number of remand prisoners had decreased by 25%.

The International Centre for Prison Studies reported that the prison system in Austria was operating at 103% of design capacity as of May 2010.

3.3.4 Hygiene & Sanitation

This section focuses on the hygiene and sanitation facilities for prisoners. International legal instruments place a series of obligations on States in respect of hygiene and sanitation. The questions in this section are based on these obligations.

3.4.1 Has your country adopted laws or policies to ensure that all prisoners have access to adequate and appropriate sanitary and washing facilities that respect their privacy? SMR 12 & 13, EPR 19.3, 19.4 & 19.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	2	0	10
Total Europe - %	58	58	8	0	42
Austria					X

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3.4.2 Has your country adopted laws or policies requiring that all In-cell sanitation facilities must be adequately screened? ICCPR 10(1), SMR 12, BOP 1, BPTP 1, ECHR 3, EPR 19.3, *Peers v Greece* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	4	1	9
Total Europe - %	62	54	17	4	38
Austria	X	X			

Analysis

International instrument compliance

Austria has adopted the commitment ensuring the screening of all in-cell sanitation, thus abiding by internationally legally binding instruments.

3.3.5 *Clothing & Bedding*

This section focuses on clothing and bedding provisions for prisoners. International legal instruments place a series of obligations on States in respect of the provision of clothing and bedding. The questions in this section are based on these obligations.

3.5.1 Has your country adopted laws or policies to ensure that prisoners are provided with clothing that is suitable for the climate, is not degrading or humiliating and is age appropriate? SMR 17(1), EPR 20.1 & 20.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	10	0	7
Total Europe - %	71	71	42	0	29
Austria					X

3.5.2 Has your country adopted laws or policies requiring each prisoner to be provided with a bed and appropriate bedding and to ensure that all bedding is in good condition, is changed regularly and laundered? SMR 19, EPR 21

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	2	0	6
Total Europe - %	75	71	8	0	25
Austria	X	X			

Analysis

International instrument compliance

One out of two commitments regarding bedding and clothing in prison has been incorporated.

3.3.6 Nutrition

This section focuses on the nutrition requirements of prisoners. International legal instruments place a series of obligations on States in respect of prisoner's nutrition. The questions in this section are based on these obligations.

3.6.1 Has your country adopted laws or policies to ensure that prisoners are provided with a sufficient quantity of nutritious food taking into account their health, physical condition, special dietary requirements, religion and culture? SMR 20(1), EPR 22.1 & 22.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	5	1	4
Total Europe - %	83	83	21	4	17
Austria	X	X			

3.6.2 Has your country adopted laws or policies to ensure that prisoners have access to clean drinking water? SMR 20(2), EPR 22.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	16	5	1	5
Total Europe - %	79	67	21	4	21
Austria	X	X			

Analysis

International instrument compliance

In common with the majority of EU Member States, Austria has adopted both commitments relating to an adequate nutrition in prisons.

3.3.7 Legal advice, info & rights

This section focuses on the entitlement of prisoners to legal advice and information. International legal instruments place a series of obligations on States in respect of access to legal advice and information. The questions in this section are based on these obligations.

3.7.1 Has your country adopted laws or policies requiring that adequate time and facilities be provided to prisoners to receive professional visits from their legal advisers? BOP 18(2), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	4	1	2
Total Europe - %	92	92	17	4	8
Austria	X	X			

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3.7.2 Has your country adopted laws or policies establishing the right of prisoners to communicate with their legal advisers by telephone and by letter? BOP 18(1), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	3	3	3
Total Europe - %	87	83	13	13	13
Austria	X	X			

3.7.3 Has your country adopted laws or policies requiring that communications between a prisoner and his/her legal adviser remain confidential and can only be restricted by law or judicial authority? ICCPR 17, BOP 18(3) & (4), ECHR 8, EPR 23.4 & 23.5, *Campbell v The United Kingdom* (ECtHR 1992)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	3	1	2
Total Europe - %	92	92	13	4	8
Austria	X	X			

Analysis

International instrument compliance

In accordance with the majority of other EU Member States, Austria has passed all legislation (legally binding and voluntary) designed to ensure the entitlement of prisoners to legal advice and information.

3.3.8 Contact with the outside world

3.3.8.1 Visits

This section focuses on the entitlement of prisoners to maintain contacts with the outside world. International legal instruments place a series of obligations on states in respect of prisoners' on-going contact with the outside world. The questions in this section are based on these obligations.

3.8.1.1 Has your country adopted laws or policies establishing the right of prisoners to communicate with their family and friends by correspondence and by receiving visits, subject to reasonable conditions/restrictions imposed by law or another authority? ICCPR 23(1), UDHR 16(3), SMR 37, BOP 15 & 19, EPR 24.1 & 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	2	0
Total Europe - %	100	96	29	8	0
Austria	X	X			

3.8.1.2 Has your country adopted laws or policies requiring that visits take place in an environment that enables prisoners to maintain and develop family and other relationships in as normal a manner as is possible subject to the maintenance of good order and security in the prison? SMR 79, EPR 24.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	6	0	2
Total Europe - %	92	88	25	0	8
Austria	X	X			

3.3.8.2 Searching of visitors

3.8.2.1 Has your country adopted laws or policies requiring that searching procedures for visitors be undertaken in a manner that respects a person's dignity? SMR 27, BOP 19, EPR 54.1.c, 54.3, 54.4 & 54.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	4	0	7
Total Europe - %	71	63	17	0	29
Austria	X	X			

3.8.2.2 Has your country adopted laws or policies requiring that prison officers only be permitted to search visitors of the same gender? EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	9	1	0	12
Total Europe - %	50	38	4	0	50
Austria	X	X			

3.3.8.3 Restrictions on visits

3.8.3.1 Has your country adopted laws or policies requiring the authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party(ies) and to review these circumstances on a regular basis? SMR 27, 79 & 80, EPR 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	0	0	63
Austria					X

3.8.3.2 Has your country adopted laws or policies preventing the withdrawal of contact for female prisoners with their children as a disciplinary action except in exceptional circumstances? SMR 27, 79 & 80, EPR 24.2 & 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	2	0	12
Total Europe - %	50	50	8	0	50

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Austria					X

3.3.8.4 *Death, illness & transfer*

3.8.4.1 Has your country adopted laws or policies requiring that prisoners be informed of the death/serious illness of a close relative/ friend without delay? SMR 44(2), EPR 24.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	2	0	13
Total Europe - %	46	42	8	0	54
Austria					X

3.8.4.2 Has your country adopted laws or policies allowing a prisoner to leave the prison to visit a sick relative/friend, attend a funeral or for other humanitarian reasons? SMR 44(2), EPR 24.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Austria	X	X			

3.8.4.3 Has your country adopted laws or policies ensuring that prisoners are allowed to inform their families or other nominated persons without delay of their imprisonment, transfer to another institution or of any serious illness that they may suffer from? SMR 44(1) & (3), BOP 16(1), EPR 24.8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Austria					X

3.8.4.4 Has your country adopted laws or policies requiring the prison authorities to immediately inform the spouse or the nearest relative to the prisoner (or any other person previously nominated), if the prisoner dies in custody, is removed to a hospital or suffers a serious injury/illness? SMR 44(1), EPR 24.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	3	0	6
Total Europe - %	75	75	13	0	25
Austria					X

3.3.8.5 Telephone and letters

3.8.5.1 Has your country adopted laws or policies preventing the monitoring or censoring of telephone calls unless the prisoner or the recipient of the call is informed of the possibility of such monitoring or, such monitoring has been agreed by any lawful authority? ICCPR 17, UDHR 12, SMR 37, BOP 19, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	3	1	5
Total Europe - %	79	79	13	4	21
Austria	X	X			

3.8.5.2 Has your country adopted laws or policies permitting prisoners to send a minimum of 7 letters a week free of charge and more if he/she can afford it, and to receive as many letters as are sent to him/her? SMR 37, BOP 19, EPR 24.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	11	1	0	12
Total Europe - %	50	46	4	0	50
Austria					X

3.8.5.3 Has your country adopted laws or policies preventing the prison authorities from opening prisoners' private correspondence subject to the maintenance of good order and safe and secure custody in the prison? ICCPR 17, UDHR 12, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	1	9
Total Europe - %	62	62	13	4	38
Austria	X	X			

3.3.8.6 Media

3.8.6.1 Has your country adopted laws or policies entitling prisoners to be kept informed of current affairs and other developments outside the prison by reading newspapers and periodicals and by listening to radio or television broadcasts (subject to the maintenance of good order and safe and secure custody)? SMR 39, BOP 28, EPR 24.10

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	1	1
Total Europe - %	96	92	21	4	4
Austria	X	X			

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Analysis

International instrument compliance

Eight out of the fourteen commitments concerning prisoner's contact with the outside world have been incorporated into Austrian law. These include the legally binding commitments to maintain contact with family and friends by means of visits or letters and the circumstances in which prisoners' telephone and written correspondence can be legitimately monitored. Provisions on restrictions of visits have not been incorporated.

Situation in practice

It was observed by the CPT that in some institutions, prisoners would be denied contact with the outside world. The Committee recommended that contact with family and friends should not form part of a punishment unless the offence being punished specifically related to outside contact.

3.3.9 Work

This section focuses on work in prison. International legal instruments place a series of obligations on States in respect of work in prison. The questions in this section are based on these obligations.

3.9.1 Has your country adopted laws or policies requiring work to be incorporated as a positive aspect of prison regimes and prohibiting its use as a form of punishment? SMR 71(1), EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Austria	X	X			

3.9.2 Has your country adopted laws or policies requiring that prison work provided should prepare prisoners for worthwhile work on their release and facilitate their reintegration into the workforce? SMR 71(3) & (4), BPTP 8, EPR 26.3 & 26.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	18	7	0	4
Total Europe - %	83	75	29	0	17
Austria	X	X			

3.9.3 Has your country adopted laws or policies entitling prisoners to be remunerated in respect of prison work carried out? ICESCR 7(a), UDHR 23, SMR 76(1), BPTP 8, EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	1	1
Total Europe - %	96	92	13	4	4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Austria	X	X			

Analysis

International instrument compliance

All commitments relating to prison work have been incorporated including the legally binding commitment set out in question 3.9.3.

Situation in practice

The majority of sentenced prisoners were offered work, vocational training or other activities. See comments with regard to ‘overarching principles’.

3.3.10 Exercise & recreation

This section focuses on facilities for exercise and recreation in prison. International legal instruments place a series of obligations on States in respect of exercise and recreational facilities. The questions in this section are based on these obligations.

3.10.1 Has your country adopted laws or policies ensuring that, subject to the constraints of the particular prison and the maintenance of good order and security, prisoners shall be entitled to spend as much time out of their cells as is possible? EPR 25(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Austria	X	X			

3.10.2 Has your country adopted laws or policies ensuring that prisoners receive at least one hours exercise each day in the open air, weather permitting? SMR 21, EPR 27.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	2	1
Total Europe - %	96	92	21	8	4
Austria	X	X			

3.10.3 Has your country adopted laws or policies ensuring that prisoners shall have access to a well-stocked library at least once a week (subject to the maintenance of good order and safe and secure custody)? R(89)12: 10, EPR 28.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	13	0	0	11
Total Europe - %	54	54	0	0	46
Austria	X	X			

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Analysis

International instrument compliance

All commitments relating to exercise and recreation during incarceration have been adopted.

Situation in practice

See 3.3.9 above.

Whilst a wide variety of activities are theoretically available, in reality they are frequently cancelled or temporarily suspended because of insufficient staff. In many prisons, prisoners were locked in for 'night' in the early afternoon because staff numbers on the later shift were insufficient to manage activities.

3.3.11 Education

This section focuses on facilities for education in prison. International legal instruments place a series of obligations on States in respect of prison education facilities. The questions in this section are based on these obligations.

3.11.1 Has your country adopted laws or policies requiring, as far as practicable, that prisoners have access to educational programmes that can meet their individual needs? ICESCR 13, UDHR 26, SMR 77(1), BPTP 6, R(89)12: 1, EPR 28.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	5	1	1
Total Europe - %	96	96	21	4	4
Austria	X	X			

3.11.2 Has your country adopted laws or policies requiring that education provided in prisons shall be integrated, in so far as is practicable, with national educational systems/programmes enabling prisoners to continue their education following their release? SMR 77(2), R(89)12: 16, EPR 28.7.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	5	0	3
Total Europe - %	87	75	21	0	13
Austria	X	X			

3.11.3 Has your country adopted laws or policies requiring that vocational training be available for those prisoners who are able to benefit from it, particularly young prisoners? SMR 71(5), BPTP 8, R(89)12: 9, EPR 26.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	20	5	0	2
Total Europe - %	92	83	21	0	8
Austria	X	X			

Analysis

International instrument compliance

All commitments relating to education have been incorporated into Austrian law including the legally binding commitment regarding access to education as set out in question 3.11.1.

Situation in practice

See 3.3.9 and 3.3.10 above.

3.3.12 Freedom of thought, conscience & religion

3.12.1 Has your country adopted laws or policies ensuring that prisoners have the opportunity to practice their religion and to follow their beliefs whilst in custody? ICCPR 18(1), CERD 5 (d) (vii), UDHR 18, SMR 42, BPTP 3, EPR 29.1 & 29.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	5	0	0
Total Europe - %	100	96	21	0	0
Austria	X	X			

Analysis

International instrument compliance

In common with all the other EU Member States, Austria has passed legislation designed to ensure prisoners have the opportunity to practice their religion and follow their beliefs.

3.4 Health**3.4.1 Core principles**

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.1.1 Has your country adopted laws or policies requiring that primary healthcare services to meet the needs of all prisoners be provided in each prison to a standard equivalent to that available to the community in general? ICESCR 12(1), SMR 22(1), PME 1, R(98)7: 10, 11, 12 & 19, EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	6	0	1
Total Europe - %	96	92	25	0	4
Austria	X	X			

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4.1.2 Has your country adopted laws or policies to ensure that where a sick prisoner requires treatment that cannot be provided by the medical staff in the prison he/she shall be transferred to an appropriate hospital without undue delay? SMR 22(2), BPTP 9, R(98)7: 3, EPR 46.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	3	1	2
Total Europe - %	92	88	13	4	8
Austria	X	X			

4.1.3 Has your country adopted laws or policies requiring that medical records be created and accurately maintained on all prisoners and that such records be treated as confidential? BOP 26, R(98)7: 13, EPR 42.3.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	5	0	3
Total Europe - %	87	83	21	0	13
Austria					X

Analysis

International instrument compliance

Two out of three commitments relating to the core principles of prison health care have been incorporated into Austrian law including the legally binding commitment regarding the need to ensure that prisoners have access to health care of an equivalent standard to that available in the community in general.

3.4.2 Women and children

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations

4.2.1 Has your country adopted laws or policies to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor? CEDAW 12, SMR 23, BOP 5(2), R(98)7: 8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	7	3	0	17
Total Europe - %	29	29	13	0	71
Austria					X

4.2.2 Has your country adopted laws or policies requiring that appropriate care be afforded to all pregnant prisoners and nursing mothers? CEDAW 12(2), SMR 23, R(98)7: 8 & 69, EPR 34.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	87	87	13	0	13
Austria	X	X			

Analysis

International instrument compliance

The legally binding commitment to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor has not been incorporated.

3.4.3 *Mental health care*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.3.1 Has your country adopted laws or policies requiring that prisoners with mental health difficulties be entitled to care appropriate to their circumstances, commensurate to the type of care available for people with similar mental health difficulties in the community? SMR 22(1), PPPMI 1 & 20, R(98)7:10, 11 & 52, R(2004)10: 35(1) & (2), EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	4	0	3
Total Europe - %	87	79	17	0	13
Austria	X	X			

4.3.2 Has your country adopted laws or policies to ensure that prisoners who require psychiatric in-patient care are transferred to a suitable hospital facility of an appropriate security level without undue delay? SMR 22(2), PPPMI 9(1) & 20, R(98)7: 3 & 55, R(2004)10: 8, 9(1) & 35(1), EPR 12(1) & 46(1)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	3	0	6
Total Europe - %	75	71	13	0	25
Austria	X	X			

Analysis

International instrument compliance

Both commitments on mental health care in prison have been adopted.

Situation in practice

The provision of psychiatric care in Austrian prisons was commended; However yet again qualitative provision was curtailed by the volume of cases and a lack of staff. Additionally the

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CPT noted the high proportion of prisoners at certain facilities who had been prescribed psychotropic treatments venturing that this may have been necessary because of the long amounts of time that prisoners were required to spend in their cells.

3.4.4 Vulnerable prisoners

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.4.1 Has your country adopted laws or policies requiring that prisoners assessed as vulnerable be accommodated in areas of the prison which are most convenient and appropriate for their monitoring and treatment by the medical personnel and other relevant agencies? SMR 22(2) & 62, EPR 12.2, 39, 43.1, 46.2, 47.1 & 47.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	3	0	8
Total Europe - %	67	63	13	0	33
Austria	X	X			

4.4.2 Has your country adopted laws or policies requiring that prisoners assessed as being at risk of suicide/self-harm be continuously monitored by both medical and prison staff throughout the prisoner’s time in custody and that records are kept of such monitoring? R(98)7: 58, EPR 47(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	5	0	14
Total Europe - %	42	29	21	0	58
Austria					X

4.4.3 Has your country adopted laws or policies requiring that prisoners detained in a special cell be visited daily, and as frequently as is necessary by a doctor who shall, inter alia, monitor his/ her physical and mental health? SMR 25(1) & 32(3), R(98)7: 66, EPR 43.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Austria	X	X			

Analysis

International instrument compliance

Two out of the three commitments regarding vulnerable prisoners have been adopted.

3.4.5 *Medical & health care personnel*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.5.1 Has your country adopted laws or policies to ensure that every prisoner has access to appropriately qualified medical personnel in the prison at all times? SMR 24, BOP 24, R(98)7:1, 2 & 4, EPR 41.2 & 41.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Austria	X	X			

Analysis

International instrument compliance

In accordance with the majority of EU Member States, Austria has adopted the commitment ensuring that every prisoner has access to appropriately qualified staff at all times. Evidence set out in the situation in practice indicates severe shortages of staff.

Situation in practice

The CPT highlighted that provision of healthcare in Austrian prisons suffers as a consequence of staff shortages. Many prisoners complained that they were unable to spend sufficient time with their doctor during examinations and indeed in one prison visited, the doctor herself said she was unable to undertake all the work required of her.

Prison medical teams are, furthermore, sometimes supplemented by prison guards with a small amount of first aid training who work as medical orderlies. In one instance, (at Gerasdorf Prison) such an orderly was actually charged with the organisation of the provision of health care. The CPT was highly critical of this and recommended that use of such orderlies should be curtailed and that the organisation of a health service should always be overseen by someone with professional medical expertise.

3.4.6 *Prisoners with addiction problems*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.6.1 Has your country adopted laws or policies to ensure that prisoners with addiction problems have access to appropriate treatment and support services, including those from external agencies? SMR 62, R(98)7: 7, 43, 44, 45, 46 & 47, EPR 42.3.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	8	0	3
Total Europe - %	88	79	33	0	13

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Austria	X	X			

Analysis

International instrument compliance

Commitment has been incorporated.

Situation in practice

Finally the Committee praised the therapeutic activities mainly organised for those in preventive custody and those receiving treatment for drug addiction. Such therapeutic activities were not, however, extended to the wider prison community

3.4.7 *Hunger strikes*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.7.1 Has your country adopted laws or policies forbidding the practice of forced feeding of hunger strikers? DOMHS, R(98)7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	37	21	21	0	63
Austria					X

Analysis

International instrument compliance

Austria has not passed legislation forbidding the practice of forced feeding of hunger strikers.

3.5 **Good order**

3.5.1 *General approaches*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.1.1 Has your country adopted laws or policies requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody? R(82)17: 8, EPR 51.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	0	9
Total Europe - %	62	62	13	0	38
Austria	X	X			

Analysis

International instrument compliance

Commitment has been incorporated into Austrian law.

3.5.2 *Safety & Security*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.2.1 Has your country adopted laws or policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat? EPR 51.5, 53.1 & 53.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	63	63	17	0	37
Austria	X	X			

Analysis

International instrument compliance

Commitment incorporated in Austrian law.

Situation in practice

The Committee criticised the maximum duration which prisoners could spend in solitary confinement (2 weeks for juveniles and 4 weeks for adults). Although in practice punishments rarely extended to this duration, the inspectors called for the maximum duration to be significantly reduced.

3.5.3 *Searching of prisoners*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

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5.3.1 Has your country adopted laws or policies requiring that searches conducted on prisoners be carried out with due regard to the prisoner's dignity? ICCPR 10(1), BPTP 1, EPR 54.3 & 54.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	0	1
Total Europe - %	96	92	13	0	4
Austria	X	X			

5.3.2 Has your country adopted laws or policies stipulating that prisoners may only be searched by a staff member of the same gender? ICCPR 10(1), BPTP 1, EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	1	0	1
Total Europe - %	96	92	4	0	4
Austria	X	X			

5.3.3 Has your country adopted laws or policies stipulating that prisoners may only be subjected to a strip search in exceptional circumstances and for good reason and then, only in the presence of two officers in an appropriate place which ensures privacy? ICCPR 10(1), BPTP 1, EPR 54. 3, 54.4 & 54.6, *Van der Van v The Netherlands* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	3	1	13
Total Europe - %	66	54	13	4	54
Austria					X

Analysis

International instrument compliance

Two of the three legally binding commitments have been incorporated into Austrian law. The commitment stipulating the exceptional circumstances in which a strip search may take place, has not been adopted.

3.5.4 Criminal acts, discipline & punishment

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.4.1 Has your country adopted laws or policies stipulating that all inquiries into breach of prison discipline or rules shall be conducted in an independent and impartial manner? ICCPR 14(1), UDHR 10, ECHR 6(1), *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	2	1	8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	67	63	8	4	33
Austria	X	X			

5.4.2 Has your country adopted laws or policies requiring that all incidents of bullying/violence/threatening behaviour between prisoners, and any breach of discipline be reported to an officer of a higher rank, duly recorded and properly investigated? EPR 52.2 & 58

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	62	62	17	0	38
Austria					X

5.4.3 Has your country adopted laws or policies stipulating that when a prisoner has been charged with a disciplinary offence he/she shall be promptly informed of the allegation made against him/her in a language that he/she understands? ICCPR 14(3)(a), CERD 5(a), SMR 30(2), ECHR 6(3)(a), EPR 59.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	3	0	7
Total Europe - %	71	71	13	0	29
Austria	X	X			

5.4.4 Has your country adopted laws or policies stipulating if an inquiry is being conducted into a breach of prison discipline or rules the prisoner shall have adequate time to prepare his/her defence and/or to receive legal assistance? ICCPR 14(3)(b) & (d), SMR 30(2), ECHR 6(3)(b) & (c), EPR 59.b & 59.c, *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	2	0	9
Total Europe - %	62	58	8	0	38
Austria					X

5.4.5 Has your country adopted laws or policies stipulating that in any disciplinary proceedings prisoners must understand the proceedings and if necessary, appropriate interpretation facilities must be provided? ICCPR 14(3)(f), SMR 30(3), ECHR 6(3)(e), EPR 59.e

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Austria	X	X			

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5.4.6 Has your country adopted laws or policies stipulating that no prison officer shall impose a punishment/penalty/deprivation on a prisoner without due process and in accordance with law and/or relevant rules or instruments? EPR 57.2.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	2	0	4
Total Europe - %	83	83	8	0	17
Austria					X

5.4.7 Has your country adopted laws or policies stipulating that if a prisoner is found guilty of a disciplinary offence, he/she shall be entitled to exercise his/her right of appeal to an independent and impartial tribunal established by law? ICCPR 14(5), BOP 30(2), EPR 61

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	1	0	5
Total Europe - %	79	79	4	0	21
Austria	X	X			

5.4.8 Has your country adopted laws or policies requiring that when a prisoner is detained in any type of special cell (special observation/cladded/strip) he/she shall be regularly monitored by a prison officer? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	3	0	7
Total Europe - %	71	67	13	0	29
Austria	X	X			

5.4.9 Has your country adopted laws or policies requiring that a detailed record be maintained of, inter alia, the monitoring of such prisoners, their expressed requirements, actions taken in response to such requests and details of visits by officers or others to such prisoners? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	8	8	2	0	16
Total Europe - %	33	33	8	0	67
Austria					X

5.4.10 Has your country adopted laws or policies to ensure that prisoners in a special cell are able to contact a member of staff at all times, including during the night and that a staff member shall respond without delay? ICCPR 6(1), EPR 18.2.c & 52.4, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	4	0	63
Austria					X

Analysis

International instrument compliance

Five out of ten commitments have been adopted. The commitments based on legally binding international instruments set out in questions 5.4.4., 5.4.9. and 5.4.10. have not been adopted.

Situation in practice

Many prisoners also made complaints about inter-prisoner violence. The CPT took the view that this represented another symptom of staff shortages.

The practice of collective punishment was also observed. This would largely take the form of the television being removed from a communal room in order to punish an individual.

Additionally there were a number of deficiencies in the procedure for internal discipline. These were: the prisoner had no right to be heard by the person who was to consider their case; the prisoner enjoyed no guarantees that they had a right to call witnesses or cross examine evidence against them and, that the prisoner would not automatically receive notice of the judgement.

3.5.5 Use of force/weapons

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.5.1 Has your country adopted laws or policies stipulating that members of staff will use force only when absolutely necessary and that any force used shall be proportionate to the situation? SMR 54(1), CCLEO 3, BPUF 4, EPR 64 & 6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	4	1	3
Total Europe - %	87	87	17	4	13
Austria	X	X			

Analysis

International instrument compliance

In common with the majority of EU Member States, Austria has adopted the commitment relating to the use of force and weapons.

Situation in practice

It was noted by the CPT that in limited circumstances prison officers wore firearms within the prison.

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3.5.6 Requests & complaints

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.6.1 Has your country adopted laws or policies to ensure that prisoners have sufficient opportunity to make requests or complaints to the Governor of the prison or to any other competent authority? SMR 36(1) & (3), BOP 33(1), EPR 70.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	3	0	1
Total Europe - %	96	96	13	0	4
Austria	X	X			

5.6.2 Has your country adopted laws or policies establishing the right of a prisoner's legal advisor or to make a request or a complaint regarding that prisoner's treatment to the prison authorities, or other relevant authorities? BOP 33 (1) & (2), EPR 70.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	1	0	6
Total Europe - %	75	75	4	0	25
Austria	X	X			

5.6.3 Has your country adopted laws or policies requiring that all complaints be promptly investigated in accordance with law? SMR 36(4), BOP 33(4)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	2	0	7
Total Europe - %	71	67	8	0	29
Austria	X	X			

5.6.4 Has your country adopted laws or policies to ensure that where a request is denied or a complaint is rejected, the prisoner is informed promptly as to the reason(s) for such denial or rejection? SMR 36(4), BOP 33(4), EPR 70.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	2	1	7
Total Europe - %	71	63	8	4	29
Austria	X	X			

5.6.5 Has your country adopted laws or policies to ensure that prisoners are not disadvantaged for exercising their rights to make requests or complaints? BOP 33(4), EPR 70.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	3	0	13
Total Europe - %	46	42	13	0	54

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Austria					X

5.6.6 Has your country adopted laws or policies requiring that complaints made by members of staff against other members of staff be properly recorded and investigated in accordance with the law? EPR 88 & 87.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	11	3	0	11
Total Europe - %	54	46	13	0	46
Austria	X	X			

Analysis

International instrument compliance

Five out of six commitments dealing with prison requests and complaints have been incorporated in Austrian law. The commitment ensuring that prisoners are not disadvantaged for exercising their rights to make requests or complaints has been omitted.

3.6 Management & Staff

3.6.1 *Training of staff*

This section focuses on the staff training and prison management. International legal instruments place a series of obligations on States in respect of the training and management of prison staff. The questions in this section are based on these obligations.

6.1.1 Has your country adopted laws or policies to ensure that all prison staff receive appropriate training at regular intervals throughout their career? SMR 47(3), EPR 8, 76 & 81.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	14	7	0	5
Total Europe - %	79	58	29	0	21
Austria	X	X			

6.1.2 Has your country adopted laws or policies to ensure that members of staff who work with particular groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, receive training particular to their individual work? R(82)17: 10, R(2004)10: 12(1), EPR 81.3, ERJO 129

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	38	21	21	0	62
Austria	X	X			

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Analysis

International instrument compliance

Both commitments have been adopted. However, the situation in practice shows serious shortcomings

Situation in practice

The CPT highlighted that it is no longer standard practice for officers beginning work in juvenile detention to receive specialised training.

See 3.4.5 above.

3.7 Inspection & Monitoring

3.7.1 *Governmental Inspection*

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.1.1 Has your country adopted laws or policies requiring that prisons be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law? SMR 55, EPR 92, R(2004)10 36.1, ERJO 125, PPPMI 22

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	19	4	0	4
Total Europe - %	83	79	17	0	17
Austria	X	X			

Analysis

International instrument compliance

In common with most other EU Member States, Austria has passed legislation on governmental inspection of custodial institutions.

3.7.2 *Independent monitoring*

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.2.1 Has your country adopted laws or policies requiring that the conditions of detention and the treatment of prisoners shall be also monitored by an independent body or bodies,

comprised of qualified experienced personnel, and whose findings shall be made public? OPCAT 3, 17, 18, 19, BOP 29.1, EPR 93.1, R(2004)10 36.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Austria					X

7.2.2 Has your country adopted laws or policies granting such an independent body open access to places of detention, to prisoners and others whom it wishes to interview? OPCAT 19, 20, CPT 8,9 BOP 29.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	3	1	9
Total Europe - %	62	58	13	4	38
Austria					X

7.2.3 Has your country adopted laws or policies encouraging such independent bodies to cooperate with those international agencies that are legally entitled to visit prisons? CPT 2,7 EPR 93.2, ERJO 126.

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	6	1	0	17
Total Europe - %	29	25	4	0	71
Austria					X

Analysis

International instrument compliance

Austria has not adopted any commitments on independent monitoring.

Situation in practice

The Optional Protocol for the Convention Against Torture has not yet been ratified by Austria although the government has recently stated its intention so to do. There are no existing bodies which specifically fulfil the criteria laid down in the OP-CAT text. There has been protracted debate as to whether a new body should be created or whether the one of the ombudsman offices should be modified to enable it to carry out the tasks required.

3.8 Sentenced Prisoners

This section focuses on the particular provisions relating to convicted prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

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8.1.1 Has your country adopted laws or policies requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan? ICCPR 10(3), SMR 80, EPR 6, 103.2 & 103.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	6	2	4
Total Europe - %	83	83	25	8	17
Austria	X	X			

8.1.2 Has your country adopted laws or policies requiring that a sentence management plan be prepared for each prisoner serving a sentence of 12 months or over as soon as practicable after their admission? It should provide for, inter alia, the welfare and health needs of the prisoner, training, employment or education needs he/she may have, and include a release plan for the prisoner. This plan shall be reviewed at regular intervals to take into account the changing circumstances of the prisoner. SMR 65, 66 & 69, R(2003)23: 3 & 9, EPR 6, 103 & 104.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	5	0	10
Total Europe - %	58	54	21	0	42
Austria					X

Analysis

International instrument compliance

The commitment based on legally binding international instruments requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan, has been incorporated.

3.9 Juveniles

This section focuses on the particular provisions relating to juvenile prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

9.1.1 Has your country adopted laws or policies requiring that juveniles be detained separately from adult offenders? ICCPR 10(3), CRC 37(c), BR 26.3, RPJDL 29, EPR 11.1, ERJO 59.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	1	3
Total Europe - %	87	87	13	4	13
Austria	X	X			

9.1.2 Has your country adopted laws or policies to ensure that, subject to reasonable conditions and restrictions, a sentenced prisoner under the age of 18 shall be entitled to receive a minimum of two weekly visits? CRC 37(c), SMR 37, BOP 19, RPJDL 60, ERJO 83, 84, 85.1 & 85.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	6	3	0	15
Total Europe - %	37	25	13	0	63
Austria					X

Analysis

International instrument compliance

The legally binding commitment set out in question 9.1.1. has been adopted.

Situation in practice

The CPT inspectors commended highly those working in the juvenile detention centres visited. However it was noted that there were very few female guards; a balanced gender mix is considered very positive by the CPT

It was also recommended that juveniles (particularly girls) should be able to use sanitation facilities more frequently than other prisoners.

In spite of the positive assessment afforded to the regime for juveniles, it, as with the adult regimes, suffered heavily as a result of understaffing. Particularly in the Josefstadt Prison in Vienna, juveniles could be locked in for 'night' early in the afternoon. In addition in winter, outside exercise could be limited by lack of shelter or availability of appropriate clothing.

3.10 Sentence Execution Modalities

This section of the questionnaire is designed to collate information on the differing methods by which custodial sentences and measures involving deprivation of liberty are enforced across EU Member States.

10.1.1. Which of the following modalities of prison sentence execution are provided for in the law of your country?

	Weekend detention	Evening detention	Daytime detention	Home detention	
				no electronic monitoring	electronic monitoring
EUROPE	9 = 38%	10 = 42%	3 = 13%	6 = 25%	14 = 58%
Austria		X			X

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10.1.2. What is the maximum period for which home detention with electronic monitoring can be imposed?

	Under 12 months	12-24 months	25 months - 36 months	37 months - 50 months	More than 50 months
EUROPE	7 = 29%	4 = 17%	0=0%	1 = 4%	2 = 8 %
Austria		X			

10.2.1. In which of the following locations can custodial sentences or measures in-volving deprivation of liberty be imposed?

	Penitentiary institution	Psychiatric institution	Detoxification institution	Educational institution	Home
EUROPE	24 = 100%	20 = 83%	10 = 42%	7 = 29%	12 = 50%
Austria	X	X			X

Analysis

Sentence execution modalities

In Austria, the sentence execution modalities available are evening detention and home detention with electronic monitoring. Such electronic monitoring can be used for a period between twelve and twenty four months, which is a longer period than is in effect in the majority of the other EU Member States. This is the maximum period for which such monitoring can be used. The sentence still to be served must not, moreover, exceed 12 months whereas the imposed sentence may be up to 24 months – in anticipation of early release after serving half of the sentence. Custodial sentences or measures involving deprivation of liberty can be imposed in relation to penitentiary institutions, psychiatric institutions. Furthermore sentences can be served at home or in hospital.

3.11 Early release from prison, earned remission and suspension of sentence

3.11.1 *Early release*

Early release means the release of the offender before their prison term is finished. It is possible only while the sentence is still being served. Early release does not include the suspended enforcement of a penalty which is dealt with later in this questionnaire.

11.1.2.1. Has your country adopted laws and regulations under which prisoners are entitled to early release from prison ?

	Yes	No
EUROPE	24 = 100%	0 = 0%
Austria	X	

11.1.2.2. At what point in a prisoner's sentence do they become eligible for early release?

	One third of sentence or less	One third to one half of a sentence	One half to three quarters of a sentence	More than three quarters of a sentence	Other
EUROPE	2 = 8%	1 = 4%	7 = 29%	0 = 0%	14 = 58%
Austria		X			

11.1.2.2. Does your country have different regulations for the early release of prisoners based on:

	A prisoner's nationality (non-EU citizen)	A prisoner's nationality (EU citizen)	The length of sentence imposed
EUROPE	Yes - 3 = 12% No - 21 = 88%	Yes - 3 = 12% No - 21 = 88%	Yes - 24 = 100% No - 0 = 0%
Austria	Y	Y	Y

11.1.2.3. Are provisions governing the early release of prisoners automatic or discretionary?

	Automatic (prisoners are automatically released at a certain point in their sentence)	Discretionary (prisoners are only released following assessment)
EUROPE	Yes - 7 = 29% No - 17 = 71%	Yes - 20 = 83% No - 4 = 17%
Austria	N	Y

11.1.2.4. What factors are taken into consideration when deciding whether a prisoner will be granted early release?

	The circumstances surrounding the crime	Prior criminal record	The offender's progress during imprisonment	Assessment as to whether the prisoner is likely to reoffend	Recommendation from the sentencing judge
EUROPE	Yes - 24 = 50% No - 24 = 50%	Yes - 15 = 63% No - 9 = 37%	Yes - 22 = 92% No - 2 = 8%	Yes - 19 = 79% No - 5 = 21%	Yes - 4 = 17% No - 20 = 83%
Austria	Y	Y	Y	Y	N

11.1.3.1. What forms of monitoring and conditions can be applied to prisoners' early release?

1. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
2. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)

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4. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)

5. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)

6. Electronic monitoring
7. Weekend/evening /daytime detention
8. Requirement containing limitations on leaving the country
9. Requirement to leave the country
10. Requirement to pay compensation
11. Requirement to undertake community service
12. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	Other
EUROPE	Y - 83 N - 17	Y - 8 N - 92	Y - 58 N - 42	Y - 62 N - 38	Y - 33 N - 77	Y - 25 N - 75	Y - 13 N - 87	Y - 42 N - 58	Y - 21 N - 79	Y - 29 N - 71	Y - 21 N - 79	9
Austria	Y	N	N	Y	Y	N	N	Y	N	Y	N	X

3.11.2 Sentence reduction as a result of prison work

11.2.1.1. Can a prisoner earn remission on their sentence as a result of work carried out in prison?

	Yes	No
EUROPE	9= 38%	15 - 62%
Austria		X

3.11.3 Suspension of sentence enforcement

11.3.1. Does the national law of your country make provision for the further execution of a prison sentence to be suspended during the course of the sentence?

	Yes	No
EUROPE	10=42%	14= 58%
Austria	X	

11.3.2.1. What factors are taken into consideration when deciding whether a prisoner will have the further execution of their prison sentence suspended?

1. The circumstances surrounding the crime
2. Prior criminal record
3. The offender's progress during imprisonment
4. Assessment as to whether the prisoner is likely to reoffend
5. Recommendation from the sentencing judge
6. Suitability of home circumstances
7. Information from victim(s)
8. Willingness of the prisoner to leave the country upon release
9. The prisoner will be deported upon release

10. Other – please specify

	1	2	3	4	5	6	7	8	9	Other
EUROPE	Y - 8 N - 92	Y - 13 N - 78	Y - 17 N - 83	Y - 21 N - 79	Y - 0 N - 100	Y - 4 N - 96	Y - 0 N - 100	Y - 0 N - 100	Y - 0 N - 100	21
Austria	N	N	N	N	N	N	N	N	N	X

11.3.3.1. What forms of monitoring and conditions can be applied to prisoners whose further execution of a prison sentence has been suspended?

1. Unconditional supervision
2. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
4. Compulsory therapeutic interventions (*e.g.* drug/alcohol counselling, anger management courses etc.)
5. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
6. Compulsory access and contact restrictions (*e.g.* an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
7. Electronic monitoring
8. Weekend/evening /daytime detention
9. Requirement containing limitations on leaving the country
10. Requirement to leave the country
11. Requirement to pay compensation
12. Requirement to undertake community service
13. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	12	Other
EUROPE	Y - 4 N - 96	Y - 38 N - 62	Y - 4 N - 96	Y - 29 N - 71	Y - 17 N - 83	Y - 17 N - 83	Y - 4 N - 96	Y - 4 N - 96	Y - 21 N - 79	Y - 0 N - 100	Y - 17 N - 83	Y - 4 N - 96	2
Austria	Y	N	N	N	N	N	N	N	N	N	N	N	

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Analysis

Early release from prison, earned remission and suspension of sentence

In common with all EU countries, Austria has adopted measures under which prisoners are entitled to early release from prison. Prisoners can become eligible for early release after one half of their sentence. The Austrian early release system makes use of discretionary provisions and a prisoner's nationality is taken into account, whether he/she is a EU or non-EU citizen. Decisions on a prisoner's early release are based on five of the ten criteria identified. Once a prisoner is granted early release, six of the twelve forms of monitoring or conditions identified, can be attached. No possibility exists in Austrian law for prisoners to be granted remission as a result of work carried out in prison. On the other hand, there is a provision made for the further execution of a prison sentence to be suspended during the course of the sentence. An unconditional suspension is possible in case the prisoner is not found suitable for enforcement of the sentence, in case of a serious illness or an accident with serious consequences or if the prisoner suffers from another serious physical or mental debility AND one can assume that his chronic condition is life-threatening or will continue forever or for a long time.

Appendix

1. Basic law of 21 December 1867 on the General Rights of Nationals in the Kingdoms and Länder represented in the council of Realm
2. Beamten-Dienstrechtsgesetz 1979
3. Gesamte Rechtsvorschrift für Einführungsgesetz zu den Verwaltungsverfahrensgesetzen 2008, Fassung vom 17.01.2011
4. Bundesverfassungsgesetz vom 29. November 1988 über den Schutz der persönlichen Freiheit/ Federal Constitutional Law of 29 November 1988 on the Protection of Personal Liberty
5. Allgemeines Verwaltungsverfahrensgesetz 1991/ General Administrative Procedure Act 1991 - AVG
6. Jugendgerichtsgesetz
7. Rechtsanwaltsordnung
8. Sprengelverordnung für den Strafvollzug
9. Strafgesetzbuch
10. Strafprozessordnung
11. Strafvollzugsgesetz
12. Unterbringungsgesetz
13. Vertragsbedienstetengesetz 1948
14. Vollzugsordnung für Justizanstalten

4 Belgium

4.1 Introduction

The questionnaire was completed by Professor Dr. Tom Vander Beken, Professor of Criminal Law at the University of Ghent assisted by Karen Verpoest and Delphine Vanhaelemeesch.

Belgium has been visited twice by the Committee for the Prevention of Torture in the last five years (2005 and 2009) and was the subject of a report from the European Commissioner for Human Rights in 2008. Additional information was sourced from the 2009 UNHCR Country Report on Human Rights Practices for Belgium (drawing on source material provided by the US Department of State), the 2007 Annual Report for Belgium compiled by Amnesty International and the International Centre for Prison Studies.

Country	BELGIUM
Ministry responsible	Ministere de la Justice
Prison administration	Direction General de l'Administration Penitentiaire
Contact address	Rue Evers 2-8, B-1000 BRUXELLES, Belgium
Telephone/fax/website	tel: +32 2 542 7748 / fax: +32 2 542 7784 / web: www.just.fgov.be
Head of prison administration (and title)	Hans Meurisse Director General
Prison population total (including pre-trial detainees / remand prisoners)	10,501 at 1.3.2010 (Service Public Federal Economie)
Prison population rate (per 100,000 of national population)	97 based on an estimated national population of 10.84 million at beginning of March 2010 (from Eurostat figures)
Pre-trial detainees / remand prisoners (percentage of prison population)	35.0% (1.3.2009)
Female prisoners (percentage of prison population)	4.0% (1.3.2010)
Juveniles / minors / young prisoners incl. definition (percentage of prison population)	0.3% (1.9.2008 - under 18)
Foreign prisoners (percentage of prison population)	41.1% (1.9.2008)
Number of establishments / institutions	33 -2008
Official capacity of prison system	8,829 (1.3.2010)
Occupancy level (based on	118.9%

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official capacity)	(1.3.2010)		
Recent prison population trend (year, prison population total, prison population rate)	1992	7,116	-71
	1995	7,561	-75
	1998	8,271	-81
	2001	8,764	-85
	2004	9,243	-88
	2007	9,879	-93

4.2 Overarching Principles

This section focuses on the overarching principles governing the management of prisons and the treatment of prisoners. International legal instruments place a series of obligations on States in respect of the management of prisons and the treatment of prisoners. The questions in this section are based on these obligations

2.1.1 Has your country adopted laws or policies specifically requiring that prisoners must be treated with respect for their human rights? ICCPR 10(1), UDHR 1, BOP 1, BPTP 1, EPR 1 & 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	19	7	1	2
Total Europe - %	92	79	29	4	8
Belgium	X	X	X		

2.1.2 Has your country adopted laws or policies specifically requiring prisons to be managed in accordance with human rights standards? EPR 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	4	3	3
Total Europe - %	88	75	16	13	12
Belgium	X	X		X	

2.1.3 Has your country adopted laws or policies explicitly prohibiting practices that could constitute torture, inhumane or degrading treatment or punishment of prisoners? ICCPR 7, BOP 6, ECHR 3, *Kalashnikov v Russia* (ECtHR 2003)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	1	3	2
Total Europe - %	92	88	4	12	8
Belgium	X	X		X	

2.1.4 Has your country adopted laws or policies specifically requiring that prisoners be provided with a range of activities during their sentence (for example - educational, recreational, work/training and welfare programmes). SMR 77 & 78, BOP 28, BPTP 6 & 8, EPR 25

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	0	0
Total Europe - %	100	96	29	0	0
Belgium	X	X	X		

Analysis

International instrument compliance

In common with the majority of EU member states, Belgium has passed legislation designed to protect the human rights of its prisoners and provide them with a meaningful regime during their time in custody. This legislation includes all of the commitments arising from legally binding international legal instruments. As indicated above, however, the implementation of many aspects of the basic penitentiary law has been delayed entailing that the rights afforded to prisoners are in effect more restrictive than the legislation would suggest.

Situation in practice

Notwithstanding the protective legal framework highlighted above, during its' most recent inspection visit to Belgium (2009), the CPT delegation received various allegations of physical ill-treatment of inmates as well as other forms of provocative or disrespectful behaviour vis-à-vis prisoners by staff at both Ittre prison and Jamioulx prisons.

Furthermore, the CPT also highlighted that strikes by prison staff are an ongoing phenomenon with both direct and indirect harmful consequences for persons deprived of their liberty. The Committee had previously highlighted that during a strike in September

2003 in the prison of Andenne, serious incidents occurred and in particular the deaths of two prisoners under conditions linked to a lack of adequate surveillance in the detention wings. More recently, the Committee heard of severe physical and psychological maltreatment of inmates by police officers who charged with supervising the prisons during strikes. Finally, during another strike at Lantin prison in 2009 detainees were left to their own devices, confined to their cells without any explanation and thus confusion reigned in the wings of the prison. The control centres were left unstaffed and calls by detainees went unanswered. It was in these circumstances that one of the three suicides of inmates within the psychiatric annexe took place, where the inmate concerned had been placed in a "naked/cooling off cell". In relation to these on-going problems of industrial action within the prison system, the CPT called upon the Belgian authorities (as it had in 2005), to introduce a "guaranteed service" for prisoners during times of industrial action.

According to the 2007 Amnesty International report there was a strike at Forest prison in Brussels. The GCPS (public services trade union) attacked prison overcrowding, poor conditions, buildings it considered breached health, hygiene and safety requirements, and the "wholly insufficient" six-week basic training for staff. In August staff at the prison in Termonde went on strike in protest at overcrowding and understaffing following the escape of 28 prisoners. In September they renewed strike action, claiming that promised improvements had not materialized.

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4.3 Conditions Of Imprisonment

4.3.1 Admission

This section focuses on the treatment of prisoners upon their admission to prison. International legal instruments place a series of obligations on States in respect of prisoner admission. The questions in this section are based on these obligations.

3.1.1 Has your country adopted laws or policies requiring that all prisoner details are recorded at the time of committal including, inter alia, details of any visible injuries and the prisoner's personal belongings? SMR 7(1), EPR 15.1, 31.1, 31.2 & 31.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	7	1	7
Total Europe - %	71	63	29	4	29
Belgium					X

3.1.2 Has your country adopted laws or policies requiring that upon admission, each prisoner is given a booklet outlining his/her rights, duties, obligations and privileges and the rules and regulations governing the prison which apply to the individual prisoner? The booklet shall be written in a language that the prisoner understands. CERD 7, SMR 35, BOP 13, EPR 30

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	6	1	6
Total Europe - %	63	54	25	4	25
Belgium	X	X	X		

3.1.3 Has your country adopted laws or policies requiring that upon admission, every prisoner shall undergo a medical examination either by a nurse reporting to a doctor or by a doctor? SMR 24, BOP 24, R(98)7: 1, EPR 42.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	20	6	1	1
Total Europe - %	96	83	25	4	4
Belgium	X	X			

3.1.4 Has your country adopted laws or policies requiring the doctor/nurse to pay particular attention to the detection of injuries, mental illnesses, of withdrawal symptoms resulting from the use of drugs, medication or alcohol, of contagious and chronic conditions, and, to assess the prisoner's suicide/self-harm risk? SMR 24, R(98)7: 1, EPR 42.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	10	8	1	9
Total Europe - %	62	42	33	4	38
Belgium	X		X		

3.1.5 Has your country adopted laws or policies requiring injuries detected during such an examination to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner? EPR 15.1.e & 42.3.c

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	5	4	1	17
Total Europe - %	29	21	17	4	71
Belgium	X	X			

3.1.6 Has your country adopted laws or policies requiring upon admission that each prisoner be assessed to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves? ICCPR 6, UDHR 3, ECHR 2, R(2003)23: 12, EPR 52.1, *Keenan v The United Kingdom* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	5	1	13
Total Europe - %	46	42	21	4	54
Belgium					X

3.1.7 Has your country adopted laws or policies requiring that such risks be managed for the duration of the prisoner's sentence? ICCPR 6, UDHR 3, ECHR 2, EPR 52.2, *Osman v The United Kingdom* (ECtHR 2000)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	3	1	12
Total Europe - %	50	50	13	4	50
Belgium	X	X			

Analysis

International instrument compliance

Belgium has adopted laws or policies complying with 5 of the 7 commitments established by international Legal instruments relating to the procedures governing admission of prisoners to custodial institutions: this includes the legally binding commitment relating to the risk management of prisoners throughout the duration of their sentence. The legally binding commitment relating to assessment of prisoners to see whether they pose a threat to themselves or others has not, however, been incorporated into Belgian law or policy.

4.3.2 Allocation

This section focuses on the allocation of prisoners to a particular prison. International legal instruments place a series of obligations on States in respect of prisoner allocation. The question in this section is based on these obligations.

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3.2.1 Has your country adopted laws or policies requiring prisoners to be assigned to a prison as near to their home area as possible in order to maintain relationships with families and friends, subject to the maintenance of good order and security? BOP 20, EPR 17.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	15	6	1	5
Total Europe - %	79	63	25	4	21
Belgium	X	X			

Analysis

International instrument compliance

Commitments relating to prisoner allocation have been adopted into Belgian law albeit that the appropriate section of the basic penitentiary law has not yet been implemented.

4.3.3 Accommodation

This section focuses on the living conditions of prisoners. International legal instruments place a series of obligations on States in respect of the accommodation of prisoners. The questions in this section are based on these obligations.

3.3.1 Has your country adopted laws or policies requiring that where possible prisoners should have individual cells to sleep in? SMR 9(1), EPR 18.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	3	0	10
Total Europe - %	58	54	13	0	42
Belgium					X

3.3.2. Has your country adopted laws or policies stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation? ICCPR 6(1), UDHR 3, SMR 9(2), ECHR 2, EPR 18.6 & 18.7, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	4	0	14
Total Europe - %	42	29	17	0	58
Belgium					X

3.3.3 Has your country adopted laws or policies requiring that the size of a cell must be suitable for its purpose? The suitability of the cell size should be dependent on the number of hours spent in the cell, the number of prisoners accommodated in the cell and the availability of in-cell-sanitation facilities that ensure privacy. SMR 9, 10, 11 & 12, EPR 18 & 19.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	8	2	1	15
Total Europe - %	37	33	8	4	63

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Belgium					X

3.3.4 Has your country adopted laws or policies requiring that cells should not be used to accommodate more prisoners than the intended design capacity, unless justified in exceptional circumstances? SMR 9(1) & 10, EPR 18.1, 18.3, 18.4 & 18.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Belgium					X

3.3.5 Has your country adopted laws or policies requiring that cells be suitable for accommodating prisoners in respect of size, lighting, heating, ventilation and fittings? SMR 9, 10, 11, 12 & 13, EPR 18

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	16	4	0	6
Total Europe - %	75	67	17	0	25
Belgium					X

3.3.6 Has your country adopted laws or policies requiring that all prisoners have in-cell access to a working alarm bell that attracts the attention of staff at all times? ICCPR 6(1), UDHR 3, ECHR 2, EPR 18.2.c & 52.4, IPR 18(4), *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	13	2	0	4
Total Europe - %	83	54	8	0	17
Belgium					X

Analysis

International instrument compliance

Belgium has not adopted laws or policies relating to any of the commitments relating to the accommodation of prisoners. This entails that commitments arising from legally binding international legal instruments relating to the assessment of prisoners as to their suitability for sharing a cell and, that all cells must have a working alarm bell, have also not been incorporated.

Situation in practice

The UNHCR reported in 2009 that whilst prison conditions in Belgium met most international standards, overcrowding remained a serious problem. In its most recent report, the CPT also highlighted this issue using the example of Jamioux prison where occupancy rates were at some 150% of nominal capacity at the time of the delegation's visit. Concerns regarding overcrowding were also highlighted by the UN Committee Against Torture in 2008. The European Commissioner for Human Rights also commented on this problem noting that in 2008 (the year of his visit), some 75% of all prisons were overcrowded. Overcrowding was

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to be found in all types of prison. On average in 2008, 9,891 inmates occupied prison and detention facilities. By year's end the number of inmates had reached 10,327 in facilities with a designed capacity of 8,529 entailing that the prison system was operating at 121% of its intended capacity. The Commissioner detailed the consequences of such overcrowding which included the inability to house remand and convicted prisoners separately, poor working conditions for prison staff (thereby impacting on the rehabilitation programmes available to prisoners), restrictions to the exercise and activity programmes available to prisoners and a deterioration in material detention conditions in areas such as hygiene, privacy and safety. The Commissioner highlighted instances where four-person cells were holding up to 10 people with one-person cells holding three. In some instances, prisoners were forced to sleep on mattresses on the floor because there was not enough space for extra beds. This practice was also highlighted by the CPT.

The International Centre for Prison Studies reported that the prison system in Belgium was operating at 119% of design capacity as of March 2010.

According to the CPT, the material conditions at the Bruges QMSPI were on the whole acceptable with a number of small deficiencies to be noted. Nonetheless, the general impression was that of a cramped, confined environment with low ceilings, limited outside view, reinforced security doors and many grille gates.

In order to temporarily solve the Belgium problem of overcrowded prisons the Belgians and the Dutch have signed a contract, which made it possible to accommodate around 500 Belgium inmates in a Dutch prison in Tilburg from 2010 onwards and in principle for three years. Alternatively, the authorities could have chosen to transfer all Dutch inmates in Belgian cells (maybe already (as a test case) under the EU Framework decision on mutual recognition of custodial sanctions. More information on the deal between the Belgian and Dutch authorities can be found on the websites of the respective governments.

4.3.4 Hygiene & Sanitation

This section focuses on the hygiene and sanitation facilities for prisoners. International legal instruments place a series of obligations on States in respect of hygiene and sanitation. The questions in this section are based on these obligations.

3.4.1 Has your country adopted laws or policies to ensure that all prisoners have access to adequate and appropriate sanitary and washing facilities that respect their privacy? SMR 12 & 13, EPR 19.3, 19.4 & 19.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	2	0	10
Total Europe - %	58	58	8	0	42
Belgium					X

3.4.2 Has your country adopted laws or policies requiring that all In-cell sanitation facilities must be adequately screened? ICCPR 10(1), SMR 12, BOP 1, BPTP 1, ECHR 3, EPR 19.3, *Peers v Greece* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	4	1	9
Total Europe - %	62	54	17	4	38
Belgium	X	X	X		

Analysis

International instrument compliance

Belgian has incorporated the commitments arising from legally binding international legal instruments concerning the screening of in-cell sanitation facilities into its law and policy.

Situation in practice

The European Commissioner for Human Rights found some of the prisons visited to be dilapidated and unsanitary as well as overcrowded and emphasised that these were problems of a long -standing nature having been highlighted by the CPT as long ago as 1994. The UN Committee Against Torture also emphasised its concern at the unsuitable and dilapidate buildings and poor sanitary conditions to be found within the Belgian prison system.

4.3.5 *Clothing & Bedding*

This section focuses on clothing and bedding provisions for prisoners. International legal instruments place a series of obligations on States in respect of the provision of clothing and bedding. The questions in this section are based on these obligations.

3.5.1 Has your country adopted laws or policies to ensure that prisoners are provided with clothing that is suitable for the climate, is not degrading or humiliating and is age appropriate? SMR 17(1), EPR 20.1 & 20.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	10	0	7
Total Europe - %	71	71	42	0	29
Belgium	X	X	X		

3.5.2 Has your country adopted laws or policies requiring each prisoner to be provided with a bed and appropriate bedding and to ensure that all bedding is in good condition, is changed regularly and laundered? SMR 19, EPR 21

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	2	0	6
Total Europe - %	75	71	8	0	25
Belgium					X

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Analysis

International instrument compliance

Commitments relating to a prisoner's clothing have been incorporated into Belgian law and policy. Those relating to beds and bedding have, however, not.

Situation in practice

See evidence provided by international institutions relating to prisoners having to sleep on the floor because of a shortage of cell space highlighted in section 3.3 above.

4.3.6 Nutrition

This section focuses on the nutrition requirements of prisoners. International legal instruments place a series of obligations on States in respect of prisoner's nutrition. The questions in this section are based on these obligations.

3.6.1 Has your country adopted laws or policies to ensure that prisoners are provided with a sufficient quantity of nutritious food taking into account their health, physical condition, special dietary requirements, religion and culture? SMR 20(1), EPR 22.1 & 22.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	5	1	4
Total Europe - %	83	83	21	4	17
Belgium	X	X	X		

3.6.2 Has your country adopted laws or policies to ensure that prisoners have access to clean drinking water? SMR 20(2), EPR 22.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	16	5	1	5
Total Europe - %	79	67	21	4	21
Belgium	X	X			

Analysis

International instrument compliance

All commitments relating to prisoner's nutrition have been incorporated into Belgian law.

4.3.7 Legal advice, info & rights

This section focuses on the entitlement of prisoners to legal advice and information. International legal instruments place a series of obligations on States in respect of access to legal advice and information. The questions in this section are based on these obligations.

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3.7.1 Has your country adopted laws or policies requiring that adequate time and facilities be provided to prisoners to receive professional visits from their legal advisers? BOP 18(2), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	4	1	2
Total Europe - %	92	92	17	4	8
Belgium	X	X	X		

3.7.2 Has your country adopted laws or policies establishing the right of prisoners to communicate with their legal advisers by telephone and by letter? BOP 18(1), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	3	3	3
Total Europe - %	87	83	13	13	13
Belgium	X	X	X	X	

3.7.3 Has your country adopted laws or policies requiring that communications between a prisoner and his/her legal adviser remain confidential and can only be restricted by law or judicial authority? ICCPR 17, BOP 18(3) & (4), ECHR 8, EPR 23.4 & 23.5, *Campbell v The United Kingdom* (ECtHR 1992)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	3	1	2
Total Europe - %	92	92	13	4	8
Belgium	X	X	X		

Analysis

International instrument compliance

All commitments relating to legal rights, information and advice for prisoners have been incorporated into Belgian law and policy. This includes the legally binding commitment protecting the confidentiality of a prisoner's correspondence with his or her legal advisor.

4.3.8 Contact with the outside world

4.3.8.1 Visits

This section focuses on the entitlement of prisoners to maintain contacts with the outside world. International legal instruments place a series of obligations on states in respect of prisoners' on-going contact with the outside world. The questions in this section are based on these obligations.

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3.8.1.1 Has your country adopted laws or policies establishing the right of prisoners to communicate with their family and friends by correspondence and by receiving visits, subject to reasonable conditions/restrictions imposed by law or another authority? ICCPR 23(1), UDHR 16(3), SMR 37, BOP 15 & 19, EPR 24.1 & 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	2	0
Total Europe - %	100	96	29	8	0
Belgium	X	X	X		

3.8.1.2 Has your country adopted laws or policies requiring that visits take place in an environment that enables prisoners to maintain and develop family and other relationships in as normal a manner as is possible subject to the maintenance of good order and security in the prison? SMR 79, EPR 24.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	6	0	2
Total Europe - %	92	88	25	0	8
Belgium	X	X	X		

4.3.8.2 *Searching of visitors*

3.8.2.1 Has your country adopted laws or policies requiring that searching procedures for visitors be undertaken in a manner that respects a person’s dignity? SMR 27, BOP 19, EPR 54.1.c, 54.3, 54.4 & 54.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	4	0	7
Total Europe - %	71	63	17	0	29
Belgium	X	X	X		

3.8.2.2 Has your country adopted laws or policies requiring that prison officers only be permitted to search visitors of the same gender? EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	9	1	0	12
Total Europe - %	50	38	4	0	50
Belgium	X		X		

4.3.8.3 *Restrictions on visits*

3.8.3.1 Has your country adopted laws or policies requiring the authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party(ies) and to review these circumstances on a regular basis? SMR 27, 79 & 80, EPR 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	0	0	63

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Belgium	X	X	X		

3.8.3.2 Has your country adopted laws or policies preventing the withdrawal of contact for female prisoners with their children as a disciplinary action except in exceptional circumstances? SMR 27, 79 & 80, EPR 24.2 & 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	2	0	12
Total Europe - %	50	50	8	0	50
Belgium	X	X	X		

4.3.8.4 *Death, illness & transfer*

3.8.4.1 Has your country adopted laws or policies requiring that prisoners be informed of the death/serious illness of a close relative/ friend without delay? SMR 44(2), EPR 24.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	2	0	13
Total Europe - %	46	42	8	0	54
Belgium					X

3.8.4.2 Has your country adopted laws or policies allowing a prisoner to leave the prison to visit a sick relative/friend, attend a funeral or for other humanitarian reasons? SMR 44(2), EPR 24.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Belgium	X	X	X		

3.8.4.3 Has your country adopted laws or policies ensuring that prisoners are allowed to inform their families or other nominated persons without delay of their imprisonment, transfer to another institution or of any serious illness that they may suffer from? SMR 44(1) & (3), BOP 16(1), EPR 24.8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Belgium	X	X			

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3.8.4.4 Has your country adopted laws or policies requiring the prison authorities to immediately inform the spouse or the nearest relative to the prisoner (or any other person previously nominated), if the prisoner dies in custody, is removed to a hospital or suffers a serious injury/illness? SMR 44(1), EPR 24.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	3	0	6
Total Europe - %	75	75	13	0	25
Belgium	X	X	X		

4.3.8.5 Telephone and letters

3.8.5.1 Has your country adopted laws or policies preventing the monitoring or censoring of telephone calls unless the prisoner or the recipient of the call is informed of the possibility of such monitoring or, such monitoring has been agreed by any lawful authority? ICCPR 17, UDHR 12, SMR 37, BOP 19, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	3	1	5
Total Europe - %	79	79	13	4	21
Belgium	X	X	x		

3.8.5.2 Has your country adopted laws or policies permitting prisoners to send a minimum of 7 letters a week free of charge and more if he/she can afford it, and to receive as many letters as are sent to him/her? SMR 37, BOP 19, EPR 24.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	11	1	0	12
Total Europe - %	50	46	4	0	50
Belgium					X

3.8.5.3 Has your country adopted laws or policies preventing the prison authorities from opening prisoners' private correspondence subject to the maintenance of good order and safe and secure custody in the prison? ICCPR 17, UDHR 12, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	1	9
Total Europe - %	62	62	13	4	38
Belgium	X	X	X		

4.3.8.6 *Media*

3.8.6.1 Has your country adopted laws or policies entitling prisoners to be kept informed of current affairs and other developments outside the prison by reading newspapers and periodicals and by listening to radio or television broadcasts (subject to the maintenance of good order and safe and secure custody)? SMR 39, BOP 28, EPR 24.10

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	1	1
Total Europe - %	96	92	21	4	4
Belgium	X	X	X	X	

Analysis

International instrument compliance

Belgium has incorporated all but two of the commitments arising from international legal instruments relating a prisoner's contact with the outside world. This includes commitments arising from legally binding international legal instruments relating to a prisoner's right to correspond with and receive visits from family and friends, defining the circumstances in which telephone calls can be monitored and defining the circumstances in which a prisoner's correspondence can be opened. The two commitments not incorporated refer to the requirements to immediately inform a prisoner of the death of a close relative or friend and the right of a prisoner to send up to 7 letters a week and receive unlimited correspondence in return.

4.3.9 *Work*

This section focuses on work in prison. International legal instruments place a series of obligations on States in respect of work in prison. The questions in this section are based on these obligations.

3.9.1 Has your country adopted laws or policies requiring work to be incorporated as a positive aspect of prison regimes and prohibiting its use as a form of punishment? SMR 71(1), EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Belgium	X	X	X		

3.9.2 Has your country adopted laws or policies requiring that prison work provided should prepare prisoners for worthwhile work on their release and facilitate their reintegration into the workforce? SMR 71(3) & (4), BPTP 8, EPR 26.3 & 26.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	18	7	0	4
Total Europe - %	83	75	29	0	17
Belgium	X	X	X		

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3.9.3 Has your country adopted laws or policies entitling prisoners to be remunerated in respect of prison work carried out? ICESCR 7(a), UDHR 23, SMR 76(1), BPTP 8, EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	1	1
Total Europe - %	96	92	13	4	4
Belgium	X	X			

Analysis

International instrument compliance

All commitments relating to prison work (both legally binding and voluntary) have been incorporated albeit that certain aspects of the basic prison law have not as yet been implemented (see above).

4.3.10 Exercise & recreation

This section focuses on facilities for exercise and recreation in prison. International legal instruments place a series of obligations on States in respect of exercise and recreational facilities. The questions in this section are based on these obligations.

3.10.1 Has your country adopted laws or policies ensuring that, subject to the constraints of the particular prison and the maintenance of good order and security, prisoners shall be entitled to spend as much time out of their cells as is possible? EPR 25(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Belgium	X	X	X		

3.10.2 Has your country adopted laws or policies ensuring that prisoners receive at least one hours exercise each day in the open air, weather permitting? SMR 21, EPR 27.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	2	1
Total Europe - %	96	92	21	8	4
Belgium	X	X	X	X	

3.10.3 Has your country adopted laws or policies ensuring that prisoners shall have access to a well-stocked library at least once a week (subject to the maintenance of good order and safe and secure custody)? R(89)12: 10, EPR 28.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	13	0	0	11
Total Europe - %	54	54	0	0	46
Belgium					X

Analysis

International instrument compliance

All commitments relating to exercise and recreation have been incorporated save for that relating to access to a library (see above).

4.3.11 Education

This section focuses on facilities for education in prison. International legal instruments place a series of obligations on States in respect of prison education facilities. The questions in this section are based on these obligations.

3.11.1 Has your country adopted laws or policies requiring, as far as practicable, that prisoners have access to educational programmes that can meet their individual needs? ICESCR 13, UDHR 26, SMR 77(1), BPTP 6, R(89)12: 1, EPR 28.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	5	1	1
Total Europe - %	96	96	21	4	4
Belgium	X	X	X		

3.11.2 Has your country adopted laws or policies requiring that education provided in prisons shall be integrated, in so far as is practicable, with national educational systems/programmes enabling prisoners to continue their education following their release? SMR 77(2), R(89)12: 16, EPR 28.7.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	5	0	3
Total Europe - %	87	75	21	0	13
Belgium	X	X			

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3.11.3 Has your country adopted laws or policies requiring that vocational training be available for those prisoners who are able to benefit from it, particularly young prisoners? SMR 71(5), BPTP 8, R(89)12: 9, EPR 26.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	20	5	0	2
Total Europe - %	92	83	21	0	8
Belgium	X	X	X		

Analysis

International instrument compliance

All commitments (both legally binding and voluntary) relating to a prisoner's education have been incorporated into Belgian law albeit that some provisos have not yet been implemented (see above).

4.3.12 Freedom of thought, conscience & religion

3.12.1 Has your country adopted laws or policies ensuring that prisoners have the opportunity to practice their religion and to follow their beliefs whilst in custody? ICCPR 18(1), CERD 5 (d) (vii), UDHR 18, SMR 42, BPTP 3, EPR 29.1 & 29.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	5	0	0
Total Europe - %	100	96	21	0	0
Belgium	X	X	X		

Analysis

International instrument compliance

The legally binding commitment relating to freedom of religion has been incorporated into Belgian law.

4.4 Health

4.4.1 Core principles

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.1.1 Has your country adopted laws or policies requiring that primary healthcare services to meet the needs of all prisoners be provided in each prison to a standard equivalent to that available to the community in general? ICESCR 12(1), SMR 22(1), PME 1, R(98)7: 10, 11, 12 & 19, EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	6	0	1
Total Europe - %	96	92	25	0	4
Belgium	X	X			

4.1.2 Has your country adopted laws or policies to ensure that where a sick prisoner requires treatment that cannot be provided by the medical staff in the prison he/she shall be transferred to an appropriate hospital without undue delay? SMR 22(2), BPTP 9, R(98)7: 3, EPR 46.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	3	1	2
Total Europe - %	92	88	13	4	8
Belgium	X	X	X		

4.1.3 Has your country adopted laws or policies requiring that medical records be created and accurately maintained on all prisoners and that such records be treated as confidential? BOP 26, R(98)7: 13, EPR 42.3.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	5	0	3
Total Europe - %	87	83	21	0	13
Belgium	X	X	X		

Analysis

International instrument compliance

All commitments relating to the core principles of prison health care have been incorporated into Belgian law including the legally binding commitment regarding the need to ensure that prisoners have access to health care of an equivalent standard to that available in the community at large.

Situation in practice

The legal framework notwithstanding, during the most recent inspection by the CPT of general medical care provision at both Ittre and Jamioulx prisons highlighted staff shortages, a worn-down computerised filing system for medical files, a lack of policy for the systematic examination of prisoners after violent incidents during detention and irregularities in means of restraint used.

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4.4.2 Women and children

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.2.1 Has your country adopted laws or policies to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor? CEDAW 12, SMR 23, BOP 5(2), R(98)7: 8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	7	3	0	17
Total Europe - %	29	29	13	0	71
Belgium	X	X	X		

4.2.2 Has your country adopted laws or policies requiring that appropriate care be afforded to all pregnant prisoners and nursing mothers? CEDAW 12(2), SMR 23, R(98)7: 8 & 69, EPR 34.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Belgium	X	X	X		

Analysis

International instrument compliance

All commitments relating to health care provision for women and children have been incorporated into Belgian law.

4.4.3 Mental health care

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.3.1 Has your country adopted laws or policies requiring that prisoners with mental health difficulties be entitled to care appropriate to their circumstances, commensurate to the type of care available for people with similar mental health difficulties in the community? SMR 22(1), PPPMI 1 & 20, R(98)7:10, 11 & 52, R(2004)10: 35(1) & (2), EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	4	0	3
Total Europe - %	87	79	17	0	13
Belgium	X		X		

4.3.2 Has your country adopted laws or policies to ensure that prisoners who require psychiatric in-patient care are transferred to a suitable hospital facility of an appropriate security level without undue delay? SMR 22(2), PPPMI 9(1) & 20, R(98)7: 3 & 55, R(2004)10: 8, 9(1) & 35(1), EPR 12(1) & 46(1)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	3	0	6
Total Europe - %	75	71	13	0	25
Belgium					X

Analysis

International instrument compliance

Neither of the provisions relating to the mental health care of prisoners have been incorporated into Belgian law with that requiring the transfer of prisoners requiring psychiatric in-patient care to a hospital not having been incorporated at all.

Situation in practice

During its 2005 inspection, the CPT visited Namen prison where it focused its attention on internees (mental inmates). The delegation found that living conditions for internees outside the psychiatric annex were unacceptable and highlighted the case of three detainees confined in dark and dilapidated 9 m² cells; one of these detainees slept on a foam mattress on the floor.

The Committee noted that such circumstances had a grave effect on communal living conditions (warning that they gave rise to the potential for self-harm or acts of violence against others) and had detrimental consequences for hygiene and the psychological state of the internees. The CPT recommended that each detainee be provided with a bed and that 9 m² cells should not contain more than two detainees. Further, the CPT noted that in spite of the commitment of the health care staff and the support of the prison management, the health care services provided to some sixty internees were clearly insufficient.

During the CPT's follow-up visit to Jean Titeca hospital in Brussels, it became clear that proper safeguards for isolation and physical restraint measures were definitely necessary.

Whereas the follow-up visit to the psychiatric annexe of Lantin Prison showed that material conditions had improved considerably compared with the previous visits, the material conditions were still of a fairly run-down state in the psychiatric annexe at Jamioulx prison.

The UN Committee Against Torture also raised concerns concerning the position of psychiatric detainees within the Belgian prison system in its 2009 report highlighting in particular, in the lack of qualified staff, dilapidated facilities, inadequate care, the absence of ongoing treatment programmes and the continuing need for psychiatric detainees to be held within the general prison population owing to the lack of capacity within dedicated psychiatric units.

The European Commissioner for Human Rights also noted a number of organisational and practical shortcomings in the provision of health care in Belgian prisons. Whilst welcoming the fact that multidisciplinary teams had been set up within psychiatric wings in 2007, he observed that there were not enough qualified staff for the number of inmates, that there were long waiting lists for doctor's or nurse's appointments, and that consultations were too short all of which served to undermine the standard of care. In terms of amenities, he further highlighted that some medical facilities were just as dilapidated and unsanitary as the main prisons themselves. Detention conditions for psychiatric detainees within the Belgian prison system were considered particularly problematic by the Commissioner. He highlighted that psychiatric

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wings within prisons were occupied by psychiatric detainees who had to wait a long time for a transfer to a social protection institution and, by prisoners with mental illnesses, drug addictions or suicidal tendencies. Many psychiatric wings were overcrowded with the result that some psychiatric detainees had to be held in “normal” cells.

4.4.4 Vulnerable prisoners

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.4.1 Has your country adopted laws or policies requiring that prisoners assessed as vulnerable be accommodated in areas of the prison which are most convenient and appropriate for their monitoring and treatment by the medical personnel and other relevant agencies? SMR 22(2) & 62, EPR 12.2, 39, 43.1, 46.2, 47.1 & 47.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	3	0	8
Total Europe - %	67	63	13	0	33
Belgium	X		X		

4.4.2 Has your country adopted laws or policies requiring that prisoners assessed as being at risk of suicide/self-harm be continuously monitored by both medical and prison staff throughout the prisoner’s time in custody and that records are kept of such monitoring? R(98)7: 58, EPR 47(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	5	0	14
Total Europe - %	42	29	21	0	58
Belgium	X	X	X		

4.4.3 Has your country adopted laws or policies requiring that prisoners detained in a special cell be visited daily, and as frequently as is necessary by a doctor who shall, inter alia, monitor his/ her physical and mental health? SMR 25(1) & 32(3), R(98)7: 66, EPR 43.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Belgium	X	X	X		

Analysis

International instrument compliance

All commitments relating to Vulnerable Prisoners have been incorporated into Belgian law except that regarding the need to house vulnerable prisoners in the area of the prison most suitable for their monitoring and treatment which exists at a policy level only.

4.4.5 *Medical & health care personnel*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.5.1 Has your country adopted laws or policies to ensure that every prisoner has access to appropriately qualified medical personnel in the prison at all times? SMR 24, BOP 24, R(98)7:1, 2 & 4, EPR 41.2 & 41.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Belgium	X	X	X		

Analysis

International instrument compliance

Commitment incorporated within Belgian law.

Situation in practice

The legal commitment notwithstanding, international organisations have raised concerns about access to, and the quality of, prison health care in Belgium. See 4.4.1 above.

4.4.6 *Prisoners with addiction problems*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.6.1 Has your country adopted laws or policies to ensure that prisoners with addiction problems have access to appropriate treatment and support services, including those from external agencies? SMR 62, R(98)7: 7, 43, 44, 45, 46 & 47, EPR 42.3.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	8	0	3
Total Europe - %	88	79	33	0	13
Belgium	X	X	X		

Analysis

International instrument compliance

Commitment incorporated within Belgian law.

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Situation in practice

The requirements to provide appropriate addiction services notwithstanding, international organisations have documented problems relating to drug misuse within the Belgian prison system. During its most recent visit to Belgium, the CPT found that at both Ittre and Jamioulx prisons, illicit drugs and medicines were easily available with most detainees acknowledging that drug trafficking was the main cause of violence amongst detainees

4.4.7 Hunger strikes

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.7.1 Has your country adopted laws or policies forbidding the practice of forced feeding of hunger strikers? DOMHS, R(98)7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	37	21	21	0	63
Belgium					X

Analysis

International instrument compliance

The obligation relating to hunger strikes has not been incorporated into Belgian law.

4.5 Good order

4.5.1 General approaches

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.1.1 Has your country adopted laws or policies requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody? R(82)17: 8, EPR 51.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	0	9
Total Europe - %	62	62	13	0	38
Belgium	X	X	X		

Analysis

International instrument compliance

Commitment relating to on-going security assessment of prisoners adopted with Belgian law and policy.

4.5.2 Safety & Security

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.2.1 Has your country adopted laws or policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat? EPR 51.5, 53.1 & 53.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	63	63	17	0	37
Belgium	X	X	X		

Analysis

International instrument compliance

Commitment relating to on-going assessment of prisoners on protection adopted with Belgian law and policy.

4.5.3 Searching of prisoners

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.3.1 Has your country adopted laws or policies requiring that searches conducted on prisoners be carried out with due regard to the prisoner's dignity? ICCPR 10(1), BPTP 1, EPR 54.3 & 54.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	0	1
Total Europe - %	96	92	13	0	4
Belgium	X	X	X		

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5.3.2 Has your country adopted laws or policies stipulating that prisoners may only be searched by a staff member of the same gender? ICCPR 10(1), BPTP 1, EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	1	0	1
Total Europe - %	96	92	4	0	4
Belgium	X	X	X		

5.3.3 Has your country adopted laws or policies stipulating that prisoners may only be subjected to a strip search in exceptional circumstances and for good reason and then, only in the presence of two officers in an appropriate place which ensures privacy? ICCPR 10(1), BPTP 1, EPR 54. 3, 54.4 & 54.6, *Van der Van v The Netherlands* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	3	1	13
Total Europe - %	66	54	13	4	54
Belgium	X	X	X	X	

Analysis

International instrument compliance

Commitments relating to searching of prisoners adopted with Belgian law and policy. These include obligations arising from internationally binding legal instruments relating to the need to conduct searches of prisoners in a manner which respects their dignity and, the need to ensure that searches are only carried out by prison staff of the same gender as the prisoner themselves.

4.5.4 Criminal acts, discipline & punishment

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.4.1 Has your country adopted laws or policies stipulating that all inquiries into breach of prison discipline or rules shall be conducted in an independent and impartial manner? ICCPR 14(1), UDHR 10, ECHR 6(1), *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	2	1	8
Total Europe - %	67	63	8	4	33
Belgium	X	X	X		

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5.4.2 Has your country adopted laws or policies requiring that all incidents of bullying/violence/threatening behaviour between prisoners, and any breach of discipline be reported to an officer of a higher rank, duly recorded and properly investigated? EPR 52.2 & 58

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	62	62	17	0	38
Belgium	X	X	X		

5.4.3 Has your country adopted laws or policies stipulating that when a prisoner has been charged with a disciplinary offence he/she shall be promptly informed of the allegation made against him/her in a language that he/she understands? ICCPR 14(3)(a), CERD 5(a), SMR 30(2), ECHR 6(3)(a), EPR 59.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	3	0	7
Total Europe - %	71	71	13	0	29
Belgium	X	X	X		

5.4.4 Has your country adopted laws or policies stipulating if an inquiry is being conducted into a breach of prison discipline or rules the prisoner shall have adequate time to prepare his/her defence and/or to receive legal assistance? ICCPR 14(3)(b) & (d), SMR 30(2), ECHR 6(3)(b) & (c), EPR 59.b & 59.c, *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	2	0	9
Total Europe - %	62	58	8	0	38
Belgium	X	X	X		

5.4.5 Has your country adopted laws or policies stipulating that in any disciplinary proceedings prisoners must understand the proceedings and if necessary, appropriate interpretation facilities must be provided? ICCPR 14(3)(f), SMR 30(3), ECHR 6(3)(e), EPR 59.e

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Belgium	X	X	X		

5.4.6 Has your country adopted laws or policies stipulating that no prison officer shall impose a punishment/penalty/deprivation on a prisoner without due process and in accordance with law and/or relevant rules or instruments? EPR 57.2.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	2	0	4
Total Europe - %	83	83	8	0	17
Belgium	X	X	X		

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5.4.7 Has your country adopted laws or policies stipulating that if a prisoner is found guilty of a disciplinary offence, he/she shall be entitled to exercise his/her right of appeal to an independent and impartial tribunal established by law? ICCPR 14(5), BOP 30(2), EPR 61

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	1	0	5
Total Europe - %	79	79	4	0	21
Belgium	X	X			

5.4.8 Has your country adopted laws or policies requiring that when a prisoner is detained in any type of special cell (special observation/cladded/strip) he/she shall be regularly monitored by a prison officer? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	3	0	7
Total Europe - %	71	67	13	0	29
Belgium	X	X	X		

5.4.9 Has your country adopted laws or policies requiring that a detailed record be maintained of, inter alia, the monitoring of such prisoners, their expressed requirements, actions taken in response to such requests and details of visits by officers or others to such prisoners? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	8	8	2	0	16
Total Europe - %	33	33	8	0	67
Belgium	X	X			

5.4.10 Has your country adopted laws or policies to ensure that prisoners in a special cell are able to contact a member of staff at all times, including during the night and that a staff member shall respond without delay? ICCPR 6(1), EPR 18.2.c & 52.4, *Edwards v The United Kingdom* (ECHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	4	0	63
Belgium	X	X			

Analysis

International instrument compliance

All commitments (both legally binding and voluntary) relating to criminal acts, discipline and punishment of prisoners have been adopted within Belgian law and policy.

Situation in practice

Despite the legal framework international organisations have highlighted a number of difficulties in this area during their inspections and visits to the Belgian prison system. For example, in its 2009 report, the CPT stressed the need for all provisions of the “*Beginselenwet*” (Prison Principles Act) to be brought into force quickly, as the non-application of certain of its chapters was causing legal uncertainty, particularly with regards to disciplinary sanctions. In this light, the Committee found that the full-scale implementation of the zero-option punishment system which is applied in some establishments (e.g. Andenne prison) needed to be fully reviewed.

The aim of this restrictive system is to entirely preclude the bringing into the prison by prisoners or their visitors of personal items (food, clothes, etc.) during visits or prison leave, in order to prevent trafficking of any kind inside the establishment. But the CPT found that a special restrictive regime of this kind can be justified only if it is motivated by an individual risk assessment, and implemented only in respect of selected detainees and for a strictly limited period of time.

At Bruges Prison, the CPT also highlighted that the strict verification of QMSPI admission criteria needed to be implemented immediately as well as a procedure for appeal against special security measures and the individual special regime.

The problem of acts of violence between prisoners in Andenne prison – which had given the CPT particular cause for concern during its visit in 2001-were found to have improved markedly, after reaching its paroxysm with the murder of a prisoner by a fellow prisoner in one of the establishment’s exercise yards in September 2003. Still the CPT recommended that the Belgian authorities develop a strategy to address the problem of inter-prisoner violence, in particular regarding the issue of detainees’ physical protection in the courtyards but also on a general level. Such a strategy needed to consider staffing levels and staff training and the tackling of drug-trafficking as well as tensions between different ethnic groups or nationalities within the prison population.

4.5.5 Use of force/weapons

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.5.1 Has your country adopted laws or policies stipulating that members of staff will use force only when absolutely necessary and that any force used shall be proportionate to the situation? SMR 54(1), CCLEO 3, BPUF 4, EPR 64 & 6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	4	1	3
Total Europe - %	87	87	17	4	13
Belgium	X	X	X	X	

Analysis*International instrument compliance*

Commitment regarding use of force/weapons incorporated within Belgian policy and law.

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4.5.6 Requests & complaints

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.6.1 Has your country adopted laws or policies to ensure that prisoners have sufficient opportunity to make requests or complaints to the Governor of the prison or to any other competent authority? SMR 36(1) & (3), BOP 33(1), EPR 70.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	3	0	1
Total Europe - %	96	96	13	0	4
Belgium	X	X	X		

5.6.2 Has your country adopted laws or policies establishing the right of a prisoner's legal advisor or to make a request or a complaint regarding that prisoner's treatment to the prison authorities, or other relevant authorities? BOP 33 (1) & (2), EPR 70.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	1	0	6
Total Europe - %	75	75	4	0	25
Belgium	X	X			

5.6.3 Has your country adopted laws or policies requiring that all complaints be promptly investigated in accordance with law? SMR 36(4), BOP 33(4)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	2	0	7
Total Europe - %	71	67	8	0	29
Belgium	X	X			

5.6.4 Has your country adopted laws or policies to ensure that where a request is denied or a complaint is rejected, the prisoner is informed promptly as to the reason(s) for such denial or rejection? SMR 36(4), BOP 33(4), EPR 70.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	2	1	7
Total Europe - %	71	63	8	4	29
Belgium	X	X			

5.6.5 Has your country adopted laws or policies to ensure that prisoners are not disadvantaged for exercising their rights to make requests or complaints? BOP 33(4), EPR 70.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	3	0	13

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	46	42	13	0	54
Belgium	X		X		

5.6.6 Has your country adopted laws or policies requiring that complaints made by members of staff against other members of staff be properly recorded and investigated in accordance with the law? EPR 88 & 87.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	11	3	0	11
Total Europe - %	54	46	13	0	46
Belgium	X	X			

Analysis

International instrument compliance

All commitments regarding requests and complaints have been incorporated into Belgian law with the exception of the “non-discrimination” requirement (5.6.5) which has a basis in policy only.

4.6 Management & Staff

4.6.1 *Training of staff*

This section focuses on the staff training and prison management. International legal instruments place a series of obligations on States in respect of the training and management of prison staff. The questions in this section are based on these obligations.

6.1.1 Has your country adopted laws or policies to ensure that all prison staff receive appropriate training at regular intervals throughout their career? SMR 47(3), EPR 8, 76 & 81.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	14	7	0	5
Total Europe - %	79	58	29	0	21
Belgium	X		X		

6.1.2 Has your country adopted laws or policies to ensure that members of staff who work with particular groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, receive training particular to their individual work? R(82)17: 10, R(2004)10: 12(1), EPR 81.3, ERJO 129

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	38	21	21	0	62
Belgium					X

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Analysis

International instrument compliance

Neither commitments relating to management and staff have been incorporated into Belgian law. Requirements for on-going staff training have their basis in policy. The need to provide staff working with specialist groups with appropriate training has not, however, been incorporated at all.

4.7 Inspection & Monitoring

4.7.1 *Governmental Inspection*

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.1.1 Has your country adopted laws or policies requiring that prisons be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law? SMR 55, EPR 92, R(2004)10 36.1, ERJO 125, PPPMI 22

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	19	4	0	4
Total Europe - %	83	79	17	0	17
Belgium	X	X	X		

Analysis

International instrument compliance

Commitment regarding governmental inspection of prisons incorporated within Belgian law.

4.7.2 *Independent monitoring*

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.2.1 Has your country adopted laws or policies requiring that the conditions of detention and the treatment of prisoners shall be also monitored by an independent body or bodies, comprised of qualified experienced personnel, and whose findings shall be made public? OPCAT 3, 17, 18, 19, BOP 29.1, EPR 93.1, R(2004)10 36.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Belgium	X	X	X		

7.2.2 Has your country adopted laws or policies granting such an independent body open access to places of detention, to prisoners and others whom it wishes to interview? OPCAT 19, 20, CPT 8,9 BOP 29.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	3	1	9
Total Europe - %	62	58	13	4	38
Belgium	X	X	X		

7.2.3 Has your country adopted laws or policies encouraging such independent bodies to co-operate with those international agencies that are legally entitled to visit prisons? CPT 2,7 EPR 93.2, ERJO 126.

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	6	1	0	17
Total Europe - %	29	25	4	0	71
Belgium					X

Analysis

International instrument compliance

Belgium has signed but not ratified the OP-CAT.

Situation in practice

In 2008, the UN Committee Against Torture expressed its concern at the inadequacy of the internal prison inspection process and called upon Belgium to establish a national body responsible for conducting regular visits to places of detention. The European Commissioner for Human Rights also highlighted shortcomings with the existing oversight system for the Belgian prison system noting that local prison monitoring committees were staffed by volunteers rather than professionals and that some of them were not operational in practice. Furthermore, owing to a lack of co-operation between the committees and their central co-ordinating council, it was not possible to publish a consolidated annual report on problems within the various prisons. The Commissioner also highlighted the lack of an operational independent complaints system for prisoners.

4.8 Sentenced Prisoners

This section focuses on the particular provisions relating to convicted prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

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8.1.1 Has your country adopted laws or policies requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan? ICCPR 10(3), SMR 80, EPR 6, 103.2 & 103.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	6	2	4
Total Europe - %	83	83	25	8	17
Belgium	X	X			

8.1.2 Has your country adopted laws or policies requiring that a sentence management plan be prepared for each prisoner serving a sentence of 12 months or over as soon as practicable after their admission? It should provide for, inter alia, the welfare and health needs of the prisoner, training, employment or education needs he/she may have, and include a release plan for the prisoner. This plan shall be reviewed at regular intervals to take into account the changing circumstances of the prisoner. SMR 65, 66 & 69, R(2003)23: 3 & 9, EPR 6, 103 & 104.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	5	0	10
Total Europe - %	58	54	21	0	42
Belgium	X	X			

Analysis

International instrument compliance

All commitments relating to the regime objectives for sentenced prisoners have been adopted into Belgian law.

4.9 Juveniles

This section focuses on the particular provisions relating to juvenile prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

9.1.1 Has your country adopted laws or policies requiring that juveniles be detained separately from adult offenders? ICCPR 10(3), CRC 37(c), BR 26.3, RPJDL 29, EPR 11.1, ERJO 59.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	1	3
Total Europe - %	87	87	13	4	13
Belgium	X	X			

9.1.2 Has your country adopted laws or policies to ensure that, subject to reasonable conditions and restrictions, a sentenced prisoner under the age of 18 shall be entitled to receive a minimum of two weekly visits? CRC 37(c), SMR 37, BOP 19, RPJDL 60, ERJO 83, 84, 85.1 & 85.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	6	3	0	15
Total Europe - %	37	25	13	0	63
Belgium	X		X		

Analysis

International instrument compliance

Both instruments relating to juveniles have been adopted but only that relating to the requirement to detain juveniles apart from adults has its basis in law.

Situation in practice

In certain circumstances, Belgian youth judges can relinquish jurisdiction over the case of an alleged juvenile offender entailing that the ordinary criminal courts assume competence. In practice, this means that young people over the age of 16 who have committed a serious offence may be tried as adults rather than by the youth court. Should the offender receive a prison sentence, he or she could be held in an adult prison. Furthermore, a minor over whom jurisdiction has been relinquished could be remanded in custody with adults. This situation concerned only a small number of minors each year. About 150 minors were subject to such measures in 2008, mainly in the Brussels region. Children could not only be tried as adults, but also held in the same prisons as adults, without any special protection or attention. The European Commissioner found that poor material detention conditions in many Belgian prisons made this possibility all the more disturbing. He further highlighted that proximity to adults during detention is harmful to minors, who are at risk of bullying and violence. The lack of special attention and educational and social programmes for such children merely exacerbated the risk of prison becoming a crime school, thereby limiting any efforts at rehabilitation. Since 2009, however, children in such situations should now be sent directly to the youth prison at Tongeren. In theory, this entails that children and young people will no longer be sent to adult custodial institutions. Despite this development, the regime at Tongeren is not yet fully operational or adapted to the needs of its inmates.

During the CPT's visit in 2005 to the "De Grubbe" closed centre for temporary placement of minors who had committed an offence, the overall material conditions were found to be good. The CPT's did observe, however, the poor condition of the playing-fields and the absence of educational supervision and activities organised by the Community staff (French or Flemish) for those minors who were temporarily placed in a section under the responsibility of the other (language) Community due to lack of places. Finally the need for a full-time nurse and a systematic and thorough medical examination on arrival were identified. Furthermore CPT stressed that all disciplinary procedures for juveniles should be attended by formal safeguards and be properly recorded procedures.

4.10 Sentence Execution Modalities

This section of the questionnaire is designed to collate information on the differing methods by which custodial sentences and measures involving deprivation of liberty are enforced across EU Member States.

10.1.1. Which of the following modalities of prison sentence execution are provided for in the law of your country?

	Weekend detention	Evening detention	Daytime detention	Home detention	
				no electronic monitoring	electronic monitoring
EUROPE	9 = 38%	10 = 42%	3 = 13%	6 = 25%	14 = 58%
Belgium	X	X			X

10.1.2. What is the maximum period for which home detention with electronic monitoring can be imposed?

	Under 12 months	12-24 months	25 months - 36 months	37 months - 50 months	More than 50 months
EUROPE	7 = 29%	4 = 17%	0 = 0%	1 = 4%	2 = 8%
Belgium					X

10.2.1. In which of the following locations can custodial sentences or measures involving deprivation of liberty be imposed?

	Penitentiary institution	Psychiatric institution	Detoxification institution	Educational institution	Home
EUROPE	24 = 100%	20 = 83%	10 = 42%	7 = 29%	12 = 50%
Belgium	X	X			X

Analysis

Sentence execution modalities

Belgian law provides for three additional sentence execution modalities: weekend detention, evening detention and home detention with electronic monitoring. Home detention with electronic monitoring can be imposed for periods extending to more than fifty months. The law stipulates that electronic monitoring should end 6 months before conditional early release or the end of the main prison sentence: there is no explicit maximum stated. Custodial sentences or measures involving deprivation of liberty can be imposed in relation to penitentiary and psychiatric institutions.

4.11 Early release from prison, earned remission and suspension of sentence

4.11.1 Early release

Early release means the release of the offender before their prison term is finished. It is possible only while the sentence is still being served. Early release does not include the suspended enforcement of a penalty which is dealt with later in this questionnaire.

11.1.1. Has your country adopted laws and regulations under which prisoners are entitled to early release from prison ?

	Yes	No
EUROPE	24 = 100%	0 = 0%
Belgium	X	

11.1.2.1. At what point in a prisoner's sentence do they become eligible for early release?

	One third of sentence or less	One third to one half of a sentence	One half to three quarters of a sentence	More than three quarters of a sentence	Other
EUROPE	2 = 8%	1 = 4%	7 = 29%	0 = 0%	14 = 58%
Belgium			X		

11.1.2.2. Does your country have different regulations for the early release of prisoners based on:

	A prisoner's nationality (non-EU citizen)	A prisoner's nationality (EU citizen)	The length of sentence imposed
EUROPE	Yes - 3 = 12% No - 21 = 88%	Yes - 3 = 12% No - 21 = 88%	Yes - 24 = 100% No - 0 = 0%
Belgium	Y	Y	Y

11.1.2.3. Are provisions governing the early release of prisoners automatic or discretionary?

	Automatic (prisoners are automatically released at a certain point in their sentence)	Discretionary (prisoners are only released following assessment)
EUROPE	Yes - 7 = 29% No - 17 = 71%	Yes - 20 = 83% No - 4 = 17%
Belgium	Y	Y

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11.1.2.4. What factors are taken into consideration when deciding whether a prisoner will be granted early release?

	The circumstances surrounding the crime	Prior criminal record	The offender's progress during imprisonment	Assessment as to whether the prisoner is likely to reoffend	Recommendation from the sentencing judge
EUROPE	Yes - 24 = 50% No - 24 = 50%	Yes - 15 = 63% No - 9 = 37%	Yes - 22 = 92% No - 2 = 8%	Yes - 19 = 79% No - 5 = 21%	Yes - 4 = 17% No - 20 = 83%
Belgium	Y	Y	Y	Y	N

11.1.3.1. What forms of monitoring and conditions can be applied to prisoners' early release?

1. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
2. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
4. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
5. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
6. Electronic monitoring
7. Weekend/evening /daytime detention
8. Requirement containing limitations on leaving the country
9. Requirement to leave the country
10. Requirement to pay compensation
11. Requirement to undertake community service
12. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	Other
EUROPE	Y - 83 N - 17	Y - 8 N - 92	Y - 58 N - 42	Y - 62 N - 38	Y - 33 N - 77	Y - 25 N - 75	Y - 13 N - 87	Y - 42 N - 58	Y - 21 N - 79	Y - 29 N - 71	Y - 21 N - 79	9
Belgium	Y	Y	Y	Y	Y	N	N	Y	Y	N	N	X

4.11.2 Sentence reduction as a result of prison work

11.2.1.1. Can a prisoner earn remission on their sentence as a result of work carried out in prison?

	Yes	No
EUROPE	9= 38%	15 – 62%
Belgium		X

4.11.3 Suspension of sentence enforcement

11.3.1. Does the national law of your country make provision for the further execution of a prison sentence to be suspended during the course of the sentence?

	Yes	No
EUROPE	10=42%	14= 58%
Belgium		X

11.3.2.1. What factors are taken into consideration when deciding whether a prisoner will have the further execution of their prison sentence suspended?

1. The circumstances surrounding the crime
2. Prior criminal record
3. The offender's progress during imprisonment
4. Assessment as to whether the prisoner is likely to reoffend
5. Recommendation from the sentencing judge
6. Suitability of home circumstances
7. Information from victim(s)
8. Willingness of the prisoner to leave the country upon release
9. The prisoner will be deported upon release
10. Other – please specify

	1	2	3	4	5	6	7	8	9	Other
EUROPE	Y - 8 N - 92	Y - 13 N - 78	Y - 17 N - 83	Y - 21 N - 79	Y - 0 N - 100	Y - 4 N - 96	Y - 0 N - 100	Y - 0 N - 100	Y - 0 N - 100	21
Belgium	N	N	N	N	N	N	N	N	N	

11.3.3.1. What forms of monitoring and conditions can be applied to prisoners whose further execution of a prison sentence has been suspended?

1. Unconditional supervision
2. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
4. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)

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5. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
6. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
7. Electronic monitoring
8. Weekend/evening /daytime detention
9. Requirement containing limitations on leaving the country
10. Requirement to leave the country
11. Requirement to pay compensation
12. Requirement to undertake community service
13. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	12	Other
EUROPE	Y - 4 N - 96	Y - 38 N - 62	Y - 4 N - 96	Y - 29 N - 71	Y - 17 N - 83	Y - 17 N - 83	Y - 4 N - 96	Y - 4 N - 96	Y - 21 N - 79	Y - 0 N - 100	Y - 17 N - 83	Y - 4 N - 96	2
Belgium	N	N	N	N	N	N	N	N	N	N	N	N	

Analysis

Early release from prison, earned remission and suspension of sentence

In common with all EU countries, Belgium has adopted measures under which prisoners are entitled to early release from prison. Prisoners in Belgium can become eligible for early release between one half and two thirds of the way through their sentence. The early release system in Belgium combines both discretionary and automatic provisions. Differential provisions also apply dependent on a prisoner's nationality and the length of sentence which they are serving. Decisions on a prisoner's early release can be based on eight of the ten criteria identified. Eight differing forms of monitoring and conditions can be applied to a prisoner granted early release. Prisoners in Belgium are not able to earn remission from their sentence as a result of work undertaken in prison. Neither is provision made for the further execution of a prison sentence to be suspended during the course of the sentence.

The UN Committee Against Torture highlighted concerns at the significant decrease in the granting of conditional release. It also observed that prison day-release permits or prison leave, which are prerequisites for conditional release, also seem more difficult to obtain than in the past.

Appendix – Legal & Policy Documents

1. Basiswet betreffende het gevangeniswezen en de rechtspositie van de gedetineerden (2005). Only the following articles of this law have been implemented:- 4-13 (7 not), 57, 71, 72/1, 73, 74/1-4, 9, 105-121 (118/10 not), 168-176, 179 (§5 lid 3 not)

2. Decreet van 15 mei 1991 houdende goedkeuring van het Verdrag inzake de Rechten van het Kind, aangenomen te New York op 20 november 1989

3. Koninklijk besluit tot wijziging van het koninklijk besluit van 21 mei 1965 houdende algemeen reglement van de strafinrichtingen en tot opheffing van het koninklijk besluit van 13 juni 1999 houdende oprichting van een dienst voor aalmoezeniers behorende tot één van de

erkende erediensten en de moreel consulenten bij de strafinrichtingen en tot vaststelling van hun administratief en geldelijk statuut (2001).

4. Koninklijk besluit tot wijziging van het koninklijk besluit van 21 mei 1965 houdende algemeen reglement van de strafinrichtingen (2005) NB – this document has been referred to as a policy document in the questionnaire whereas, as a ‘Koninklijk besluit’, it is legally binding in nature.

5. Ministerieel besluit van 6 maart 2007 tot goedkeuring van het huishoudelijk reglement van het centrum voor voorlopige plaatsing van minderjarigen die een als misdrijf omschreven feit hebben gepleegd “De Grubbe” in Everberg

6. Ministeriële omzendbrief nr. C6 van 1 maart 2002 betreffende veiligheid en toegangscontrole

7. Ministeriële omzendbrief nr. 1777. Tuchtprocedure tegen een gedetineerde (2005)

8. Ministeriële omzendbrief nr. 1715 van 5 juli 2000 m.b.t. bescherming van de affectieve relaties van de gedetineerden met hun omgeving

9. Ministeriële omzendbrief nr. 1794 van 7 février 2007. – Ministeriële omzendbrief betreffende de externe rechtspositie van de veroordeelden tot een vrijheidsstraf en de aan het slachtoffer toegekende rechten in het raam van de strafuitvoeringsmodaliteiten.

10. Ministeriële omzendbrief nr.1792 van 11 januari 2007.- Basiswet – Titel VI: orde, veiligheid en gebruik van dwang

11. Ministeriële Omzendbrief nr.1760 / SI Van 12 december 2003 betreffende telefoongebruik door gedetineerden

12. Ministeriële omzendbrief nr.1785 van 18 juli 2006 met betrekking tot de drugproblematiek in de gevangenissen

13. Ministeriële omzendbrief nr. 1728 19 april 2001 betreffende toegangscontrole

14. Ministeriële omzendbrief nr. 1773. Aanmoedigingspremies voor studies door gedetineerden - B.A. 10.11.11

15. Wet betreffende de externe rechtspositie van de veroordeelden tot een vrijheidsstraf en de aan het slachtoffer toegekende rechten in het raam van de strafuitvoeringsmodaliteiten (2006)

16. Wet betreffende de rechten van de patiënt (2002)

5 Bulgaria

5.1 Introduction

The questionnaire was completed by Krassimir Kanev, Director of the Bulgarian Helsinki Committee.

Bulgaria has been visited three times by the Committee for the Prevention of Torture in the past 5 years (2006, 2008 and 2010). In addition it was the subject of reports in 2006 and 2010 by the European Commissioner for Human Rights. Additional information has also been sourced from the 2009 UNHCR Country Report on Human Rights Practices for Bulgaria (drawing on source material provided by the US Department of State) and the International Centre for Prison Studies.

Country	BULGARIA
Ministry responsible	Ministry of Justice
Prison administration	Central Prison Administration
Contact address	21 Bd. Stoletov, BG-1309 SOFIA, Bulgaria
Telephone/fax/website	tel: +359 2 318013 / fax: +359 2 322184 / gumls@abv.bg
Head of prison administration (and title)	Petar Vasilev Director General
Prison population total (including pre-trial detainees / remand prisoners)	9,071 at 1.12.2009 (national prison administration)
Prison population rate (per 100,000 of national population)	120 based on an estimated national population of 7.58 million at end of 2009 (from Eurostat figures)
Pre-trial detainees / remand prisoners (percentage of prison population)	10.4% (1.1.2009)
Female prisoners (percentage of prison population)	3% (1.9.2009)
Juveniles / minors / young prisoners incl. definition (percentage of prison population)	0.5% (of those in the prisons at 1.1.2008 - under 18)
Foreign prisoners (percentage of prison population)	1.9% (1.1.2008)
Number of establishments /institutions	14 (2008 - 12 prisons for adults; 2 for juveniles, including the correctional home for girls on the same site as the women's prison)
Official capacity of prison system	5,828 (1.12.2009)
Occupancy level (based on official capacity)	155.6% (1.12.2009)
Recent prison population trend (year, prison population total, prison population rate)	1992 8,022 (93) 1995 8,529 (101) 1998 11,541 (139) 2001 8,971 (110) 2004 10,066 (129) 2007 11,058 (144)

5.2 Overarching Principles

This section focuses on the overarching principles governing the management of prisons and the treatment of prisoners. International legal instruments place a series of obligations on States in respect of the management of prisons and the treatment of prisoners. The questions in this section are based on these obligations.

2.1.1 Has your country adopted laws or policies specifically requiring that prisoners must be treated with respect for their human rights? ICCPR 10(1), UDHR 1, BOP 1, BPTP 1, EPR 1 & 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	19	7	1	2
Total Europe - %	92	79	29	4	8
Bulgaria	X	X			

2.1.2 Has your country adopted laws or policies specifically requiring prisons to be managed in accordance with human rights standards? EPR 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	4	3	3
Total Europe - %	88	75	16	13	12
Bulgaria	X		X		

2.1.3 Has your country adopted laws or policies explicitly prohibiting practices that could constitute torture, inhumane or degrading treatment or punishment of prisoners? ICCPR 7, BOP 6, ECHR 3, *Kalashnikov v Russia* (ECtHR 2003)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	1	3	2
Total Europe - %	92	88	4	12	8
Bulgaria	X	X			

2.1.4 Has your country adopted laws or policies specifically requiring that prisoners be provided with a range of activities during their sentence (for example - educational, recreational, work/training and welfare programmes). SMR 77 & 78, BOP 28, BPTP 6 & 8, EPR 25

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	0	0
Total Europe - %	100	96	29	0	0
Bulgaria	X	X			

Analysis

International instrument compliance

In common with the majority of EU member states, Bulgaria has passed legislation designed to protect the human rights of its prisoners and provide them with a meaningful regime during their time in custody. This legislation includes all of the commitments arising from legally binding international legal instruments. See comments from the SPOC above concerning the absence of a legal basis for the crime of torture in Bulgarian national law.

5.3 Conditions Of Imprisonment

5.3.1 Admission

This section focuses on the treatment of prisoners upon their admission to prison. International legal instruments place a series of obligations on States in respect of prisoner admission. The questions in this section are based on these obligations.

3.1.1 Has your country adopted laws or policies requiring that all prisoner details are recorded at the time of committal including, inter alia, details of any visible injuries and the prisoner's personal belongings? SMR 7(1), EPR 15.1, 31.1, 31.2 & 31.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	7	1	7
Total Europe - %	71	63	29	4	29
Bulgaria	X	X			

3.1.2 Has your country adopted laws or policies requiring that upon admission, each prisoner is given a booklet outlining his/her rights, duties, obligations and privileges and the rules and regulations governing the prison which apply to the individual prisoner? The booklet shall be written in a language that the prisoner understands. CERD 7, SMR 35, BOP 13, EPR 30

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	6	1	6
Total Europe - %	63	54	25	4	25
Bulgaria					X

3.1.3 Has your country adopted laws or policies requiring that upon admission, every prisoner shall undergo a medical examination either by a nurse reporting to a doctor or by a doctor? SMR 24, BOP 24, R(98)7: 1, EPR 42.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	20	6	1	1
Total Europe - %	96	83	25	4	4
Bulgaria	X	X			

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3.1.4 Has your country adopted laws or policies requiring the doctor/nurse to pay particular attention to the detection of injuries, mental illnesses, of withdrawal symptoms resulting from the use of drugs, medication or alcohol, of contagious and chronic conditions, and, to assess the prisoner's suicide/self-harm risk? SMR 24, R(98)7: 1, EPR 42.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	10	8	1	9
Total Europe - %	62	42	33	4	38
Bulgaria	X	X			

3.1.5 Has your country adopted laws or policies requiring injuries detected during such an examination to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner? EPR 15.1.e & 42.3.c

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	5	4	1	17
Total Europe - %	29	21	17	4	71
Bulgaria					X

3.1.6 Has your country adopted laws or policies requiring upon admission that each prisoner be assessed to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves? ICCPR 6, UDHR 3, ECHR 2, R(2003)23: 12, EPR 52.1, *Keenan v The United Kingdom* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	5	1	13
Total Europe - %	46	42	21	4	54
Bulgaria					X

3.1.7 Has your country adopted laws or policies requiring that such risks be managed for the duration of the prisoner's sentence? ICCPR 6, UDHR 3, ECHR 2, EPR 52.2, *Osman v The United Kingdom* (ECtHR 2000)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	3	1	12
Total Europe - %	50	50	13	4	50
Bulgaria					X

Analysis

International instrument compliance

Bulgaria has adopted three of the seven commitments relating to prison admission. Legally binding commitments relating to the provision of a booklet to newly admitted prisoners setting out their rights and the regulations of the institution and those related to the initial and on-going assessment of prisoners to determine whether they pose a safety risk to themselves or others have not been adopted however. Bulgarian law and policy also makes no provision for the noting of injuries diagnosed during the admission medical examination and the need to seek an opinion on the same to assess whether they are commensurate with any allegations of mistreatment made by the prisoner.

Situation in practice

Comments from the SPOC indicate that admissions booklets are offered to prisoners upon request. During its 2006 visit, the CPT found that foreign prisoners in Sofia prison received no information regarding their rights and prison regulations in a language which they were able to understand.

The CPT also highlighted that screening for and recording of injuries on arrival were unsatisfactory. Descriptions of any injuries were often superficial and the prisoner had to specifically request that injuries to be reported.

5.3.2 *Allocation*

This section focuses on the allocation of prisoners to a particular prison. International legal instruments place a series of obligations on States in respect of prisoner allocation. The question in this section is based on these obligations.

3.2.1 Has your country adopted laws or policies requiring prisoners to be assigned to a prison as near to their home area as possible in order to maintain relationships with families and friends, subject to the maintenance of good order and security? BOP 20, EPR 17.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	15	6	1	5
Total Europe - %	79	63	25	4	21
Bulgaria	X	X			

Analysis

International instrument compliance

The commitment requiring prisoners to be assigned to a prison as near to their home area as possible has been adopted by Bulgaria.

BULGARIA

5.3.3 Accommodation

This section focuses on the living conditions of prisoners. International legal instruments place a series of obligations on States in respect of the accommodation of prisoners. The questions in this section are based on these obligations.

3.3.1 Has your country adopted laws or policies requiring that where possible prisoners should have individual cells to sleep in? SMR 9(1), EPR 18.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	3	0	10
Total Europe - %	58	54	13	0	42
Bulgaria					X

3.3.2. Has your country adopted laws or policies stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation? ICCPR 6(1), UDHR 3, SMR 9(2), ECHR 2, EPR 18.6 & 18.7, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	4	0	14
Total Europe - %	42	29	17	0	58
Bulgaria					X

3.3.3 Has your country adopted laws or policies requiring that the size of a cell must be suitable for its purpose? The suitability of the cell size should be dependent on the number of hours spent in the cell, the number of prisoners accommodated in the cell and the availability of in-cell-sanitation facilities that ensure privacy. SMR 9, 10, 11 & 12, EPR 18 & 19.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	8	2	1	15
Total Europe - %	37	33	8	4	63
Bulgaria					X

3.3.4 Has your country adopted laws or policies requiring that cells should not be used to accommodate more prisoners than the intended design capacity, unless justified in exceptional circumstances? SMR 9(1) & 10, EPR 18.1, 18.3, 18.4 & 18.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Bulgaria					X

3.3.5 Has your country adopted laws or policies requiring that cells be suitable for accommodating prisoners in respect of size, lighting, heating, ventilation and fittings? SMR 9, 10, 11, 12 & 13, EPR 18

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	16	4	0	6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	75	67	17	0	25
Bulgaria					X

3.3.6 Has your country adopted laws or policies requiring that all prisoners have in-cell access to a working alarm bell that attracts the attention of staff at all times? ICCPR 6(1), UDHR 3, ECHR 2, EPR 18.2.c & 52.4, IPR 18(4), *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	13	2	0	4
Total Europe - %	83	54	8	0	17
Bulgaria					X

Analysis

International instrument compliance

Bulgaria has not incorporated any of the commitments regarding the accommodation of prisoners into its national law. Legally binding commitments requiring prisoners to be assessed as suitable for sharing accommodation and requiring all cells to have working alarm bells have therefore not been adopted. There is no provision in Bulgarian law requiring that prisoners be accommodated in individual cells. Furthermore the provisions of international instruments requiring that cells should be fit for purpose based on the criteria of the number of hours spent in a cell, the number of prisoners accommodated and the availability of in-cell sanitation have also not been incorporated.

Situation in practice

In 2009 the UNHCR described Bulgaria's prisons as generally failing to meet international standards. It also highlighted that overcrowding remained a serious problem. At year's end there were 9,071 prisoners in the country's 14 prisons, fewer than in the previous three years, but still several times more than capacity. NGOs received complaints from prisoners about insufficient space and considered this a major factor contributing to brutality among inmates. The CPT was told of a high and rising incidence of inter-prisoner violence largely as a consequence of overcrowding and understaffing.

The International Centre for Prison Studies reported that the prison system in Bulgaria was operating at 156% of design capacity as of December 2009.

The CPT's inspection in 2006 also emphasised that prison overcrowding is a particularly serious issue in Bulgaria. In some prisons, the Committee found that actual capacity exceeded 300% of nominal capacity. The problem was exacerbated by ageing facilities and was found to have a deleterious effect on the breadth of activities available in general and the availability of work in particular.

The most recent CPT report published in 2010 indicated that the total number of inmates in the country had indeed dropped by some 18% since the CPT's previous visit (there were 9,343 prisoners on 11 December 2008, as compared to 11,452 in September 2006). The reduction in the prison population was mainly attributed to the increased use of non-custodial measures, notably probation. With a view to further decreasing the number of prisoners, the Main Prison Directorate had submitted to Parliament a proposal for amnesty which, if approved, would result in the release of some 3,300 inmates. The Ministry of Justice had also adopted a "Strategy

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for development of the system of places of deprivation of liberty” in the period 2009 - 2015, including an implementation plan and an investment programme for the expansion and modernisation of the prison estate. As part of this strategy, the construction of two new prisons and the conversion of former army buildings into prisons was envisaged. At the same time, the Committee was told that an overall problem was the lack of financing from the state budget, there being insufficient money for prisoners’ food, clothing, health care and the refurbishment of the prison estate. Another development concerned the drafting of a new Law on Execution of Punishments which was being examined by the Council of Ministers. The law introduces, inter alia, a requirement of 4 m² of living space per prisoner.

5.3.4 Hygiene & Sanitation

This section focuses on the hygiene and sanitation facilities for prisoners. International legal instruments place a series of obligations on States in respect of hygiene and sanitation. The questions in this section are based on these obligations.

3.4.1 Has your country adopted laws or policies to ensure that all prisoners have access to adequate and appropriate sanitary and washing facilities that respect their privacy? SMR 12 & 13, EPR 19.3, 19.4 & 19.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	2	0	10
Total Europe - %	58	58	8	0	42
Bulgaria					X

3.4.2 Has your country adopted laws or policies requiring that all In-cell sanitation facilities must be adequately screened? ICCPR 10(1), SMR 12, BOP 1, BPTP 1, ECHR 3, EPR 19.3, *Peers v Greece* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	4	1	9
Total Europe - %	62	54	17	4	38
Bulgaria	X	X			

Analysis

International instrument compliance

Bulgaria has adopted one of the two commitments relating to hygiene and sanitation in prison this being the legally binding obligation to ensure that in-cell sanitation facilities are adequately screened.

Situation in practice

During its 2006 inspection, the CPT commented that conditions in cells were found to be variable. For example in Sofia Prison, the cells were dilapidated and unhygienic with insufficient cleaning supplies for the prisoners to remedy this. In addition many cells across Bulgaria lack integrated sanitary systems and staff shortages at night prevented access to toiletry facilities. This position had improved by 2008 with all cells in Sofia prison having been fitted with internal

sanitation although the Committee noted that the prison remained overcrowded and that food hygiene facilities still left something to be desired.

5.3.5 *Clothing & Bedding*

This section focuses on clothing and bedding provisions for prisoners. International legal instruments place a series of obligations on States in respect of the provision of clothing and bedding. The questions in this section are based on these obligations.

3.5.1 Has your country adopted laws or policies to ensure that prisoners are provided with clothing that is suitable for the climate, is not degrading or humiliating and is age appropriate? SMR 17(1), EPR 20.1 & 20.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	10	0	7
Total Europe - %	71	71	42	0	29
Bulgaria					X

3.5.2 Has your country adopted laws or policies requiring each prisoner to be provided with a bed and appropriate bedding and to ensure that all bedding is in good condition, is changed regularly and laundered? SMR 19, EPR 21

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	2	0	6
Total Europe - %	75	71	8	0	25
Bulgaria	X	X			

Analysis

International instrument compliance

Commitment relating to prisoners' clothing has not been adopted by Bulgaria.

5.3.6 *Nutrition*

This section focuses on the nutrition requirements of prisoners. International legal instruments place a series of obligations on States in respect of prisoner's nutrition. The questions in this section are based on these obligations.

3.6.1 Has your country adopted laws or policies to ensure that prisoners are provided with a sufficient quantity of nutritious food taking into account their health, physical condition, special dietary requirements, religion and culture? SMR 20(1), EPR 22.1 & 22.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	5	1	4
Total Europe - %	83	83	21	4	17
Bulgaria					X

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3.6.2 Has your country adopted laws or policies to ensure that prisoners have access to clean drinking water? SMR 20(2), EPR 22.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	16	5	1	5
Total Europe - %	79	67	21	4	21
Bulgaria	X	X			

Analysis

International instrument compliance

Bulgaria has not adopted laws or policies requiring that prisoners are provided with a sufficient quantity of nutritious food taking into account their health, physical condition, special dietary requirements, religion and culture.

5.3.7 *Legal advice, info & rights*

This section focuses on the entitlement of prisoners to legal advice and information. International legal instruments place a series of obligations on States in respect of access to legal advice and information. The questions in this section are based on these obligations.

3.7.1 Has your country adopted laws or policies requiring that adequate time and facilities be provided to prisoners to receive professional visits from their legal advisers? BOP 18(2), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	4	1	2
Total Europe - %	92	92	17	4	8
Bulgaria	X	X			

3.7.2 Has your country adopted laws or policies establishing the right of prisoners to communicate with their legal advisers by telephone and by letter? BOP 18(1), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	3	3	3
Total Europe - %	87	83	13	13	13
Bulgaria	X	X			

3.7.3 Has your country adopted laws or policies requiring that communications between a prisoner and his/her legal adviser remain confidential and can only be restricted by law or judicial authority? ICCPR 17, BOP 18(3) & (4), ECHR 8, EPR 23.4 & 23.5, *Campbell v The United Kingdom* (ECtHR 1992)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	3	1	2
Total Europe - %	92	92	13	4	8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Bulgaria	X	X			

Analysis

International instrument compliance

All commitments relating to a prisoner's legal advice and rights have been adopted by Bulgaria including the legally binding commitment protecting the confidentiality of correspondence between a prisoner and their legal advisor.

5.3.8 Contact with the outside world**5.3.8.1 Visits**

This section focuses on the entitlement of prisoners to maintain contacts with the outside world. International legal instruments place a series of obligations on states in respect of prisoners' on-going contact with the outside world. The questions in this section are based on these obligations.

3.8.1.1 Has your country adopted laws or policies establishing the right of prisoners to communicate with their family and friends by correspondence and by receiving visits, subject to reasonable conditions/restrictions imposed by law or another authority? ICCPR 23(1), UDHR 16(3), SMR 37, BOP 15 & 19, EPR 24.1 & 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	2	0
Total Europe - %	100	96	29	8	0
Bulgaria	X	X			

3.8.1.2 Has your country adopted laws or policies requiring that visits take place in an environment that enables prisoners to maintain and develop family and other relationships in as normal a manner as is possible subject to the maintenance of good order and security in the prison? SMR 79, EPR 24.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	6	0	2
Total Europe - %	92	88	25	0	8
Bulgaria	X	X			

5.3.8.2 Searching of visitors

3.8.2.1 Has your country adopted laws or policies requiring that searching procedures for visitors be undertaken in a manner that respects a person's dignity? SMR 27, BOP 19, EPR 54.1.c, 54.3, 54.4 & 54.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	4	0	7
Total Europe - %	71	63	17	0	29
Bulgaria					X

3.8.2.2 Has your country adopted laws or policies requiring that prison officers only be permitted to search visitors of the same gender? EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	9	1	0	12
Total Europe - %	50	38	4	0	50
Bulgaria					X

5.3.8.3 *Restrictions on visits*

3.8.3.1 Has your country adopted laws or policies requiring the authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party(ies) and to review these circumstances on a regular basis? SMR 27, 79 & 80, EPR 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	0	0	63
Bulgaria					X

3.8.3.2 Has your country adopted laws or policies preventing the withdrawal of contact for female prisoners with their children as a disciplinary action except in exceptional circumstances? SMR 27, 79 & 80, EPR 24.2 & 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	2	0	12
Total Europe - %	50	50	8	0	50
Bulgaria	X	X			

5.3.8.4 *Death, illness & transfer*

3.8.4.1 Has your country adopted laws or policies requiring that prisoners be informed of the death/serious illness of a close relative/ friend without delay? SMR 44(2), EPR 24.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	2	0	13
Total Europe - %	46	42	8	0	54
Bulgaria					X

3.8.4.2 Has your country adopted laws or policies allowing a prisoner to leave the prison to visit a sick relative/friend, attend a funeral or for other humanitarian reasons? SMR 44(2), EPR 24.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Bulgaria					X

3.8.4.3 Has your country adopted laws or policies ensuring that prisoners are allowed to inform their families or other nominated persons without delay of their imprisonment, transfer to another institution or of any serious illness that they may suffer from? SMR 44(1) & (3), BOP 16(1), EPR 24.8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Bulgaria					X

3.8.4.4 Has your country adopted laws or policies requiring the prison authorities to immediately inform the spouse or the nearest relative to the prisoner (or any other person previously nominated), if the prisoner dies in custody, is removed to a hospital or suffers a serious injury/illness? SMR 44(1), EPR 24.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	3	0	6
Total Europe - %	75	75	13	0	25
Bulgaria	X	X			

5.3.8.5 Telephone and letters

3.8.5.1 Has your country adopted laws or policies preventing the monitoring or censoring of telephone calls unless the prisoner or the recipient of the call is informed of the possibility of such monitoring or, such monitoring has been agreed by any lawful authority? ICCPR 17, UDHR 12, SMR 37, BOP 19, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	3	1	5
Total Europe - %	79	79	13	4	21
Bulgaria	X	X			

3.8.5.2 Has your country adopted laws or policies permitting prisoners to send a minimum of 7 letters a week free of charge and more if he/she can afford it, and to receive as many letters as are sent to him/her? SMR 37, BOP 19, EPR 24.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	11	1	0	12
Total Europe - %	50	46	4	0	50

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Bulgaria					X

3.8.5.3 Has your country adopted laws or policies preventing the prison authorities from opening prisoners' private correspondence subject to the maintenance of good order and safe and secure custody in the prison? ICCPR 17, UDHR 12, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	1	9
Total Europe - %	62	62	13	4	38
Bulgaria	X	X			

5.3.8.6 *Media*

3.8.6.1 Has your country adopted laws or policies entitling prisoners to be kept informed of current affairs and other developments outside the prison by reading newspapers and periodicals and by listening to radio or television broadcasts (subject to the maintenance of good order and safe and secure custody)? SMR 39, BOP 28, EPR 24.10

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	1	1
Total Europe - %	96	92	21	4	4
Bulgaria	X	X			

Analysis

International instrument compliance

Bulgaria has incorporated seven of the fourteen commitments relating to prisoners' contact with the outside world into its national law. This includes legally binding commitments establishing the right of prisoners to communicate with and receive visits from friends and relatives and defining the circumstances in which the prison authorities may monitor a prisoner's telephone calls and open a prisoner's mail. Bulgaria has not adopted measures to comply with the provisions of international legal instruments relating to the searching of visitors, the need to explain the circumstances in which visits can be restricted and regularly review the same, the right for prisoners to inform relatives and friends concerning their illness and transfer to another institution, to receive information on the death or serious illness of relatives and friends outside and to send a maximum of seven letters per week and receive unlimited numbers of letters in return.

Situation in practice

The CPT's 2006 visiting delegation found that rooms used for visitors were generally good: however in some prisons only closed contact was available. The Committee also highlighted a number of problems relating to foreign prisoners in Sofia prison. The regulations required all phone calls to be made in Bulgarian. It was, furthermore, impossible for prisoners to accumulate unused visiting hours making it highly problematic for foreign prisoners to have any contact with the outside world. These prisoners were allowed satellite television to enable them to watch programs from their own country but frequently these were not working.

5.3.9 Work

This section focuses on work in prison. International legal instruments place a series of obligations on States in respect of work in prison. The questions in this section are based on these obligations.

3.9.1 Has your country adopted laws or policies requiring work to be incorporated as a positive aspect of prison regimes and prohibiting its use as a form of punishment? SMR 71(1), EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Bulgaria					X

3.9.2 Has your country adopted laws or policies requiring that prison work provided should prepare prisoners for worthwhile work on their release and facilitate their reintegration into the workforce? SMR 71(3) & (4), BPTP 8, EPR 26.3 & 26.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	18	7	0	4
Total Europe - %	83	75	29	0	17
Bulgaria	X	X			

3.9.3 Has your country adopted laws or policies entitling prisoners to be remunerated in respect of prison work carried out? ICESCR 7(a), UDHR 23, SMR 76(1), BPTP 8, EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	1	1
Total Europe - %	96	92	13	4	4
Bulgaria	X	X			

Analysis

International instrument compliance

Bulgaria has adopted two out of the three commitments relating to prison work including the legally binding commitment establishing the right of prisoners to be remunerated for work carried out in prison. See comments from SPOC above relating to the continued use of work as a punishment within the Bulgarian prison system.

Situation in practice

The CPT's 2006 report noted that the availability of work also varied according to establishment and the classification of prisoner. A majority of hostel prisoners and women prisoners were able to work. This contrasted with prisoners in "closed" establishments, few of whom were able to work. The CPT criticised the focus on quotas, particularly for women prisoners. If an inmate failed to meet a required quota for that day, either their pay would be less

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or it would not count towards earned remission. In general the Committee criticised the tendency for work to be geared more towards profit rather than as a tool for rehabilitation and re-socialisation.

During its 2008 visit to Sofia prison, the CPT held interviews with a number of foreign prisoners during which it transpired that many of them had work (e.g. in the printing workshop, a new workshop for producing PVC window frames, the kitchen, etc.). Prisoners without work, however, complained about the fact that they had no money to buy basic necessities, including stamps for sending letters and phone cards.

5.3.10 Exercise & recreation

This section focuses on facilities for exercise and recreation in prison. International legal instruments place a series of obligations on States in respect of exercise and recreational facilities. The questions in this section are based on these obligations.

3.10.1 Has your country adopted laws or policies ensuring that, subject to the constraints of the particular prison and the maintenance of good order and security, prisoners shall be entitled to spend as much time out of their cells as is possible? EPR 25(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Bulgaria					X

3.10.2 Has your country adopted laws or policies ensuring that prisoners receive at least one hours exercise each day in the open air, weather permitting? SMR 21, EPR 27.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	2	1
Total Europe - %	96	92	21	8	4
Bulgaria	X	X			

3.10.3 Has your country adopted laws or policies ensuring that prisoners shall have access to a well-stocked library at least once a week (subject to the maintenance of good order and safe and secure custody)? R(89)12: 10, EPR 28.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	13	0	0	11
Total Europe - %	54	54	0	0	46
Bulgaria	X	X			

Analysis

International instrument compliance

Bulgaria has adopted two of the three commitments relating to prison exercise and recreation into its national law.

Situation in practice

In 2006, the CPT highlighted that prisoners were generally allowed considerable time to associate with other inmates in the corridors or to watch television. This did not, however, represent an adequate substitute for a programme of organised activities which were frequently found to be lacking. During its 2008 visit, the CPT spoke with foreign prisoners in Sofia who informed the Committee that they had access to a newly opened gym and a computer room and were entitled to one and a half hours a day outdoor exercise the same as for the rest of inmates at Sofia Prison.

Prison staffing was an issue of particular concern for the CPT at the time of the 2006 visit. The Committee recommended that the Bulgarian authorities reconsider this issue as a matter of urgency, with a view to increasing the level of staffing in the prisons visited and in other prisons where similar low levels of staffing occur. In its 2008 report, the Committee highlighted that the above-mentioned decrease in the prisoner population could have been an opportunity to achieve a better staffing ratio. Instead, the delegation was informed that, the number of prison staff had decreased as a result of 236 staff members being made redundant in April 2008. The CPT highlighted that a low staff complement impedes the development of positive relations between staff and prisoners, precludes the emergence of dynamic security and has a negative influence on the quality and level of the activities provided to prisoners.

5.3.11 Education

This section focuses on facilities for education in prison. International legal instruments place a series of obligations on States in respect of prison education facilities. The questions in this section are based on these obligations.

3.11.1 Has your country adopted laws or policies requiring, as far as practicable, that prisoners have access to educational programmes that can meet their individual needs? ICESCR 13, UDHR 26, SMR 77(1), BPTP 6, R(89)12: 1, EPR 28.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	5	1	1
Total Europe - %	96	96	21	4	4
Bulgaria	X	X			

3.11.2 Has your country adopted laws or policies requiring that education provided in prisons shall be integrated, in so far as is practicable, with national educational systems/programmes enabling prisoners to continue their education following their release? SMR 77(2), R(89)12: 16, EPR 28.7.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	5	0	3
Total Europe - %	87	75	21	0	13
Bulgaria	X	X			

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3.11.3 Has your country adopted laws or policies requiring that vocational training be available for those prisoners who are able to benefit from it, particularly young prisoners? SMR 71(5), BPTP 8, R(89)12: 9, EPR 26.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	20	5	0	2
Total Europe - %	92	83	21	0	8
Bulgaria	X	X			

Analysis

International instrument compliance

All commitments relating to prison education have been adopted by Bulgaria including the legally binding commitment requiring that prisoners have access to education programmes that meet their individual needs.

5.3.12 *Freedom of thought, conscience & religion*

3.12.1 Has your country adopted laws or policies ensuring that prisoners have the opportunity to practice their religion and to follow their beliefs whilst in custody? ICCPR 18(1), CERD 5 (d) (vii), UDHR 18, SMR 42, BPTP 3, EPR 29.1 & 29.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	5	0	0
Total Europe - %	100	96	21	0	0
Bulgaria	X	X			

Analysis

International instrument compliance

Commitment regarding freedom of thought, conscience and religion has been adopted by Bulgaria.

5.4 Health

5.4.1 *Core principles*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.1.1 Has your country adopted laws or policies requiring that primary healthcare services to meet the needs of all prisoners be provided in each prison to a standard equivalent to that available to the community in general? ICESCR 12(1), SMR 22(1), PME 1, R(98)7: 10, 11, 12 & 19, EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	6	0	1
Total Europe - %	96	92	25	0	4
Bulgaria	X	X			

4.1.2 Has your country adopted laws or policies to ensure that where a sick prisoner requires treatment that cannot be provided by the medical staff in the prison he/she shall be transferred to an appropriate hospital without undue delay? SMR 22(2), BPTP 9, R(98)7: 3, EPR 46.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	3	1	2
Total Europe - %	92	88	13	4	8
Bulgaria	X	X			

4.1.3 Has your country adopted laws or policies requiring that medical records be created and accurately maintained on all prisoners and that such records be treated as confidential? BOP 26, R(98)7: 13, EPR 42.3.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	5	0	3
Total Europe - %	87	83	21	0	13
Bulgaria					X

Analysis

International instrument compliance

Two of the three commitments relating to the core principles of prison health care have been adopted by Bulgaria including the legally binding commitment requiring that primary health care for prisoners be provided at a standard equivalent to that provided in the community. Provisions relating to the establishment and maintenance of confidential medical records have not been adopted however.

Situation in practice

In 2006, the CPT highlighted that the number of healthcare staff in Bulgarian prisons was woefully insufficient and led to major failings. An absence of nurses led to many custodial staff being drafted as orderlies. A lack of internal healthcare led to a large number of outside referrals; however the authorisation procedure for this was lengthy and bureaucratic often taking up to 3 months. Equipment was found to be often antiquated and in a poor state of repair. Medical data for patients was often insufficient and there was a lack of respect for the principle of confidentiality between patient and doctor as custodial staff were present during consultations.

The CPT's most recent report (2008) again highlighted that the medical staffing complement within Sofia prison was insufficient to provide appropriate levels of care to the inmate population.

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5.4.2 *Women and children*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.2.1 Has your country adopted laws or policies to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor? CEDAW 12, SMR 23, BOP 5(2), R(98)7: 8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	7	3	0	17
Total Europe - %	29	29	13	0	71
Bulgaria					X

4.2.2 Has your country adopted laws or policies requiring that appropriate care be afforded to all pregnant prisoners and nursing mothers? CEDAW 12(2), SMR 23, R(98)7: 8 & 69, EPR 34.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Bulgaria	X	X			

Analysis

International instrument compliance

The legally binding commitment requiring that appropriate care be afforded to all pregnant prisoners and nursing mothers has been incorporated into Bulgarian law. There is, however, no legal right foreseen to ensure that female prisoners can have access to a female doctor.

5.4.3 *Mental health care*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.3.1 Has your country adopted laws or policies requiring that prisoners with mental health difficulties be entitled to care appropriate to their circumstances, commensurate to the type of care available for people with similar mental health difficulties in the community? SMR 22(1), PPPMI 1 & 20, R(98)7:10, 11 & 52, R(2004)10: 35(1) & (2), EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	4	0	3
Total Europe - %	87	79	17	0	13
Bulgaria					X

4.3.2 Has your country adopted laws or policies to ensure that prisoners who require psychiatric in-patient care are transferred to a suitable hospital facility of an appropriate security level without undue delay? SMR 22(2), PPPMI 9(1) & 20, R(98)7: 3 & 55, R(2004)10: 8, 9(1) & 35(1), EPR 12(1) & 46(1)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	3	0	6
Total Europe - %	75	71	13	0	25
Bulgaria	X	X			

Analysis

International instrument compliance

One of the two commitments relating to the mental health care of prisoners has been adopted by Bulgaria.

5.4.4 *Vulnerable prisoners*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.4.1 Has your country adopted laws or policies requiring that prisoners assessed as vulnerable be accommodated in areas of the prison which are most convenient and appropriate for their monitoring and treatment by the medical personnel and other relevant agencies? SMR 22(2) & 62, EPR 12.2, 39, 43.1, 46.2, 47.1 & 47.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	3	0	8
Total Europe - %	67	63	13	0	33
Bulgaria					X

4.4.2 Has your country adopted laws or policies requiring that prisoners assessed as being at risk of suicide/self-harm be continuously monitored by both medical and prison staff throughout the prisoner's time in custody and that records are kept of such monitoring? R(98)7: 58, EPR 47(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	5	0	14
Total Europe - %	42	29	21	0	58
Bulgaria					X

BULGARIA

4.4.3 Has your country adopted laws or policies requiring that prisoners detained in a special cell be visited daily, and as frequently as is necessary by a doctor who shall, inter alia, monitor his/ her physical and mental health? SMR 25(1) & 32(3), R(98)7: 66, EPR 43.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Bulgaria					X

Analysis

International instrument compliance

None of the commitments relating to vulnerable prisoners has been adopted by Bulgaria.

5.4.5 *Medical & health care personnel*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.5.1 Has your country adopted laws or policies to ensure that every prisoner has access to appropriately qualified medical personnel in the prison at all times? SMR 24, BOP 24, R(98)7:1, 2 & 4, EPR 41.2 & 41.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Bulgaria	X	X			

Analysis

International instrument compliance

The commitment regarding the provision of adequate and qualified medical staff has been adopted by Bulgaria.

Situation in practice

This commitment notwithstanding, international organisations have continued to highlight inadequacies in the provision of prison health care in Bulgaria including insufficient staff. See comments and analysis at section 4.1 above.

5.4.6 *Prisoners with addiction problems*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.6.1 Has your country adopted laws or policies to ensure that prisoners with addiction problems have access to appropriate treatment and support services, including those from external agencies? SMR 62, R(98)7: 7, 43, 44, 45, 46 & 47, EPR 42.3.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	8	0	3
Total Europe - %	88	79	33	0	13
Bulgaria	X	X			

Analysis

International instrument compliance

Bulgaria incorporated the commitment requiring it to ensure that prisoners with addiction problems have access to appropriate treatment and support services, including those from external agencies into its national law.

Situation in practice

In spite of the above, the CPT highlighted that drugs represented a rising problem in Bulgarian prisons. The Committee also emphasised, however, that no measures other than traditional security precautions were being taken. Whilst in principle there was a methadone substitution program, only one prisoner was undergoing treatment at the time of the inspection.

The UNHCR also highlighted this problem stating that prison authorities too acknowledged the difficulties diagnosing and treating the increasing numbers of drug-dependent inmates and limiting their access to narcotics. According to the prison administration, approximately 1,200 prisoners or 13 percent of the prison population were drug dependent.

5.4.7 *Hunger strikes*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.7.1 Has your country adopted laws or policies forbidding the practice of forced feeding of hunger strikers? DOMHS, R(98)7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	37	21	21	0	63
Bulgaria					X

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Analysis

International instrument compliance

Commitment regarding the forced feeding of hunger strikers has not been incorporated into Bulgarian law.

5.5 Good order

5.5.1 *General approaches*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.1.1 Has your country adopted laws or policies requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody? R(82)17: 8, EPR 51.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	0	9
Total Europe - %	62	62	13	0	38
Bulgaria	X	X			

Analysis

International instrument compliance

Commitment regarding security assessment of prisoners has been adopted by Bulgaria.

Situation in practice

The CPT highlighted that a low staff complement impedes the development of positive relations between staff and prisoners and precludes the emergence of dynamic security. See also comments at section 3.10 above.

5.5.2 *Safety & Security*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.2.1 Has your country adopted laws or policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat? EPR 51.5, 53.1 & 53.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	63	63	17	0	37
Bulgaria					X

Analysis

International instrument compliance

The commitment regarding reviews of those prisoners placed on protection has not been adopted by Bulgaria.

5.5.3 *Searching of prisoners*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.3.1 Has your country adopted laws or policies requiring that searches conducted on prisoners be carried out with due regard to the prisoner's dignity? ICCPR 10(1), BPTP 1, EPR 54.3 & 54.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	0	1
Total Europe - %	96	92	13	0	4
Bulgaria	X	X			

5.3.2 Has your country adopted laws or policies stipulating that prisoners may only be searched by a staff member of the same gender? ICCPR 10(1), BPTP 1, EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	1	0	1
Total Europe - %	96	92	4	0	4
Bulgaria	X	X			

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5.3.3 Has your country adopted laws or policies stipulating that prisoners may only be subjected to a strip search in exceptional circumstances and for good reason and then, only in the presence of two officers in an appropriate place which ensures privacy? ICCPR 10(1), BPTP 1, EPR 54. 3, 54.4 & 54.6, *Van der Van v The Netherlands* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	3	1	13
Total Europe - %	66	54	13	4	54
Bulgaria					X

Analysis

International instrument compliance

Two out of the three legally binding commitments regarding the searching of prisoners have been adopted by Bulgaria.

5.5.4 Criminal acts, discipline & punishment

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.4.1 Has your country adopted laws or policies stipulating that all inquiries into breach of prison discipline or rules shall be conducted in an independent and impartial manner? ICCPR 14(1), UDHR 10, ECHR 6(1), *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	2	1	8
Total Europe - %	67	63	8	4	33
Bulgaria					X

5.4.2 Has your country adopted laws or policies requiring that all incidents of bullying/violence/threatening behaviour between prisoners, and any breach of discipline be reported to an officer of a higher rank, duly recorded and properly investigated? EPR 52.2 & 58

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	62	62	17	0	38
Bulgaria					X

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5.4.3 Has your country adopted laws or policies stipulating that when a prisoner has been charged with a disciplinary offence he/she shall be promptly informed of the allegation made against him/her in a language that he/she understands? ICCPR 14(3)(a), CERD 5(a), SMR 30(2), ECHR 6(3)(a), EPR 59.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	3	0	7
Total Europe - %	71	71	13	0	29
Bulgaria					X

5.4.4 Has your country adopted laws or policies stipulating if an inquiry is being conducted into a breach of prison discipline or rules the prisoner shall have adequate time to prepare his/her defence and/or to receive legal assistance? ICCPR 14(3)(b) & (d), SMR 30(2), ECHR 6(3)(b) & (c), EPR 59.b & 59.c, *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	2	0	9
Total Europe - %	62	58	8	0	38
Bulgaria					X

5.4.5 Has your country adopted laws or policies stipulating that in any disciplinary proceedings prisoners must understand the proceedings and if necessary, appropriate interpretation facilities must be provided? ICCPR 14(3)(f), SMR 30(3), ECHR 6(3)(e), EPR 59.e

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Bulgaria					X

5.4.6 Has your country adopted laws or policies stipulating that no prison officer shall impose a punishment/penalty/deprivation on a prisoner without due process and in accordance with law and/or relevant rules or instruments? EPR 57.2.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	2	0	4
Total Europe - %	83	83	8	0	17
Bulgaria	X	X			

5.4.7 Has your country adopted laws or policies stipulating that if a prisoner is found guilty of a disciplinary offence, he/she shall be entitled to exercise his/her right of appeal to an independent and impartial tribunal established by law? ICCPR 14(5), BOP 30(2), EPR 61

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	1	0	5
Total Europe - %	79	79	4	0	21
Bulgaria					X

BULGARIA

5.4.8 Has your country adopted laws or policies requiring that when a prisoner is detained in any type of special cell (special observation/cladded/strip) he/she shall be regularly monitored by a prison officer? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	3	0	7
Total Europe - %	71	67	13	0	29
Bulgaria					X

5.4.9 Has your country adopted laws or policies requiring that a detailed record be maintained of, inter alia, the monitoring of such prisoners, their expressed requirements, actions taken in response to such requests and details of visits by officers or others to such prisoners? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	8	8	2	0	16
Total Europe - %	33	33	8	0	67
Bulgaria					X

5.4.10 Has your country adopted laws or policies to ensure that prisoners in a special cell are able to contact a member of staff at all times, including during the night and that a staff member shall respond without delay? ICCPR 6(1), EPR 18.2.c & 52.4, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	4	0	63
Bulgaria					X

Analysis

International instrument compliance

Bulgaria has adopted only one of the ten commitments relating to criminal acts and discipline within the prison. Legally binding commitments relating to the impartial investigation of breaches of prison discipline, ensuring that prisoners have access to information about the charges against them in a language which they understand, have adequate time to prepare their defence, can access interpretation facilities during a hearing if required and can appeal to an independent and impartial tribunal have not been incorporated. Furthermore, the legally binding requirements concerning the requirement to monitor prisoners placed in special cells and to record information relating to the same alongside ensuring that such prisoners are able to contact prison staff at all times have also not been incorporated.

Situation in practice

The CPT found that disciplinary proceedings for foreign prisoners were regularly carried out without a translator undermining any conclusions which could be drawn from the procedure. Furthermore prisoners were not given copies of the decision taken against them.

5.5.5 Use of force/weapons

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.5.1 Has your country adopted laws or policies stipulating that members of staff will use force only when absolutely necessary and that any force used shall be proportionate to the situation? SMR 54(1), CCLEO 3, BPUF 4, EPR 64 & 6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	4	1	3
Total Europe - %	87	87	17	4	13
Bulgaria					X

Analysis

International instrument compliance

The commitment relating to proportionate use of force has not been adopted by Bulgaria.

Situation in practice

In 2006, the CPT found that there was a low incidence of ill-treatment of prisoners by custodial staff. However from a selection of prisons there were allegations of ill-treatment against new prisoners and those who had made complaints. This finding is, however, somewhat contradicted by the UNHCR who highlight that guards' mistreatment of inmates continues to be a problem in Bulgaria. They cite a case brought by the Bulgarian Helsinki Committee (BHC) who filed a claim against the Ministry of Justice on behalf of a prisoner who was beaten by another inmate in October 2008 in the Varna prison, accusing the ministry of providing inadequate guard supervision and failing to provide physical security to prisoners.

5.5.6 Requests & complaints

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

BULGARIA

5.6.1 Has your country adopted laws or policies to ensure that prisoners have sufficient opportunity to make requests or complaints to the Governor of the prison or to any other competent authority? SMR 36(1) & (3), BOP 33(1), EPR 70.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	3	0	1
Total Europe - %	96	96	13	0	4
Bulgaria	X	X			

5.6.2 Has your country adopted laws or policies establishing the right of a prisoner's legal advisor or to make a request or a complaint regarding that prisoner's treatment to the prison authorities, or other relevant authorities? BOP 33 (1) & (2), EPR 70.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	1	0	6
Total Europe - %	75	75	4	0	25
Bulgaria	X	X			

5.6.3 Has your country adopted laws or policies requiring that all complaints be promptly investigated in accordance with law? SMR 36(4), BOP 33(4)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	2	0	7
Total Europe - %	71	67	8	0	29
Bulgaria	X	X			

5.6.4 Has your country adopted laws or policies to ensure that where a request is denied or a complaint is rejected, the prisoner is informed promptly as to the reason(s) for such denial or rejection? SMR 36(4), BOP 33(4), EPR 70.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	2	1	7
Total Europe - %	71	63	8	4	29
Bulgaria	X	X			

5.6.5 Has your country adopted laws or policies to ensure that prisoners are not disadvantaged for exercising their rights to make requests or complaints? BOP 33(4), EPR 70.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	3	0	13
Total Europe - %	46	42	13	0	54
Bulgaria					X

5.6.6 Has your country adopted laws or policies requiring that complaints made by members of staff against other members of staff be properly recorded and investigated in accordance with the law? EPR 88 & 87.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	11	3	0	11
Total Europe - %	54	46	13	0	46
Bulgaria					X

Analysis

International instrument compliance

Bulgaria has adopted two of the six commitments relating to the prison requests and complaints procedure.

Situation in practice

In general the complaints procedure was considered praiseworthy by the CPT.

5.6 Management & Staff

5.6.1 *Training of staff*

This section focuses on the staff training and prison management. International legal instruments place a series of obligations on States in respect of the training and management of prison staff. The questions in this section are based on these obligations.

6.1.1 Has your country adopted laws or policies to ensure that all prison staff receive appropriate training at regular intervals throughout their career? SMR 47(3), EPR 8, 76 & 81.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	14	7	0	5
Total Europe - %	79	58	29	0	21
Bulgaria	X	X			

6.1.2 Has your country adopted laws or policies to ensure that members of staff who work with particular groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, receive training particular to their individual work? R(82)17: 10, R(2004)10: 12(1), EPR 81.3, ERJO 129

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	38	21	21	0	62
Bulgaria	X	X			

BULGARIA

Analysis

International instrument compliance

Both commitments relating to management and staff have been adopted by Bulgaria.

5.7 Inspection & Monitoring

5.7.1 *Governmental Inspection*

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.1.1 Has your country adopted laws or policies requiring that prisons be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law? SMR 55, EPR 92, R(2004)10 36.1, ERJO 125, PPPMI 22

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	19	4	0	4
Total Europe - %	83	79	17	0	17
Bulgaria	X	X			

Analysis

International instrument compliance

Commitment relating to governmental inspection has been incorporated into Bulgarian law.

Situation in practice

The 2006 CPT delegation was told that inspections by prosecutors took place both on a monthly and ad hoc basis. In addition the Bulgarian Helsinki Committee and the Ombudsman also inspect prisons.

5.7.2 *Independent monitoring*

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.2.1 Has your country adopted laws or policies requiring that the conditions of detention and the treatment of prisoners shall be also monitored by an independent body or bodies, comprised of qualified experienced personnel, and whose findings shall be made public? OPCAT 3, 17, 18, 19, BOP 29.1, EPR 93.1, R(2004)10 36.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Bulgaria					X

7.2.2 Has your country adopted laws or policies granting such an independent body open access to places of detention, to prisoners and others whom it wishes to interview? OPCAT 19, 20, CPT 8,9 BOP 29.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	3	1	9
Total Europe - %	62	58	13	4	38
Bulgaria	X	X			

7.2.3 Has your country adopted laws or policies encouraging such independent bodies to cooperate with those international agencies that are legally entitled to visit prisons? CPT 2,7 EPR 93.2, ERJO 126.

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	6	1	0	17
Total Europe - %	29	25	4	0	71
Bulgaria					X

Analysis

International instrument compliance

One of the three commitments relating to independent inspection of prison facilities has been adopted by Bulgaria. Comments from the SPOC indicate that Bulgaria's approach is not commensurate with international standards.

Situation in practice

Bulgaria ratified the OP-CAT on 1 June 2011.

5.8 Sentenced Prisoners

This section focuses on the particular provisions relating to convicted prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

BULGARIA

8.1.1 Has your country adopted laws or policies requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan? ICCPR 10(3), SMR 80, EPR 6, 103.2 & 103.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	6	2	4
Total Europe - %	83	83	25	8	17
Bulgaria	X	X			

8.1.2 Has your country adopted laws or policies requiring that a sentence management plan be prepared for each prisoner serving a sentence of 12 months or over as soon as practicable after their admission? It should provide for, inter alia, the welfare and health needs of the prisoner, training, employment or education needs he/she may have, and include a release plan for the prisoner. This plan shall be reviewed at regular intervals to take into account the changing circumstances of the prisoner. SMR 65, 66 & 69, R(2003)23: 3 & 9, EPR 6, 103 & 104.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	5	0	10
Total Europe - %	58	54	21	0	42
Bulgaria	X	X			

Analysis

International instrument compliance

Bulgaria has adopted both of the commitments relating to sentenced prisoners including the legally binding commitment requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan.

Situation in practice

The CPT praised the pre-release program in operation at Sliven Prison as seen during its 2006 inspection. This helped the prisoners with individual and group preparation for life after release.

The 2008 CPT report highlighted a range of issues relating to the special unit for life sentence prisoners within Sofia prison. Despite improvements in facilities as witnessed by the installation of integral in-cell sanitation, the establishment of cooking and social facilities for inmates and arrangements for daily outdoor exercise, the Committee found that life in the unit remained monotonous. Staff on the lifer unit indicated that two of the inmates were in their first 5 years of a life sentence and were therefore subject to particular security restrictions. These two lifers were escorted in handcuffs and were not allowed to watch television. It was up to the Director to review the use of handcuffs, but there was no time limit on their use and no regular review period. The Committee considered that there was be no justification for routinely handcuffing a prisoner within a secure environment, provided there is proper staff supervision.

The CPT also expressed serious misgivings about the current legal provisions whereby lifers are systematically subjected to a strict and segregated regime for an initial period ordered by the sentencing court (i.e. 5 years) noting that this approach runs counter to the generally accepted principle that offenders are sent to prison as a punishment, not to receive punishment. Pursuant to Bulgarian law, after the initial 5 years of their sentence, lifers are eligible for allocation within the mainstream prisoner population if they have behaved well and have had no disciplinary punishments. However, in practice, the CPT found that only a minority of lifers (3 out of 18 at

Sofia Prison) had found their way into the mainstream, some after many years served in the lifer unit. The Bulgarian authorities informed the 2008 CPT delegation that there were 148 life-sentenced prisoners in the country (according to May 2008 statistics); about half of these prisoners were not eligible for parole consideration. A working group was in the process of drafting amendments to the Criminal Code which included provision to eliminate the sentence of life imprisonment without possibility of parole.

Following its 2006 visit, the CPT delegation highlighted a number of issues relating to foreign prisoners in Sofia prison. Such prisoners were placed in a separate area and subjected to an entirely different regime with tensions over this practice culminating in a hunger strike. Education of any sort, even learning Bulgarian, was unavailable for these prisoners. In 2008, the CPT was informed that a number of foreign national prisoners had left Sofia Prison since the 2006 visit: some had been granted parole, while others had been transferred to open and semi-open facilities. Further, although the legislation in force still required foreign prisoners to be held separately, they now reportedly enjoyed the same regime as Bulgarian prisoners. That said, the delegation again received some complaints about difficulties in obtaining home leave and the granting of conditional leave (parole). Early release was unavailable to foreign prisoners.

5.9 Juveniles

This section focuses on the particular provisions relating to juvenile prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

9.1.1 Has your country adopted laws or policies requiring that juveniles be detained separately from adult offenders? ICCPR 10(3), CRC 37(c), BR 26.3, RPJDL 29, EPR 11.1, ERJO 59.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	1	3
Total Europe - %	87	87	13	4	13
Bulgaria	X	X			

9.1.2 Has your country adopted laws or policies to ensure that, subject to reasonable conditions and restrictions, a sentenced prisoner under the age of 18 shall be entitled to receive a minimum of two weekly visits? CRC 37(c), SMR 37, BOP 19, RPJDL 60, ERJO 83, 84, 85.1 & 85.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	6	3	0	15
Total Europe - %	37	25	13	0	63
Bulgaria					X

BULGARIA

Analysis

International instrument compliance

Bulgaria has adopted the legally binding commitment requiring juvenile offenders to be housed separately from adult offenders.

5.10 Sentence Execution Modalities

This section of the questionnaire is designed to collate information on the differing methods by which custodial sentences and measures involving deprivation of liberty are enforced across EU Member States.

10.1.1. Which of the following modalities of prison sentence execution are provided for in the law of your country?

	Weekend detention	Evening detention	Daytime detention	Home detention	
				no electronic monitoring	electronic monitoring
EUROPE	9 = 38%	10 = 42%	3 = 13%	6 = 25%	14 = 58%
Bulgaria	X				

10.1.2. What is the maximum period for which home detention with electronic monitoring can be imposed?

	Under 12 months	12-24 months	25 months - 36 months	37 months - 50 months	More than 50 months
EUROPE	7 = 29%	4 = 17%	0 = 0%	1 = 4%	2 = 8%
Bulgaria					

10.2.1. In which of the following locations can custodial sentences or measures involving deprivation of liberty be imposed?

	Penitentiary institution	Psychiatric institution	Detoxification institution	Educational institution	Home
EUROPE	24 = 100%	20 = 83%	10 = 42%	7 = 29%	12 = 50%
Bulgaria	X		X		

Analysis

Sentence execution modalities

No additional sentence execution modalities are provided for under Bulgarian law. Custodial sentences or measures involving deprivation of liberty can be imposed in relation to penitentiary and educational institutions.

5.11 Early release from prison, earned remission and suspension of sentence

5.11.1 Early release

Early release means the release of the offender before their prison term is finished. It is possible only while the sentence is still being served. Early release does not include the suspended enforcement of a penalty which is dealt with later in this questionnaire.

11.1.1 Has your country adopted laws and regulations under which prisoners are entitled to early release from prison ?

	Yes	No
EUROPE	24 = 100%	0 = 0%
Bulgaria	X	

11.1.2.1. At what point in a prisoner's sentence do they become eligible for early release?

	One third of sentence or less	One third to one half of a sentence	One half to three quarters of a sentence	More than three quarters of a sentence	Other
EUROPE	2 = 8%	1 = 4%	7 = 29%	0 = 0%	14 = 58%
Bulgaria					X

11.1.2.2. Does your country have different regulations for the early release of prisoners based on:

	A prisoner's nationality (non-EU citizen)	A prisoner's nationality (EU citizen)	The length of sentence imposed
EUROPE	Yes - 3 = 12% No - 21 = 88%	Yes - 3 = 12% No - 21 = 88%	Yes - 24 = 100% No - 0 = 0%
Bulgaria	N	N	Y

11.1.2.3. Are provisions governing the early release of prisoners automatic or discretionary?

	Automatic (prisoners are automatically released at a certain point in their sentence)	Discretionary (prisoners are only released following assessment)
EUROPE	Yes - 7 = 29% No - 17 = 71%	Yes - 20 = 83% No - 4 = 17%
Bulgaria	N	Y

BULGARIA

11.1.2.4. What factors are taken into consideration when deciding whether a prisoner will be granted early release?

	The circumstances surrounding the crime	Prior criminal record	The offender's progress during imprisonment	Assessment as to whether the prisoner is likely to reoffend	Recommendation from the sentencing judge
EUROPE	Yes - 24 = 50% No - 24 = 50%	Yes - 15 = 63% No - 9 = 37%	Yes - 22 = 92% No - 2 = 8%	Yes - 19 = 79% No - 5 = 21%	Yes - 4 = 17% No - 20 = 83%
Bulgaria	Y	Y	Y	N	N

11.1.3.1. What forms of monitoring and conditions can be applied to prisoners' early release?

1. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
2. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
4. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
5. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
6. Electronic monitoring
7. Weekend/evening /daytime detention
8. Requirement containing limitations on leaving the country
9. Requirement to leave the country
10. Requirement to pay compensation
11. Requirement to undertake community service
12. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	Other
EUROPE	Y - 83 N - 17	Y - 8 N - 92	Y - 58 N - 42	Y - 62 N - 38	Y - 33 N - 77	Y - 25 N - 75	Y - 13 N - 87	Y - 42 N - 58	Y - 21 N - 79	Y - 29 N - 71	Y - 21 N - 79	9
Bulgaria	Y	N	N	Y	N	N	N	Y	N	N	N	

5.11.2 Sentence reduction as a result of prison work

11.2.1.1. Can a prisoner earn remission on their sentence as a result of work carried out in prison?

	Yes	No
EUROPE	9= 38%	15 – 62%
Bulgaria	X	

5.11.3 Suspension of sentence enforcement

11.3.1. Does the national law of your country make provision for the further execution of a prison sentence to be suspended during the course of the sentence?

	Yes	No
EUROPE	10=42%	14= 58%
Bulgaria	X	

11.3.2.1. What factors are taken into consideration when deciding whether a prisoner will have the further execution of their prison sentence suspended?

1. The circumstances surrounding the crime
2. Prior criminal record
3. The offender's progress during imprisonment
4. Assessment as to whether the prisoner is likely to reoffend
5. Recommendation from the sentencing judge
6. Suitability of home circumstances
7. Information from victim(s)
8. Willingness of the prisoner to leave the country upon release
9. The prisoner will be deported upon release
10. Other – please specify

	1	2	3	4	5	6	7	8	9	Other
EUROPE	Y - 8 N - 92	Y - 13 N - 78	Y - 17 N - 83	Y - 21 N - 79	Y - 0 N - 100	Y - 4 N - 96	Y - 0 N - 100	Y - 0 N - 100	Y - 0 N - 100	21
Bulgaria	Y	Y	Y	N	N	N	N	N		

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11.3.3.1. What forms of monitoring and conditions can be applied to prisoners whose further execution of a prison sentence has been suspended?

1. Unconditional supervision
2. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
4. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
5. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
6. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
7. Electronic monitoring
8. Weekend/evening /daytime detention
9. Requirement containing limitations on leaving the country
10. Requirement to leave the country
11. Requirement to pay compensation
12. Requirement to undertake community service
13. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	12	Other
EUROPE	Y - 4	Y - 38	Y - 4	Y - 29	Y - 17	Y - 17	Y - 4	Y - 4	Y - 21	Y - 0	Y - 17	Y - 4	2
	N - 96	N - 62	N - 96	N - 71	N - 83	N - 83	N - 96	N - 96	N - 79	N - 100	N - 83	N - 96	
Bulgaria	N	Y	N	N	Y	N	N	N	Y	N	N	N	

Analysis

Early release from prison, earned remission and suspension of sentence

In common with all EU countries, Bulgaria has adopted measures under which prisoners are entitled to early release from prison. Prisoners in Bulgaria can become eligible for early release between one third to one half way through their sentence albeit that differing regulations apply depending on the length of sentence imposed. The early release system in Bulgaria is based around discretionary provisions. Differential provisions also apply dependent on a prisoner's nationality and the length of sentence which they are serving. Decisions on a prisoner's early release can be based on three of the ten criteria identified. Four differing forms of monitoring and conditions can be applied to a prisoner granted early release. Prisoners in Bulgaria are able to earn remission from their sentence as a result of work undertaken in prison. Provision also made for the further execution of a prison sentence to be suspended during the course of the sentence a decision which is based on the same criteria as guide decisions on a prisoner's early release. Three different forms of monitoring and conditions can be applied in such cases.

Situation in practice

The CPT highlighted that early release was not available to foreign prisoners.

Appendix – Legal & Policy Documents

1. Bulgarian constitution (2007)
2. Penal Code (2005)
3. Code of Criminal Procedure (2006)
4. Implementation of Penal Sanctions and Detention in Custody Act (2009)
5. Ordinance no. 2 (2010)
6. Rules ZIN (2010)
7. Strategy MLS (2009)

6 Cyprus

6.1 Introduction

The questionnaire was completed by Petros Michaelides, lawyer and member of the European Committee for the Prevention of Torture.

Cyprus has been visited once by the Committee for the Prevention of Torture in the last five years (2008 - report as yet unpublished) and was the subject of a report from the European Commissioner for Human Rights in 2006. The Commissioner did not review the prison system during his 2008 visit. Additional information was sourced from the 2009 UNHCR Country Report on Human Rights Practices for Cyprus (drawing on source material provided by the US Department of State), the publications of the Cypriot Ombudsman (the designated National Preventive Mechanism under the Optional Protocol to the UN Convention Against Torture) and the International Centre for Prison Studies.

Country	CYPRUS (REPUBLIC OF)
Ministry responsible	Ministry of Justice and Public Order
Prison administration	Department of Prisons
Contact address	2 Norman Street, 1702 Nicosia, Republic of Cyprus
Telephone/fax/website	tel: +357 22 40 6104 / fax: +357 22 30 3889
Prison population total (including pre-trial detainees / remand prisoners)	883 at 1.9.2009 (Council of Europe Annual Penal Statistics - including 213 pre-trial detainees held in police facilities)
Prison population rate (per 100,000 of national population)	110 based on an estimated national population of 801,100 at beginning of September 2009 (from Eurostat figures)
Pre-trial detainees / remand prisoners	42.2% (1.9.2009 - including pre-trial detainees in police facilities)
Female prisoners (percentage of prison population)	5.8% (of those held in the prison, 1.9.2009)
Juveniles / minors / young prisoners incl. definition (percentage of prison population)	0.4% (of those held in the prison, 1.9.2009 - under 18)
Foreign prisoners (percentage of prison population)	61.9% (of those held in the prison, 1.9.2009)
Number of establishments /institutions	1 (2009 - one prison but police detention centres are used for many pre-trial detainees)
Official capacity of prison system	597 (1.9.2009 - 340 in the prison, 257 in police detention centres)
Occupancy level (based on official capacity)	147.9% (1.9.2009)
Recent prison population trend (year, prison population total, prison population rate)	1992 193 (36) 1995 202 (31) 1998 226 (33) 2001 369 (52) 2004 546 (73) 2007 646 (82)

6.2 Overarching Principles

This section focuses on the overarching principles governing the management of prisons and the treatment of prisoners. International legal instruments place a series of obligations on States in respect of the management of prisons and the treatment of prisoners. The questions in this section are based on these obligations

2.1.1 Has your country adopted laws or policies specifically requiring that prisoners must be treated with respect for their human rights? ICCPR 10(1), UDHR 1, BOP 1, BPTP 1, EPR 1 & 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	19	7	1	2
Total Europe - %	92	79	29	4	8
Cyprus	X	X	X		

2.1.2 Has your country adopted laws or policies specifically requiring prisons to be managed in accordance with human rights standards? EPR 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	4	3	3
Total Europe - %	88	75	16	13	12
Cyprus	X	X			

2.1.3 Has your country adopted laws or policies explicitly prohibiting practices that could constitute torture, inhumane or degrading treatment or punishment of prisoners? ICCPR 7, BOP 6, ECHR 3, *Kalashnikov v Russia* (ECtHR 2003)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	1	3	2
Total Europe - %	92	88	4	12	8
Cyprus	X	X			

2.1.4 Has your country adopted laws or policies specifically requiring that prisoners be provided with a range of activities during their sentence (for example - educational, recreational, work/training and welfare programmes)? SMR 77 & 78, BOP 28, BPTP 6 & 8, EPR 25

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	0	0
Total Europe - %	100	96	29	0	0
Cyprus	X	X			

Analysis

International instrument compliance

In common with the majority of EU member states, Cyprus has passed legislation designed to protect the human rights of its prisoners and provide them with a meaningful regime during their time in custody. This legislation includes all of the commitments arising from legally binding international legal instruments.

6.3 Conditions Of Imprisonment

6.3.1 Admission

This section focuses on the treatment of prisoners upon their admission to prison. International legal instruments place a series of obligations on States in respect of prisoner admission. The questions in this section are based on these obligations.

3.1.1 Has your country adopted laws or policies requiring that all prisoner details are recorded at the time of committal including, inter alia, details of any visible injuries and the prisoner's personal belongings? SMR 7(1), EPR 15.1, 31.1, 31.2 & 31.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	7	1	7
Total Europe - %	71	63	29	4	29
Cyprus	X	X			

3.1.2 Has your country adopted laws or policies requiring that upon admission, each prisoner is given a booklet outlining his/her rights, duties, obligations and privileges and the rules and regulations governing the prison which apply to the individual prisoner? The booklet shall be written in a language that the prisoner understands. CERD 7, SMR 35, BOP 13, EPR 30

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	6	1	6
Total Europe - %	63	54	25	4	25
Cyprus	X	X			

3.1.3 Has your country adopted laws or policies requiring that upon admission, every prisoner shall undergo a medical examination either by a nurse reporting to a doctor or by a doctor? SMR 24, BOP 24, R(98)7: 1, EPR 42.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	20	6	1	1
Total Europe - %	96	83	25	4	4
Cyprus	X	X			

3.1.4 Has your country adopted laws or policies requiring the doctor/nurse to pay particular attention to the detection of injuries, mental illnesses, of withdrawal symptoms resulting from

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the use of drugs, medication or alcohol, of contagious and chronic conditions, and, to assess the prisoner's suicide/self-harm risk? SMR 24, R(98)7: 1, EPR 42.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	10	8	1	9
Total Europe - %	62	42	33	4	38
Cyprus	X	X			

3.1.5 Has your country adopted laws or policies requiring injuries detected during such an examination to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner? EPR 15.1.e & 42.3.c

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	5	4	1	17
Total Europe - %	29	21	17	4	71
Cyprus					X

3.1.6 Has your country adopted laws or policies requiring upon admission that each prisoner be assessed to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves? ICCPR 6, UDHR 3, ECHR 2, R(2003)23: 12, EPR 52.1, *Keenan v The United Kingdom* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	5	1	13
Total Europe - %	46	42	21	4	54
Cyprus	X	X			

3.1.7 Has your country adopted laws or policies requiring that such risks be managed for the duration of the prisoner's sentence? ICCPR 6, UDHR 3, ECHR 2, EPR 52.2, *Osman v The United Kingdom* (ECtHR 2000)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	3	1	12
Total Europe - %	50	50	13	4	50
Cyprus	X	X			

Analysis

International instrument compliance

Cyprus has incorporated six out of the seven commitments relating to prison admission into its domestic law including the legally binding commitments relating to the provision of booklet to new admissions outlining their rights and the rules of the establishment and the requirement to carry out initial and on-going risk assessments for prisoners. See comments from the SPOC above in relation to the unincorporated commitment relating to the registration of injuries.

6.3.2 Allocation

This section focuses on the allocation of prisoners to a particular prison. International legal instruments place a series of obligations on States in respect of prisoner allocation. The question in this section is based on these obligations.

3.2.1 Has your country adopted laws or policies requiring prisoners to be assigned to a prison as near to their home area as possible in order to maintain relationships with families and friends, subject to the maintenance of good order and security? BOP 20, EPR 17.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	15	6	1	5
Total Europe - %	79	63	25	4	21
Cyprus					X

Analysis

International instrument compliance

Commitment not adopted but also not relevant. See comments from SPOC above.

6.3.3 Accommodation

This section focuses on the living conditions of prisoners. International legal instruments place a series of obligations on States in respect of the accommodation of prisoners. The questions in this section are based on these obligations.

3.3.1 Has your country adopted laws or policies requiring that where possible prisoners should have individual cells to sleep in? SMR 9(1), EPR 18.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	3	0	10
Total Europe - %	58	54	13	0	42
Cyprus	X	X			

3.3.2. Has your country adopted laws or policies stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation? ICCPR 6(1), UDHR 3, SMR 9(2), ECHR 2, EPR 18.6 & 18.7, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	4	0	14
Total Europe - %	42	29	17	0	58
Cyprus					X

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3.3.3 Has your country adopted laws or policies requiring that the size of a cell must be suitable for its purpose? The suitability of the cell size should be dependent on the number of hours spent in the cell, the number of prisoners accommodated in the cell and the availability of in-cell-sanitation facilities that ensure privacy. SMR 9, 10, 11 & 12, EPR 18 & 19.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	8	2	1	15
Total Europe - %	37	33	8	4	63
Cyprus					X

3.3.4 Has your country adopted laws or policies requiring that cells should not be used to accommodate more prisoners than the intended design capacity, unless justified in exceptional circumstances? SMR 9(1) & 10, EPR 18.1, 18.3, 18.4 & 18.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Cyprus					X

3.3.5 Has your country adopted laws or policies requiring that cells be suitable for accommodating prisoners in respect of size, lighting, heating, ventilation and fittings? SMR 9, 10, 11, 12 & 13, EPR 18

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	16	4	0	6
Total Europe - %	75	67	17	0	25
Cyprus	X	X			

3.3.6 Has your country adopted laws or policies requiring that all prisoners have in-cell access to a working alarm bell that attracts the attention of staff at all times? ICCPR 6(1), UDHR 3, ECHR 2, EPR 18.2.c & 52.4, IPR 18(4), *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	13	2	0	4
Total Europe - %	83	54	8	0	17
Cyprus					X

Analysis

International instrument compliance

Cyprus has adopted two out of the six commitments relating to the accommodation of prisoners. Legally binding commitments relating to the assessment of prisoners before they are considered for sharing a cell and requiring that all cells have access to a working alarm bell have not been incorporated into Cypriot law. Comments from the SPOC indicate that the Cypriot Prison Rules do indeed provide for a minimum cell occupancy sizes (see above) albeit that the space specified is less than that considered ideal by the CPT (8.5m² for an individual cell).

Situation in practice

International institutions have highlighted a number of problems in relation to prison overcrowding in Cyprus. For example, the UNHCR reported that conditions in prisons generally met international standards although there were also reports of overcrowding. This was exemplified by the continuing difficulties within Nicosia Central Prison despite renovation and expansion work there. Prison authorities acknowledged that many of the prison buildings, constructed prior to 1960, needed renovation. Construction work was underway in 2009 to increase capacity and improve sanitary conditions.

In September 2009 the Cypriot Ombudsman complained via the media that such overcrowding created problems for prisoners' health and welfare. The nominal capacity of Nicosia Central Prison was 340, but at times it housed up to 750 inmates. Approximately 73 percent of the detainees were foreigners imprisoned for a mixture of administrative and criminal offences. The Ombudsman further reported that, due to overcrowding, convicted criminals were not separated from pre-trial detainees and both long- and short-term prisoners were kept together. In a separate report issued during the year concerning drug use in the Central Prison, the Ombudsman recommended the establishment of dedicate detention for drug users.

The International Centre for Prison Studies reported that the prison system in Cyprus was operating at 148% of design capacity as of September 2009.

Nicosia Central Prison was visited by members of the European Commission for Human Rights' delegation in 2005. The general conditions in the prison were found to be good, with a new accommodation block having been renovated in 2004. The problems of over-crowding highlighted above were also manifest during the Commissioner's visit as was the high proportion of foreign prisoners.

6.3.4 Hygiene & Sanitation

This section focuses on the hygiene and sanitation facilities for prisoners. International legal instruments place a series of obligations on States in respect of hygiene and sanitation. The questions in this section are based on these obligations.

3.4.1 Has your country adopted laws or policies to ensure that all prisoners have access to adequate and appropriate sanitary and washing facilities that respect their privacy? SMR 12 & 13, EPR 19.3, 19.4 & 19.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	2	0	10
Total Europe - %	58	58	8	0	42
Cyprus	X	X			

3.4.2 Has your country adopted laws or policies requiring that all In-cell sanitation facilities must be adequately screened? ICCPR 10(1), SMR 12, BOP 1, BPTP 1, ECHR 3, EPR 19.3, *Peers v Greece* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	4	1	9

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	62	54	17	4	38
Cyprus					X

Analysis

International instrument compliance

The legally binding commitment relating to the screening of in-cell sanitation facilities has not been incorporated into Cypriot law although comments from the SPOC indicate that its provisos are in fact carried out in practice.

6.3.5 Clothing & Bedding

This section focuses on clothing and bedding provisions for prisoners. International legal instruments place a series of obligations on States in respect of the provision of clothing and bedding. The questions in this section are based on these obligations.

3.5.1 Has your country adopted laws or policies to ensure that prisoners are provided with clothing that is suitable for the climate, is not degrading or humiliating and is age appropriate? SMR 17(1), EPR 20.1 & 20.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	10	0	7
Total Europe - %	71	71	42	0	29
Cyprus	X	X			

3.5.2 Has your country adopted laws or policies requiring each prisoner to be provided with a bed and appropriate bedding and to ensure that all bedding is in good condition, is changed regularly and laundered? SMR 19, EPR 21

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	2	0	6
Total Europe - %	75	71	8	0	25
Cyprus	X	X			

Analysis

International instrument compliance

All obligations regarding beds and bedding for prisoners have been incorporated into Cypriot law.

6.3.6 Nutrition

This section focuses on the nutrition requirements of prisoners. International legal instruments place a series of obligations on States in respect of prisoner's nutrition. The questions in this section are based on these obligations.

3.6.1 Has your country adopted laws or policies to ensure that prisoners are provided with a sufficient quantity of nutritious food taking into account their health, physical condition, special dietary requirements, religion and culture? SMR 20(1), EPR 22.1 & 22.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	5	1	4
Total Europe - %	83	83	21	4	17
Cyprus	X	X			

3.6.2 Has your country adopted laws or policies to ensure that prisoners have access to clean drinking water? SMR 20(2), EPR 22.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	16	5	1	5
Total Europe - %	79	67	21	4	21
Cyprus	X		X		

Analysis

International instrument compliance

Although, the commitment relating access to clean water has no basis in law, comments from the SPOC indicate that its provisions are being carried out in practice.

6.3.7 Legal advice, info & rights

This section focuses on the entitlement of prisoners to legal advice and information. International legal instruments place a series of obligations on States in respect of access to legal advice and information. The questions in this section are based on these obligations.

3.7.1 Has your country adopted laws or policies requiring that adequate time and facilities be provided to prisoners to receive professional visits from their legal advisers? BOP 18(2), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	4	1	2
Total Europe - %	92	92	17	4	8
Cyprus					X

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3.7.2 Has your country adopted laws or policies establishing the right of prisoners to communicate with their legal advisers by telephone and by letter? BOP 18(1), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	3	3	3
Total Europe - %	87	83	13	13	13
Cyprus					X

3.7.3 Has your country adopted laws or policies requiring that communications between a prisoner and his/her legal adviser remain confidential and can only be restricted by law or judicial authority? ICCPR 17, BOP 18(3) & (4), ECHR 8, EPR 23.4 & 23.5, *Campbell v The United Kingdom* (ECtHR 1992)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	3	1	2
Total Europe - %	92	92	13	4	8
Cyprus					X

Analysis

International instrument compliance

None of the commitments relating to legal advice and the rights of prisoners have been incorporated into Cypriot law including the legally binding commitment protecting the confidentiality of communication between a prisoner and their lawyer.

6.3.8 Contact with the outside world

6.3.8.1 Visits

This section focuses on the entitlement of prisoners to maintain contacts with the outside world. International legal instruments place a series of obligations on states in respect of prisoners' on-going contact with the outside world. The questions in this section are based on these obligations.

3.8.1.1 Has your country adopted laws or policies establishing the right of prisoners to communicate with their family and friends by correspondence and by receiving visits, subject to reasonable conditions/restrictions imposed by law or another authority? ICCPR 23(1), UDHR 16(3), SMR 37, BOP 15 & 19, EPR 24.1 & 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	2	0
Total Europe - %	100	96	29	8	0
Cyprus	X	X			

3.8.1.2 Has your country adopted laws or policies requiring that visits take place in an environment that enables prisoners to maintain and develop family and other relationships in as

normal a manner as is possible subject to the maintenance of good order and security in the prison? SMR 79, EPR 24.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	6	0	2
Total Europe - %	92	88	25	0	8
Cyprus	X	X			

6.3.8.2 Searching of visitors

3.8.2.1 Has your country adopted laws or policies requiring that searching procedures for visitors be undertaken in a manner that respects a person's dignity? SMR 27, BOP 19, EPR 54.1.c, 54.3, 54.4 & 54.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	4	0	7
Total Europe - %	71	63	17	0	29
Cyprus	X	X			

3.8.2.2 Has your country adopted laws or policies requiring that prison officers only be permitted to search visitors of the same gender? EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	9	1	0	12
Total Europe - %	50	38	4	0	50
Cyprus	X		X		

6.3.8.3 Restrictions on visits

3.8.3.1 Has your country adopted laws or policies requiring the authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party(ies) and to review these circumstances on a regular basis? SMR 27, 79 & 80, EPR 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	0	0	63
Cyprus					X

3.8.3.2 Has your country adopted laws or policies preventing the withdrawal of contact for female prisoners with their children as a disciplinary action except in exceptional circumstances? SMR 27, 79 & 80, EPR 24.2 & 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	2	0	12
Total Europe - %	50	50	8	0	50
Cyprus					X

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6.3.8.4 *Death, illness & transfer*

3.8.4.1 Has your country adopted laws or policies requiring that prisoners be informed of the death/serious illness of a close relative/ friend without delay? SMR 44(2), EPR 24.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	2	0	13
Total Europe - %	46	42	8	0	54
Cyprus	X	X			

3.8.4.2 Has your country adopted laws or policies allowing a prisoner to leave the prison to visit a sick relative/friend, attend a funeral or for other humanitarian reasons? SMR 44(2), EPR 24.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Cyprus	X	X			

3.8.4.3 Has your country adopted laws or policies ensuring that prisoners are allowed to inform their families or other nominated persons without delay of their imprisonment, transfer to another institution or of any serious illness that they may suffer from? SMR 44(1) & (3), BOP 16(1), EPR 24.8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Cyprus	X	X			

3.8.4.4 Has your country adopted laws or policies requiring the prison authorities to immediately inform the spouse or the nearest relative to the prisoner (or any other person previously nominated), if the prisoner dies in custody, is removed to a hospital or suffers a serious injury/illness? SMR 44(1), EPR 24.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	3	0	6
Total Europe - %	75	75	13	0	25
Cyprus	X	X			

6.3.8.5 Telephone and letters

3.8.5.1 Has your country adopted laws or policies preventing the monitoring or censoring of telephone calls unless the prisoner or the recipient of the call is informed of the possibility of such monitoring or, such monitoring has been agreed by any lawful authority? ICCPR 17, UDHR 12, SMR 37, BOP 19, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	3	1	5
Total Europe - %	79	79	13	4	21
Cyprus					X

3.8.5.2 Has your country adopted laws or policies permitting prisoners to send a minimum of 7 letters a week free of charge and more if he/she can afford it, and to receive as many letters as are sent to him/her? SMR 37, BOP 19, EPR 24.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	11	1	0	12
Total Europe - %	50	46	4	0	50
Cyprus					X

3.8.5.3 Has your country adopted laws or policies preventing the prison authorities from opening prisoners' private correspondence subject to the maintenance of good order and safe and secure custody in the prison? ICCPR 17, UDHR 12, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	1	9
Total Europe - %	62	62	13	4	38
Cyprus	X	X			

6.3.8.6 Media

3.8.6.1 Has your country adopted laws or policies entitling prisoners to be kept informed of current affairs and other developments outside the prison by reading newspapers and periodicals and by listening to radio or television broadcasts (subject to the maintenance of good order and safe and secure custody)? SMR 39, BOP 28, EPR 24.10

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	1	1
Total Europe - %	96	92	21	4	4
Cyprus	X	X			

Analysis

International instrument compliance

Cyprus has adopted ten of the fifteen commitments relating a prisoner's contact with the outside world including the legally binding commitments establishing the rights of prisoners to

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correspond with and receive visits from friends and family and that defining (and restricting) the circumstances in which a prisoner's mail may be opened. The commitment codifying the circumstances in which visits may be restricted alongside that defining (and restricting) the circumstances in which a prisoner's telephone calls may be monitored have not, however, been adopted.

6.3.9 Work

This section focuses on work in prison. International legal instruments place a series of obligations on States in respect of work in prison. The questions in this section are based on these obligations.

3.9.1 Has your country adopted laws or policies requiring work to be incorporated as a positive aspect of prison regimes and prohibiting its use as a form of punishment? SMR 71(1), EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Cyprus	X	X			

3.9.2 Has your country adopted laws or policies requiring that prison work provided should prepare prisoners for worthwhile work on their release and facilitate their reintegration into the workforce? SMR 71(3) & (4), BPTP 8, EPR 26.3 & 26.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	18	7	0	4
Total Europe - %	83	75	29	0	17
Cyprus	X	X			

3.9.3 Has your country adopted laws or policies entitling prisoners to be remunerated in respect of prison work carried out? ICESCR 7(a), UDHR 23, SMR 76(1), BPTP 8, EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	1	1
Total Europe - %	96	92	13	4	4
Cyprus	X	X			

Analysis

International instrument compliance

All instruments relating to work have been incorporated into Cypriot law.

6.3.10 Exercise & recreation

This section focuses on facilities for exercise and recreation in prison. International legal instruments place a series of obligations on States in respect of exercise and recreational facilities. The questions in this section are based on these obligations.

3.10.1 Has your country adopted laws or policies ensuring that, subject to the constraints of the particular prison and the maintenance of good order and security, prisoners shall be entitled to spend as much time out of their cells as is possible? EPR 25(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Cyprus	X	X			

3.10.2 Has your country adopted laws or policies ensuring that prisoners receive at least one hours exercise each day in the open air, weather permitting? SMR 21, EPR 27.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	2	1
Total Europe - %	96	92	21	8	4
Cyprus	X	X			

3.10.3 Has your country adopted laws or policies ensuring that prisoners shall have access to a well-stocked library at least once a week (subject to the maintenance of good order and safe and secure custody)? R(89)12: 10, EPR 28.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	13	0	0	11
Total Europe - %	54	54	0	0	46
Cyprus	X	X			

Analysis

International instrument compliance

All commitments relating to exercise and recreation have been incorporated within Cypriot law.

6.3.11 Education

This section focuses on facilities for education in prison. International legal instruments place a series of obligations on States in respect of prison education facilities. The questions in this section are based on these obligations.

3.11.1 Has your country adopted laws or policies requiring, as far as practicable, that prisoners have access to educational programmes that can meet their individual needs? ICESCR 13, UDHR 26, SMR 77(1), BPTP 6, R(89)12: 1, EPR 28.1

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	5	1	1
Total Europe - %	96	96	21	4	4
Cyprus	X	X			

3.11.2 Has your country adopted laws or policies requiring that education provided in prisons shall be integrated, in so far as is practicable, with national educational systems/programmes enabling prisoners to continue their education following their release? SMR 77(2), R(89)12: 16, EPR 28.7.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	5	0	3
Total Europe - %	87	75	21	0	13
Cyprus	X	X			

3.11.3 Has your country adopted laws or policies requiring that vocational training be available for those prisoners who are able to benefit from it, particularly young prisoners? SMR 71(5), BPTP 8, R(89)12: 9, EPR 26.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	20	5	0	2
Total Europe - %	92	83	21	0	8
Cyprus	X	X			

Analysis

International instrument compliance

All commitments in relation to education have been incorporated within Cypriot law.

6.3.12 Freedom of thought, conscience & religion

3.12.1 Has your country adopted laws or policies ensuring that prisoners have the opportunity to practice their religion and to follow their beliefs whilst in custody? ICCPR 18(1), CERD 5 (d) (vii), UDHR 18, SMR 42, BPTP 3, EPR 29.1 & 29.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	5	0	0
Total Europe - %	100	96	21	0	0
Cyprus	X	X			

Analysis

International instrument compliance

The legally binding commitment relating to freedom of religion has been incorporated within Cypriot national law.

6.4 Health

6.4.1 Core principles

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.1.1 Has your country adopted laws or policies requiring that primary healthcare services to meet the needs of all prisoners be provided in each prison to a standard equivalent to that available to the community in general? ICESCR 12(1), SMR 22(1), PME 1, R(98)7: 10, 11, 12 & 19, EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	6	0	1
Total Europe - %	96	92	25	0	4
Cyprus					X

4.1.2 Has your country adopted laws or policies to ensure that where a sick prisoner requires treatment that cannot be provided by the medical staff in the prison he/she shall be transferred to an appropriate hospital without undue delay? SMR 22(2), BPTP 9, R(98)7: 3, EPR 46.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	3	1	2
Total Europe - %	92	88	13	4	8
Cyprus	X	X			

4.1.3 Has your country adopted laws or policies requiring that medical records be created and accurately maintained on all prisoners and that such records be treated as confidential? BOP 26, R(98)7: 13, EPR 42.3.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	5	0	3
Total Europe - %	87	83	21	0	13
Cyprus	X	X			

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Analysis

International instrument compliance

The legally binding commitment requiring prison health care facilities to be provided to an equivalent standard to those in the community has not been adopted by Cyprus.

Situation in practice

In September 2009 the Ombudsman complained via the media that the Central prison lacked a health centre, even though her office had requested the creation of one 10 years earlier.

6.4.2 Women and children

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.2.1 Has your country adopted laws or policies to ensure that the necessary facilities and services required for women’s healthcare are available in women’s prisons and that women prisoners have access to a female doctor? CEDAW 12, SMR 23, BOP 5(2), R(98)7: 8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	7	3	0	17
Total Europe - %	29	29	13	0	71
Cyprus					X

4.2.2 Has your country adopted laws or policies requiring that appropriate care be afforded to all pregnant prisoners and nursing mothers? CEDAW 12(2), SMR 23, R(98)7: 8 & 69, EPR 34.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Cyprus	X	X			

Analysis

International instrument compliance

The legally binding commitment relating to women’s health care has not been adopted by Cyprus.

6.4.3 *Mental health care*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.3.1 Has your country adopted laws or policies requiring that prisoners with mental health difficulties be entitled to care appropriate to their circumstances, commensurate to the type of care available for people with similar mental health difficulties in the community? SMR 22(1), PPPMI 1 & 20, R(98)7:10, 11 & 52, R(2004)10: 35(1) & (2), EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	4	0	3
Total Europe - %	87	79	17	0	13
Cyprus	X	X			

4.3.2 Has your country adopted laws or policies to ensure that prisoners who require psychiatric in-patient care are transferred to a suitable hospital facility of an appropriate security level without undue delay? SMR 22(2), PPPMI 9(1) & 20, R(98)7: 3 & 55, R(2004)10: 8, 9(1) & 35(1), EPR 12(1) & 46(1)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	3	0	6
Total Europe - %	75	71	13	0	25
Cyprus	X	X			

Analysis

International instrument compliance

All commitments relating to mental health care of prisoners have been incorporated into Cypriot law.

Situation in practice

The legal framework notwithstanding, international organisations have raised concerns regarding the provision of mental health care within the Cypriot prison system. The 2006 report from the European Commissioner of Human Rights noted that by 2006, there had still been no establishment of a prisoner's psychiatric treatment centre, despite this being one of the measures ordered by the Cypriot Minister of Justice at the time of the Commissioner's last visit in 2003. The lack of adequate psychiatric care for detainees was of continuing concern. The psychiatrist was only able to see one third of all prisoners. This was because he worked part-time and was unable, he claimed, to devote much more than 5 minutes every 2 months to each prisoner. He estimated that 36 prisoners, at the time of the Office's visit, could be classed as psychotic, and that other categories in need of psychiatric help were mentally retarded prisoners, drug addicts and juveniles. Interpreters, who were often needed, were not available. The availability of medication was also a concern, as was drug abuse. The psychiatrist gave out medication when he was not available for therapeutic sessions, but because there were no nursing staff available to verify that the medication was being taken, there was a risk that the

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medication was being circulated among the prisoners. The Commissioner also noted that little to no follow-up care was given to detainees on leaving prison.

6.4.4 *Vulnerable prisoners*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.4.1 Has your country adopted laws or policies requiring that prisoners assessed as vulnerable be accommodated in areas of the prison which are most convenient and appropriate for their monitoring and treatment by the medical personnel and other relevant agencies? SMR 22(2) & 62, EPR 12.2, 39, 43.1, 46.2, 47.1 & 47.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	3	0	8
Total Europe - %	67	63	13	0	33
Cyprus	X	X			

4.4.2 Has your country adopted laws or policies requiring that prisoners assessed as being at risk of suicide/self-harm be continuously monitored by both medical and prison staff throughout the prisoner's time in custody and that records are kept of such monitoring? R(98)7: 58, EPR 47(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	5	0	14
Total Europe - %	42	29	21	0	58
Cyprus					X

4.4.3 Has your country adopted laws or policies requiring that prisoners detained in a special cell be visited daily, and as frequently as is necessary by a doctor who shall, inter alia, monitor his/ her physical and mental health? SMR 25(1) & 32(3), R(98)7: 66, EPR 43.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Cyprus					X

Analysis

International instrument compliance

Provisions relating to the on-going assessment and monitoring of vulnerable prisoners have not been adopted by Cyprus.

6.4.5 *Medical & health care personnel*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.5.1 Has your country adopted laws or policies to ensure that every prisoner has access to appropriately qualified medical personnel in the prison at all times? SMR 24, BOP 24, R(98)7:1, 2 & 4, EPR 41.2 & 41.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Cyprus	X	X			

Analysis

International instrument compliance

Commitment relating to medical and health care personnel has been incorporated into Cypriot law.

Situation in practice

This notwithstanding, concerns have been raised about the ability to access appropriately qualified personnel at all times in Cyprus. See sections 4.1 and 4.3 above.

6.4.6 *Prisoners with addiction problems*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.6.1 Has your country adopted laws or policies to ensure that prisoners with addiction problems have access to appropriate treatment and support services, including those from external agencies? SMR 62, R(98)7: 7, 43, 44, 45, 46 & 47, EPR 42.3.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	8	0	3
Total Europe - %	88	79	33	0	13
Cyprus	X	X			

Analysis

International instrument compliance

Commitment regarding prisoners with addiction problems has been incorporated into Cypriot law.

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6.4.7 *Hunger strikes*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.7.1 Has your country adopted laws or policies forbidding the practice of forced feeding of hunger strikers? DOMHS, R(98)7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	37	21	21	0	63
Cyprus					X

Analysis

International instrument compliance

Commitment relating to the force feeding of hunger strikes has not been adopted by Cyprus.

6.5 **Good order**

6.5.1 *General approaches*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.1.1 Has your country adopted laws or policies requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody? R(82)17: 8, EPR 51.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	0	9
Total Europe - %	62	62	13	0	38
Cyprus					X

Analysis

International instrument compliance

The commitment regarding the on-going review of security required for each prisoner has not been incorporated by Cyprus.

6.5.2 Safety & Security

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.2.1 Has your country adopted laws or policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat? EPR 51.5, 53.1 & 53.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	63	63	17	0	37
Cyprus	X	X			

Analysis

International instrument compliance

Commitment regarding the need to regularly review the status of prisoners placed on protection has been adopted by Cyprus.

6.5.3 Searching of prisoners

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.3.1 Has your country adopted laws or policies requiring that searches conducted on prisoners be carried out with due regard to the prisoner's dignity? ICCPR 10(1), BPTP 1, EPR 54.3 & 54.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	0	1
Total Europe - %	96	92	13	0	4
Cyprus	X	X			

5.3.2 Has your country adopted laws or policies stipulating that prisoners may only be searched by a staff member of the same gender? ICCPR 10(1), BPTP 1, EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	1	0	1
Total Europe - %	96	92	4	0	4
Cyprus	X	X			

5.3.3 Has your country adopted laws or policies stipulating that prisoners may only be subjected to a strip search in exceptional circumstances and for good reason and then, only in the

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presence of two officers in an appropriate place which ensures privacy? ICCPR 10(1), BPTP 1, EPR 54. 3, 54.4 & 54.6, *Van der Van v The Netherlands* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	3	1	13
Total Europe - %	66	54	13	4	54
Cyprus	X	X			

Analysis

International instrument compliance

All commitments (legally binding or otherwise) relating to the searching of prisoners have been adopted by Cyprus.

6.5.4 Criminal acts, discipline & punishment

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.4.1 Has your country adopted laws or policies stipulating that all inquiries into breach of prison discipline or rules shall be conducted in an independent and impartial manner? ICCPR 14(1), UDHR 10, ECHR 6(1), *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	2	1	8
Total Europe - %	67	63	8	4	33
Cyprus	X	X			

5.4.2 Has your country adopted laws or policies requiring that all incidents of bullying/violence/threatening behaviour between prisoners, and any breach of discipline be reported to an officer of a higher rank, duly recorded and properly investigated? EPR 52.2 & 58

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	62	62	17	0	38
Cyprus	X	X			

5.4.3 Has your country adopted laws or policies stipulating that when a prisoner has been charged with a disciplinary offence he/she shall be promptly informed of the allegation made against him/her in a language that he/she understands? ICCPR 14(3)(a), CERD 5(a), SMR 30(2), ECHR 6(3)(a), EPR 59.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	3	0	7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	71	71	13	0	29
Cyprus	X	X			

5.4.4 Has your country adopted laws or policies stipulating if an inquiry is being conducted into a breach of prison discipline or rules the prisoner shall have adequate time to prepare his/her defence and/or to receive legal assistance? ICCPR 14(3)(b) & (d), SMR 30(2), ECHR 6(3)(b) & (c), EPR 59.b & 59.c, *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	2	0	9
Total Europe - %	62	58	8	0	38
Cyprus	X	X			

5.4.5 Has your country adopted laws or policies stipulating that in any disciplinary proceedings prisoners must understand the proceedings and if necessary, appropriate interpretation facilities must be provided? ICCPR 14(3)(f), SMR 30(3), ECHR 6(3)(e), EPR 59.e

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Cyprus					X

5.4.6 Has your country adopted laws or policies stipulating that no prison officer shall impose a punishment/penalty/deprivation on a prisoner without due process and in accordance with law and/or relevant rules or instruments? EPR 57.2.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	2	0	4
Total Europe - %	83	83	8	0	17
Cyprus	X	X			

5.4.7 Has your country adopted laws or policies stipulating that if a prisoner is found guilty of a disciplinary offence, he/she shall be entitled to exercise his/her right of appeal to an independent and impartial tribunal established by law? ICCPR 14(5), BOP 30(2), EPR 61

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	1	0	5
Total Europe - %	79	79	4	0	21
Cyprus	X	X			

5.4.8 Has your country adopted laws or policies requiring that when a prisoner is detained in any type of special cell (special observation/cladded/strip) he/she shall be regularly monitored by a prison officer? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	3	0	7

CYPRUS

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	71	67	13	0	29
Cyprus					X

5.4.9 Has your country adopted laws or policies requiring that a detailed record be maintained of, inter alia, the monitoring of such prisoners, their expressed requirements, actions taken in response to such requests and details of visits by officers or others to such prisoners? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	8	8	2	0	16
Total Europe - %	33	33	8	0	67
Cyprus					X

5.4.10 Has your country adopted laws or policies to ensure that prisoners in a special cell are able to contact a member of staff at all times, including during the night and that a staff member shall respond without delay? ICCPR 6(1), EPR 18.2.c & 52.4, *Edwards v The United Kingdom* (ECHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	4	0	63
Cyprus					X

Analysis

International instrument compliance

Cyprus has incorporated six out of the ten commitments relating to prison disciplinary hearings into its national law. These include legally binding commitments relating to independent investigation of disciplinary offences, the right of prisoners to be informed of the charge in a language that they understand, have adequate time to prepare their defence and to exercise their right to appeal to an independent body. Legally binding commitments relating to interpretation and translation facilities in disciplinary hearings and those relating to the monitoring and contact arrangements of those placed in special cells have not, however, been adopted.

6.5.5 Use of force/weapons

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations

5.5.1 Has your country adopted laws or policies stipulating that members of staff will use force only when absolutely necessary and that any force used shall be proportionate to the situation? SMR 54(1), CCLEO 3, BPUF 4, EPR 64 & 6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	4	1	3
Total Europe - %	87	87	17	4	13
Cyprus	X	X			

Analysis

International instrument compliance

Commitment relating to use of force/weapons has been adopted.

6.5.6 *Requests & complaints*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations

5.6.1 Has your country adopted laws or policies to ensure that prisoners have sufficient opportunity to make requests or complaints to the Governor of the prison or to any other competent authority? SMR 36(1) & (3), BOP 33(1), EPR 70.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	3	0	1
Total Europe - %	96	96	13	0	4
Cyprus	X	X			

5.6.2 Has your country adopted laws or policies establishing the right of a prisoner's legal advisor or to make a request or a complaint regarding that prisoner's treatment to the prison authorities, or other relevant authorities? BOP 33 (1) & (2), EPR 70.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	1	0	6
Total Europe - %	75	75	4	0	25
Cyprus	X	X			

5.6.3 Has your country adopted laws or policies requiring that all complaints be promptly investigated in accordance with law? SMR 36(4), BOP 33(4)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	2	0	7
Total Europe - %	71	67	8	0	29
Cyprus	X	X			

CYPRUS

5.6.4 Has your country adopted laws or policies to ensure that where a request is denied or a complaint is rejected, the prisoner is informed promptly as to the reason(s) for such denial or rejection? SMR 36(4), BOP 33(4), EPR 70.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	2	1	7
Total Europe - %	71	63	8	4	29
Cyprus	X	X			

5.6.5 Has your country adopted laws or policies to ensure that prisoners are not disadvantaged for exercising their rights to make requests or complaints? BOP 33(4), EPR 70.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	3	0	13
Total Europe - %	46	42	13	0	54
Cyprus					X

5.6.6 Has your country adopted laws or policies requiring that complaints made by members of staff against other members of staff be properly recorded and investigated in accordance with the law? EPR 88 & 87.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	11	3	0	11
Total Europe - %	54	46	13	0	46
Cyprus	X	X			

Analysis

International instrument compliance

All commitments relating to the requests and complaints procedures in prison have been adopted except that relating to protection against discriminatory treatment of those prisoners raising complaints or making complaints.

6.6 Management & Staff

6.6.1 Training of staff

This section focuses on the staff training and prison management. International legal instruments place a series of obligations on States in respect of the training and management of prison staff. The questions in this section are based on these obligations.

6.1.1 Has your country adopted laws or policies to ensure that all prison staff receive appropriate training at regular intervals throughout their career? SMR 47(3), EPR 8, 76 & 81.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	14	7	0	5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	79	58	29	0	21
Cyprus					X

6.1.2 Has your country adopted laws or policies to ensure that members of staff who work with particular groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, receive training particular to their individual work? R(82)17: 10, R(2004)10: 12(1), EPR 81.3, ERJO 129

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	38	21	21	0	62
Cyprus					X

Analysis

International instrument compliance

Generic and specialist training for prison staff has no formal basis in Cypriot law or policy.

6.7 Inspection & Monitoring

6.7.1 *Governmental Inspection*

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.1.1 Has your country adopted laws or policies requiring that prisons be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law? SMR 55, EPR 92, R(2004)10 36.1, ERJO 125, PPPMI 22

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	19	4	0	4
Total Europe - %	83	79	17	0	17
Cyprus	X	X			

Analysis

International instrument compliance

The commitment relating to governmental inspection of prisons has been adopted by Cyprus.

CYPRUS

6.7.2 Independent monitoring

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.2.1 Has your country adopted laws or policies requiring that the conditions of detention and the treatment of prisoners shall be also monitored by an independent body or bodies, comprised of qualified experienced personnel, and whose findings shall be made public? OPCAT 3, 17, 18, 19, BOP 29.1, EPR 93.1, R(2004)10 36.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Cyprus	X	X			

7.2.2 Has your country adopted laws or policies granting such an independent body open access to places of detention, to prisoners and others whom it wishes to interview? OPCAT 19, 20, CPT 8,9 BOP 29.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	3	1	9
Total Europe - %	62	58	13	4	38
Cyprus	X	X			

7.2.3 Has your country adopted laws or policies encouraging such independent bodies to cooperate with those international agencies that are legally entitled to visit prisons? CPT 2,7 EPR 93.2, ERJO 126.

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	6	1	0	17
Total Europe - %	29	25	4	0	71
Cyprus	X	X			

Analysis

International instrument compliance

Cyprus has signed and ratified the OP-CAT.

Situation in practice

The Ombudsman has been designated as the National Preventive Mechanism under the provisions of the Optional Protocol.

6.8 Sentenced Prisoners

This section focuses on the particular provisions relating to convicted prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

8.1.1 Has your country adopted laws or policies requiring that a prisoner's release and reintegration back into society should constitute a central part of the sentence management plan? ICCPR 10(3), SMR 80, EPR 6, 103.2 & 103.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	6	2	4
Total Europe - %	83	83	25	8	17
Cyprus					X

8.1.2 Has your country adopted laws or policies requiring that a sentence management plan be prepared for each prisoner serving a sentence of 12 months or over as soon as practicable after their admission? It should provide for, inter alia, the welfare and health needs of the prisoner, training, employment or education needs he/she may have, and include a release plan for the prisoner. This plan shall be reviewed at regular intervals to take into account the changing circumstances of the prisoner. SMR 65, 66 & 69, R(2003)23: 3 & 9, EPR 6, 103 & 104.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	5	0	10
Total Europe - %	58	54	21	0	42
Cyprus					X

Analysis

International instrument compliance

Neither of the commitments relating to sentenced prisoners have been incorporated by Cyprus including the legally binding commitment requiring that the prisoner's release and reintegration should form a central part of the sentence management plan.

6.9 Juveniles

This section focuses on the particular provisions relating to juvenile prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

9.1.1 Has your country adopted laws or policies requiring that juveniles be detained separately from adult offenders? ICCPR 10(3), CRC 37(c), BR 26.3, RPJD 29, EPR 11.1, ERJO 59.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	1	3
Total Europe - %	87	87	13	4	13

CYPRUS

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Cyprus	X	X			

9.1.2 Has your country adopted laws or policies to ensure that, subject to reasonable conditions and restrictions, a sentenced prisoner under the age of 18 shall be entitled to receive a minimum of two weekly visits? CRC 37(c), SMR 37, BOP 19, RPJDL 60, ERJO 83, 84, 85.1 & 85.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	6	3	0	15
Total Europe - %	37	25	13	0	63
Cyprus					X

Analysis

International instrument compliance

Legally binding commitment requiring the separation of adult and juveniles has been incorporated by Cyprus.

Situation in practice

The European Commissioner for Human Rights highlighted that there was a separate wing for young offenders within Nicosia Central Prison. During the day they are able to mix with the adult offenders, for example at meal times. Where possible, young offenders are given work under the supervision of the warders, such as in the kitchen.

6.10 Sentence Execution Modalities

This section of the questionnaire is designed to collate information on the differing methods by which custodial sentences and measures involving deprivation of liberty are enforced across EU Member States.

10.1.1. Which of the following modalities of prison sentence execution are provided for in the law of your country?

	Weekend detention	Evening detention	Daytime detention	Home detention	
				no electronic monitoring	electronic monitoring
EUROPE	9 = 38%	10 = 42%	3 = 13%	6 = 25%	14 = 58%
Cyprus	X				

10.1.2. What is the maximum period for which home detention with electronic monitoring can be imposed?

	Under 12 months	12-24 months	25 months - 36 months	37 months - 50 months	More than 50 months
EUROPE	7 = 29%	4 = 17%	0=0%	1 = 4%	2 = 8 %
Cyprus					

10.2.1. In which of the following locations can custodial sentences or measures in-volving deprivation of liberty be imposed?

	Penitentiary institution	Psychiatric institution	Detoxification institution	Educational institution	Home
EUROPE	24 = 100%	20 = 83%	10 = 42%	7 = 29%	12 = 50%
Cyprus	X	X			

Analysis

Sentence execution modalities

Cypriot law provides for one additional sentence execution modality that of weekend detention. Custodial sentences or measures involving deprivation of liberty can be imposed in relation to penitentiary and psychiatric and institutions.

6.11 Early release from prison, earned remission and suspension of sentence

6.11.1 *Early release*

Early release means the release of the offender before their prison term is finished. It is possible only while the sentence is still being served. Early release does not include the suspended enforcement of a penalty which is dealt with later in this questionnaire.

11.1.1. Has your country adopted laws and regulations under which prisoners are entitled to early release from prison?

	Yes	No
EUROPE	24 = 100%	0 = 0%
Cyprus	X	

CYPRUS

11.1.2.1. At what point in a prisoner's sentence do they become eligible for early release?

	One third of sentence or less	One third to one half of a sentence	One half to three quarters of a sentence	More than three quarters of a sentence	Other
EUROPE	2 = 8%	1 = 4%	7 = 29%	0 = 0%	14 = 58%
Cyprus					X

11.1.2.2. Does your country have different regulations for the early release of prisoners based on:

	A prisoner's nationality (non-EU citizen)	A prisoner's nationality (EU citizen)	The length of sentence imposed
EUROPE	Yes - 3 = 12% No - 21 = 88%	Yes - 3 = 12% No - 21 = 88%	Yes - 24 = 100% No - 0 = 0%
Cyprus	N	N	Y

11.1.2.3. Are provisions governing the early release of prisoners automatic or discretionary?

	Automatic (prisoners are automatically released at a certain point in their sentence)	Discretionary (prisoners are only released following assessment)
EUROPE	Yes - 7 = 29% No - 17 = 71%	Yes - 20 = 83% No - 4 = 17%
Cyprus	N	Y

11.1.2.4. What factors are taken into consideration when deciding whether a prisoner will be granted early release?

	The circumstances surrounding the crime	Prior criminal record	The offender's progress during imprisonment	Assessment as to whether the prisoner is likely to reoffend	Recommendation from the sentencing judge
EUROPE	Yes - 24 = 50% No - 24 = 50%	Yes - 15 = 63% No - 9 = 37%	Yes - 22 = 92% No - 2 = 8%	Yes - 19 = 79% No - 5 = 21%	Yes - 4 = 17% No - 20 = 83%
Cyprus	N	N	Y	N	N

11.1.3.1. What forms of monitoring and conditions can be applied to prisoners' early release?

1. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
2. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)

3. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
4. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
5. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
6. Electronic monitoring
7. Weekend/evening /daytime detention
8. Requirement containing limitations on leaving the country
9. Requirement to leave the country
10. Requirement to pay compensation
11. Requirement to undertake community service
12. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	Other
EUROPE	Y- 83 N- 17	Y- 8 N- 92	Y- 58 N- 42	Y- 62 N- 38	Y- 33 N- 77	Y- 25 N- 75	Y- 13 N- 87	Y- 42 N- 58	Y- 21 N- 79	Y- 29 N- 71	Y- 21 N- 79	9
Cyprus	N	N	N	N	N	N	N	N	N	N	N	X

6.11.2 Sentence reduction as a result of prison work

11.2.1.1. Can a prisoner earn remission on their sentence as a result of work carried out in prison?

	Yes	No
EUROPE	9= 38%	15 – 62%
Cyprus	X	

6.11.3 Suspension of sentence enforcement

11.3.1. Does the national law of your country make provision for the further execution of a prison sentence to be suspended during the course of the sentence?

	Yes	No
EUROPE	10=42%	14= 58%
Cyprus	X	

11.3.2.1. What factors are taken into consideration when deciding whether a prisoner will have the further execution of their prison sentence suspended?

1. The circumstances surrounding the crime
2. Prior criminal record
3. The offender's progress during imprisonment
4. Assessment as to whether the prisoner is likely to reoffend
5. Recommendation from the sentencing judge
6. Suitability of home circumstances
7. Information from victim(s)

CYPRUS

8. Willingness of the prisoner to leave the country upon release
9. The prisoner will be deported upon release
10. Other – please specify

	1	2	3	4	5	6	7	8	9	Other
EUROPE	Y - 8 N - 92	Y - 13 N - 78	Y - 17 N - 83	Y - 21 N - 79	Y - 0 N - 100	Y - 4 N - 96	Y - 0 N - 100	Y - 0 N - 100	Y - 0 N - 100	21
Cyprus	N	N	Y	N	N	N	N	N	N	

11.3.3.1. What forms of monitoring and conditions can be applied to prisoners whose further execution of a prison sentence has been suspended?

1. Unconditional supervision
2. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
4. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
5. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
6. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
7. Electronic monitoring
8. Weekend/evening /daytime detention
9. Requirement containing limitations on leaving the country
10. Requirement to leave the country
11. Requirement to pay compensation
12. Requirement to undertake community service
13. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	12	Other
EUROPE	Y - 4 N - 96	Y - 38 N - 62	Y - 4 N - 96	Y - 29 N - 71	Y - 17 N - 83	Y - 17 N - 83	Y - 4 N - 96	Y - 4 N - 96	Y - 21 N - 79	Y - 0 N - 100	Y - 17 N - 83	Y - 4 N - 96	2
Cyprus	N	Y	N	N	N	N	N	N	N	N	N	N	

Analysis

Early release from prison, earned remission and suspension of sentence

In common with all EU countries, Cyprus has adopted measures under which prisoners are entitled to early release from prison. Prisoners in Cyprus can become eligible for early release at any time albeit that differing regulations apply depending on the length of sentence imposed.

The early release system in Cyprus is based around discretionary provisions. Decisions on a prisoner's early release are based on the offender's progress during imprisonment. No monitoring and conditions are normally applied to a prisoner granted early release. Prisoners in Cyprus are able to earn remission from their sentence as a result of work undertaken in prison. Provision is also made for the further execution of a prison sentence to be suspended during the course of the sentence. Such decisions are based upon the offender's progress during imprisonment. In such cases, prisoners are normally required to be supervised by a probation officer for a time limited period.

Appendix – Legal & Policy Documents

1. Prison regulations Cyprus (1981)
2. Rights and Obligations of Detainees

7 Czech Republic

7.1 Introduction

The questionnaire was completed by Voislav Stojanovski, LL.M a PHD candidate at the Masaryk University in Brno, Czech Republic.

The Czech Republic has been visited four times by the European Committee for the Prevention of Torture in the past five years (2006, 2008, 2009 & 2010; the report of the 2010 visit being unpublished) and twice by the European Commissioner for Human Rights during the period 2003-2005 and in 2010 (the 2010 report does not review the prison system). These reports have been used as a basis for the information on the situation in practice. Additional information has also been sourced from the 2009 UNHCR Country Report on Human Rights Practices for the Czech Republic (drawing on source material provided by the US Department of State) and the International Centre for Prison Studies.

Country	CZECH REPUBLIC
Ministry responsible	Ministry of Justice
Prison administration	Prison Service of the Czech Republic
Contact address	Soudni 1672/1a, P.O. Box 3, CZ-14067 PRAGUE 4, Czech Republic
Telephone/fax/website	tel: +420 244 024 405/fax: +420 241 409 072/ www.vscr.cz
Head of prison administration (and title)	Jiri Tregler Director General
Prison population total (including pre-trial detainees / remand prisoners)	23,115 at 27.5.2011 (national prison administration)
Prison population rate (per 100,000 of national population)	219 based on an estimated national population of 10.56 million at end of May 2011 (from Eurostat figures)
Pre-trial detainees / remand prisoners (percentage of prison population)	11.0% (27.5.2011)
Female prisoners (percentage of prison population)	6.3% (27.5.2011)
Juveniles / minors / young prisoners incl. definition (percentage of prison population)	0.9% (27.5.2011 - juveniles)
Foreign prisoners (percentage of prison population)	7.5% (30.4.2011)
Number of establishments /institutions	36 (2011)
Official capacity of prison system	20,272 (30.4.2011)
Occupancy level (based on official capacity)	113.7% (30.4.2011)
Recent prison population trend (year, prison population total,	1992 13,967 (135)

CZECH REPUBLIC

prison population rate)	1995	19,508	(189)
	1998	22,067	(214)
	2001	19,320	(189)
	2004	18,343	(179)
	2007	18,901	(182)
	2010	21,900	(208)

7.2 Overarching Principles

This section focuses on the overarching principles governing the management of prisons and the treatment of prisoners. International legal instruments place a series of obligations on States in respect of the management of prisons and the treatment of prisoners. The questions in this section are based on these obligations

2.1.1 Has your country adopted laws or policies specifically requiring that prisoners must be treated with respect for their human rights? ICCPR 10(1), UDHR 1, BOP 1, BPTP 1, EPR 1 & 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	19	7	1	2
Total Europe – %	92	79	29	4	8
Czech Republic	X	X			

2.1.2 Has your country adopted laws or policies specifically requiring prisons to be managed in accordance with human rights standards? EPR 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	21	18	4	3	3
Total Europe – %	88	75	16	13	12
Czech Republic	X	X			

2.1.3 Has your country adopted laws or policies explicitly prohibiting practices that could constitute torture, inhumane or degrading treatment or punishment of prisoners? ICCPR 7, BOP 6, ECHR 3, *Kalashnikov v Russia* (ECtHR 2003)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	21	1	3	2
Total Europe – %	92	88	4	12	8
Czech Republic	X	X			

2.1.4 Has your country adopted laws or policies specifically requiring that prisoners be provided with a range of activities during their sentence (for example - educational, recreational, work/training and welfare programmes)? SMR 77 & 78, BOP 28, BPTP 6 & 8, EPR 25

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	0	0
Total Europe - %	100	96	29	0	0
Czech Republic	X	X			

Analysis

International instrument compliance

In common with the majority of EU Member States, Czech Republic has adopted all commitments above concerning respect for human rights, which are all internationally legally binding. However, the situation in practice shows evidence of breaches on the availability of work, education or organised activity for prisoners sentenced to life.

7.3 Conditions Of Imprisonment

This section focuses on the treatment of prisoners upon their admission to prison. International legal instruments place a series of obligations on States in respect of prisoner admission. The questions in this section are based on these obligations.

7.3.1 Admission

3.1.1 Has your country adopted laws or policies requiring that all prisoner details are recorded at the time of committal including, inter alia, details of any visible injuries and the prisoner's personal belongings? SMR 7(1), EPR 15.1, 31.1, 31.2 & 31.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	7	1	7
Total Europe - %	71	63	29	4	29
Czech Republic	X	X			

3.1.2 Has your country adopted laws or policies requiring that upon admission, each prisoner is given a booklet outlining his/her rights, duties, obligations and privileges and the rules and regulations governing the prison which apply to the individual prisoner? The booklet shall be written in a language that the prisoner understands. CERD 7, SMR 35, BOP 13, EPR 30

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	6	1	6
Total Europe - %	63	54	25	4	25
Czech Republic					X

CZECH REPUBLIC

3.1.3 Has your country adopted laws or policies requiring that upon admission, every prisoner shall undergo a medical examination either by a nurse reporting to a doctor or by a doctor? SMR 24, BOP 24, R(98)7: 1, EPR 42.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	20	6	1	1
Total Europe - %	96	83	25	4	4
Czech Republic	X	X			

3.1.4 Has your country adopted laws or policies requiring the doctor/nurse to pay particular attention to the detection of injuries, mental illnesses, of withdrawal symptoms resulting from the use of drugs, medication or alcohol, of contagious and chronic conditions, and, to assess the prisoner's suicide/self-harm risk? SMR 24, R(98)7: 1, EPR 42.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	10	8	1	9
Total Europe - %	62	42	33	4	38
Czech Republic					X

3.1.5 Has your country adopted laws or policies requiring injuries detected during such an examination to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner? EPR 15.1.e & 42.3.c

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	5	4	1	17
Total Europe - %	29	21	17	4	71
Czech Republic					X

3.1.6 Has your country adopted laws or policies requiring upon admission that each prisoner be assessed to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves? ICCPR 6, UDHR 3, ECHR 2, R(2003)23: 12, EPR 52.1, *Keenan v The United Kingdom* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	5	1	13
Total Europe - %	46	42	21	4	54
Czech Republic	X		X		X

3.1.7 Has your country adopted laws or policies requiring that such risks be managed for the duration of the prisoner's sentence? ICCPR 6, UDHR 3, ECHR 2, EPR 52.2, *Osman v The United Kingdom* (ECtHR 2000)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	3	1	12
Total Europe - %	50	50	13	4	50
Czech Republic					X

Analysis

International instrument compliance

Czech Republic has adopted two out of seven commitments concerning the treatment of prisoners upon their admission to prison. However, commitments on other aspects of admission such as the hand-out of a booklet with useful information/duties and rights of prisoners and the determination of a safety-risk of each new prisoner have not been adopted, notwithstanding the legally binding international instruments provided on those two subjects. Furthermore no provisions have been adopted on the special attention that is required within the examination upon admission.

7.3.2 Allocation

This section focuses on the allocation of prisoners to a particular prison. International legal instruments place a series of obligations on States in respect of prisoner allocation. The question in this section is based on these obligations.

3.2.1 Has your country adopted laws or policies requiring prisoners to be assigned to a prison as near to their home area as possible in order to maintain relationships with families and friends, subject to the maintenance of good order and security? BOP 20, EPR 17.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	15	6	1	5
Total Europe - %	79	63	25	4	21
Czech Republic	X	X			

Analysis

International instrument compliance

In common with most EU Member States, Czech Republic has adopted a commitment on the allocation of prisoners designed to ensure that prisoners are to be assigned to a prison as near to their home area as possible.

7.3.3 Accommodation

This section focuses on the living conditions of prisoners. International legal instruments place a series of obligations on States in respect of the accommodation of prisoners. The questions in this section are based on these obligations.

3.3.1 Has your country adopted laws or policies requiring that where possible prisoners should have individual cells to sleep in? SMR 9(1), EPR 18.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	3	0	10
Total Europe - %	58	54	13	0	42
Czech Republic	X	X	X		

CZECH REPUBLIC

3.3.2. Has your country adopted laws or policies stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation? ICCPR 6(1), UDHR 3, SMR 9(2), ECHR 2, EPR 18.6 & 18.7, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	4	0	14
Total Europe - %	42	29	17	0	58
Czech Republic					X

3.3.3 Has your country adopted laws or policies requiring that the size of a cell must be suitable for its purpose? The suitability of the cell size should be dependent on the number of hours spent in the cell, the number of prisoners accommodated in the cell and the availability of in cell-sanitation facilities that ensure privacy. SMR 9, 10, 11 & 12, EPR 18 & 19.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	8	2	1	15
Total Europe - %	37	33	8	4	63
Czech Republic					X

3.3.4 Has your country adopted laws or policies requiring that cells should not be used to accommodate more prisoners than the intended design capacity, unless justified in exceptional circumstances? SMR 9(1) & 10, EPR 18.1, 18.3, 18.4 & 18.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Czech Republic					X

3.3.5 Has your country adopted laws or policies requiring that cells be suitable for accommodating prisoners in respect of size, lighting, heating, ventilation and fittings? SMR 9, 10, 11, 12 & 13, EPR 18

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	16	4	0	6
Total Europe - %	75	67	17	0	25
Czech Republic					X

3.3.6 Has your country adopted laws or policies requiring that all prisoners have in-cell access to a working alarm bell that attracts the attention of staff at all times? ICCPR 6(1), UDHR 3, ECHR 2, EPR 18.2.c & 52.4, IPR 18(4), *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	13	2	0	4
Total Europe - %	83	54	8	0	17
Czech Republic					X

Analysis

International instrument compliance

Whereas the EU Member States are as a whole divided on all issues concerning the rights to basic accommodation for inmates, Czech Republic has only adopted any commitments in this particular area. When we look at the serious situation of overcrowding from reports in practice, we have to bear in mind this national and international legal hiatus.

Situation in practice

In general the CPT reported that the material conditions of detention in the establishments visited were satisfactory. This overarching position was confirmed by the UNHCR who observed that prison and detention centre conditions generally met international standards. These observations notwithstanding, government figures in for July 2009 indicated that the prison population was 130% of intended capacity. In 2008 the government had built 355 additional prison cells in four prisons with the goal of increasing the average prison cell size from four square meters (43 square feet) per prisoner to six square meters (65 square feet). Given the increase in the prison population, however, the goal was not met. The International Centre for Prison Studies reported that the prison system in the Czech Republic was operating at 109% of design capacity as of October 2010.

The Committee recommended that a review be carried out into the implementation of the 2006 regulation at Valdice and furthermore recommended that the Czech Government make sure that all prison staff and managers are aware that placing prisoners in cells where it is known they may face physical or sexual abuse is clearly inhumane and degrading treatment.

7.3.4 Hygiene & Sanitation

This section focuses on the hygiene and sanitation facilities for prisoners. International legal instruments place a series of obligations on States in respect of hygiene and sanitation. The questions in this section are based on these obligations.

3.4.1 Has your country adopted laws or policies to ensure that all prisoners have access to adequate and appropriate sanitary and washing facilities that respect their privacy? SMR 12 & 13, EPR 19.3, 19.4 & 19.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	2	0	10
Total Europe - %	58	58	8	0	42
Czech Republic	X	X			

3.4.2 Has your country adopted laws or policies requiring that all In-cell sanitation facilities must be adequately screened? ICCPR 10(1), SMR 12, BOP 1, BPTP 1, ECHR 3, EPR 19.3, *Peers v Greece* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	4	1	9
Total Europe - %	62	54	17	4	38
Czech Republic	X	X			

CZECH REPUBLIC

Analysis

International instrument compliance

In common with the majority of EU Member States, Czech Republic has adopted both commitments designed to ensure a minimum of hygiene and sanitation for its prisoners.

7.3.5 Clothing & Bedding

This section focuses on clothing and bedding provisions for prisoners. International legal instruments place a series of obligations on States in respect of the provision of clothing and bedding. The questions in this section are based on these obligations.

3.5.1 Has your country adopted laws or policies to ensure that prisoners are provided with clothing that is suitable for the climate, is not degrading or humiliating and is age appropriate? SMR 17(1), EPR 20.1 & 20.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	10	0	7
Total Europe - %	71	71	42	0	29
Czech Republic	X	X			

3.5.2 Has your country adopted laws or policies requiring each prisoner to be provided with a bed and appropriate bedding and to ensure that all bedding is in good condition, is changed regularly and laundered? SMR 19, EPR 21

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	2	0	6
Total Europe - %	75	71	8	0	25
Czech Republic	X	X			

Analysis

International instrument compliance

Czech Republic has incorporated both commitments on adequate clothing and bedding for prisoners as have the majority of the EU Member States.

7.3.6 Nutrition

This section focuses on the nutrition requirements of prisoners. International legal instruments place a series of obligations on States in respect of prisoner’s nutrition. The questions in this section are based on these obligations.

3.6.1 Has your country adopted laws or policies to ensure that prisoners are provided with a sufficient quantity of nutritious food taking into account their health, physical condition, special dietary requirements, religion and culture? SMR 20(1), EPR 22.1 & 22.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	5	1	4
Total Europe - %	83	83	21	4	17
Czech Republic	X	X			

3.6.2 Has your country adopted laws or policies to ensure that prisoners have access to clean drinking water? SMR 20(2), EPR 22.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	16	5	1	5
Total Europe - %	79	67	21	4	21
Czech Republic					X

Analysis

International instrument compliance

The obligation of nutrition requirements for prisoners has been incorporated in Czech law. On access to drinking water however, no commitment has been adopted, whereas this is the case in the vast majority of other EU Member States. The SPOC added that despite the specific provision concerning clean drinking water, prisoners have the right to ask for hot water on a regular basis.

7.3.7 *Legal advice, info & rights*

This section focuses on the entitlement of prisoners to legal advice and information. International legal instruments place a series of obligations on States in respect of access to legal advice and information. The questions in this section are based on these obligations.

3.7.1 Has your country adopted laws or policies requiring that adequate time and facilities be provided to prisoners to receive professional visits from their legal advisers? BOP 18(2), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	4	1	2
Total Europe - %	92	92	17	4	8
Czech Republic	X	X			

3.7.2 Has your country adopted laws or policies establishing the right of prisoners to communicate with their legal advisers by telephone and by letter? BOP 18(1), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	3	3	3
Total Europe - %	87	83	13	13	13

CZECH REPUBLIC

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Czech Republic	X	X			

3.7.3 Has your country adopted laws or policies requiring that communications between a prisoner and his/her legal adviser remain confidential and can only be restricted by law or judicial authority? ICCPR 17, BOP 18(3) & (4), ECHR 8, EPR 23.4 & 23.5, *Campbell v The United Kingdom* (ECtHR 1992)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	3	1	2
Total Europe - %	92	92	13	4	8
Czech Republic	X	X			

Analysis

International instrument compliance

Czech Republic has adopted all commitments concerning the entitlement of prisoners to legal advice and information. This is in accordance with most other EU Member States.

7.3.8 Contact with the outside world

7.3.8.1 Visits

This section focuses on the entitlement of prisoners to maintain contacts with the outside world. International legal instruments place a series of obligations on states in respect of prisoners' on-going contact with the outside world. The questions in this section are based on these obligations.

3.8.1.1 Has your country adopted laws or policies establishing the right of prisoners to communicate with their family and friends by correspondence and by receiving visits, subject to reasonable conditions/restrictions imposed by law or another authority? ICCPR 23(1), UDHR 16(3), SMR 37, BOP 15 & 19, EPR 24.1 & 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	2	0
Total Europe - %	100	96	29	8	0
Czech Republic	X	X			

3.8.1.2 Has your country adopted laws or policies requiring that visits take place in an environment that enables prisoners to maintain and develop family and other relationships in as normal a manner as is possible subject to the maintenance of good order and security in the prison? SMR 79, EPR 24.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	6	0	2
Total Europe - %	92	88	25	0	8
Czech Republic	X	X			

7.3.8.2 *Searching of visitors*

3.8.2.1 Has your country adopted laws or policies requiring that searching procedures for visitors be undertaken in a manner that respects a person's dignity? SMR 27, BOP 19, EPR 54.1.c, 54.3, 54.4 & 54.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	4	0	7
Total Europe - %	71	63	17	0	29
Czech Republic	X	X			

3.8.2.2 Has your country adopted laws or policies requiring that prison officers only be permitted to search visitors of the same gender? EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	9	1	0	12
Total Europe - %	50	38	4	0	50
Czech Republic	X	X			

7.3.8.3 *Restrictions on visits*

3.8.3.1 Has your country adopted laws or policies requiring the authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party(ies) and to review these circumstances on a regular basis? SMR 27, 79 & 80, EPR 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	0	0	63
Czech Republic					X

3.8.3.2 Has your country adopted laws or policies preventing the withdrawal of contact for female prisoners with their children as a disciplinary action except in exceptional circumstances? SMR 27, 79 & 80, EPR 24.2 & 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	2	0	12
Total Europe - %	50	50	8	0	50
Czech Republic					X

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7.3.8.4 *Death, illness & transfer*

3.8.4.1 Has your country adopted laws or policies requiring that prisoners be informed of the death/serious illness of a close relative/ friend without delay? SMR 44(2), EPR 24.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	2	0	13
Total Europe - %	46	42	8	0	54
Czech Republic					X

3.8.4.2 Has your country adopted laws or policies allowing a prisoner to leave the prison to visit a sick relative/friend, attend a funeral or for other humanitarian reasons? SMR 44(2), EPR 24.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Czech Republic	X	X			

3.8.4.3 Has your country adopted laws or policies ensuring that prisoners are allowed to inform their families or other nominated persons without delay of their imprisonment, transfer to another institution or of any serious illness that they may suffer from? SMR 44(1) & (3), BOP 16(1), EPR 24.8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Czech Republic	X	X			

3.8.4.4 Has your country adopted laws or policies requiring the prison authorities to immediately inform the spouse or the nearest relative to the prisoner (or any other person previously nominated), if the prisoner dies in custody, is removed to a hospital or suffers a serious injury/illness? SMR 44(1), EPR 24.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	3	0	6
Total Europe - %	75	75	13	0	25
Czech Republic	X	X			

7.3.8.5 *Telephone and letters*

3.8.5.1 Has your country adopted laws or policies preventing the monitoring or censoring of telephone calls unless the prisoner or the recipient of the call is informed of the possibility of such monitoring or, such monitoring has been agreed by any lawful authority? ICCPR 17, UDHR 12, SMR 37, BOP 19, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	3	1	5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	79	79	13	4	21
Czech Republic					X

3.8.5.2 Has your country adopted laws or policies permitting prisoners to send a minimum of 7 letters a week free of charge and more if he/she can afford it, and to receive as many letters as are sent to him/her? SMR 37, BOP 19, EPR 24.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	11	1	0	12
Total Europe - %	50	46	4	0	50
Czech Republic					X

3.8.5.3 Has your country adopted laws or policies preventing the prison authorities from opening prisoners' private correspondence subject to the maintenance of good order and safe and secure custody in the prison? ICCPR 17, UDHR 12, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	1	9
Total Europe - %	62	62	13	4	38
Czech Republic					X

7.3.8.6 Media

3.8.6.1 Has your country adopted laws or policies entitling prisoners to be kept informed of current affairs and other developments outside the prison by reading newspapers and periodicals and by listening to radio or television broadcasts (subject to the maintenance of good order and safe and secure custody)? SMR 39, BOP 28, EPR 24.10

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	1	1
Total Europe - %	96	92	21	4	4
Czech Republic	X	X			

Analysis

International instrument compliance

Eight out of ten commitments have been adopted. Firstly, on visitation the Czech Republic has adopted a commitment on the right to visitation and has provided a legal instrument for ensuring an adequate environment for visitation. Notwithstanding this legislation, the situation in practice shows serious shortcomings in this area as mentioned hereafter. As far as restrictions on visits go, the country has not adopted any commitments. On the other hand, commitments relating to searching procedures for visitors have been adopted. Furthermore, all commitments on death and illness of close relatives and transfer have been adopted except for the one concerning the right of prisoners to be informed of the death/serious illness of a close relative/ friend without delay. Finally, no legally binding instruments are provided for the use of telephone or letters in spite of the legally binding international legal instruments provided.

CZECH REPUBLIC

Situation in practice

The CPT highlighted that the prisoners be ought to be allowed to receive visitors without a Perspex screen or grill. In addition, family visits were forbidden at the weekends (despite the claims made in the written submissions by the Czech authorities to the contrary) and many prisoners reported difficulties in attempting to make use of the phone.

7.3.9 Work

This section focuses on work in prison. International legal instruments place a series of obligations on States in respect of work in prison. The questions in this section are based on these obligations.

3.9.1 Has your country adopted laws or policies requiring work to be incorporated as a positive aspect of prison regimes and prohibiting its use as a form of punishment? SMR 71(1), EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Czech Republic	X	X			

3.9.2 Has your country adopted laws or policies requiring that prison work provided should prepare prisoners for worthwhile work on their release and facilitate their reintegration into the workforce? SMR 71(3) & (4), BPTP 8, EPR 26.3 & 26.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	18	7	0	4
Total Europe - %	83	75	29	0	17
Czech Republic	X	X			

3.9.3 Has your country adopted laws or policies entitling prisoners to be remunerated in respect of prison work carried out? ICESCR 7(a), UDHR 23, SMR 76(1), BPTP 8, EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	1	1
Total Europe - %	96	92	13	4	4
Czech Republic	X	X			

Analysis

International instrument compliance

In common with the majority of EU Member States, Czech Republic has adopted all commitments relating to work in prison., including the legally binding one entitling prisoners to be remunerated in respect of prison work carried out. However, if we regard the situation in practice, various shortcomings are still noted.

Situation in practice

The CPT made a number of specific observations concerning the prisons visited. For example, in their 2008 visit to Valdice prison, the Committee highlighted that less than half of the prisoners serving a life sentence were able to work a maximum of 4 hours per day, 5 days per week. The remainder of the prisoners sentenced to life spent 21 hours per day in their cells with no organised activity or education being provided for them. Furthermore in contrast to what was claimed by the Czech authorities, it was discovered that the social contact of life-sentenced prisoners was restricted to one (or occasionally two) other prisoners. It should be noted that in other prisons, for example Mirov, the regime for life sentenced prisons was found to be more relaxed.

7.3.10 Exercise & recreation

This section focuses on facilities for exercise and recreation in prison. International legal instruments place a series of obligations on States in respect of exercise and recreational facilities. The questions in this section are based on these obligations.

3.10.1 Has your country adopted laws or policies ensuring that, subject to the constraints of the particular prison and the maintenance of good order and security, prisoners shall be entitled to spend as much time out of their cells as is possible? EPR 25(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Czech Republic	X	X			

3.10.2 Has your country adopted laws or policies ensuring that prisoners receive at least one hours exercise each day in the open air, weather permitting? SMR 21, EPR 27.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	2	1
Total Europe - %	96	92	21	8	4
Czech Republic	X	X			

3.10.3 Has your country adopted laws or policies ensuring that prisoners shall have access to a well-stocked library at least once a week (subject to the maintenance of good order and safe and secure custody)? R(89)12: 10, EPR 28.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	13	0	0	11
Total Europe - %	54	54	0	0	46
Czech Republic	X	X			

CZECH REPUBLIC

Analysis

International instrument compliance

All commitments education and recreation have been adopted by Czech Republic in accordance with most other EU Member States. Nonetheless, the situation in practice indicates shortcomings.

Situation in practice

See 7.3.9 above.

7.3.11 Education

This section focuses on facilities for education in prison. International legal instruments place a series of obligations on States in respect of prison education facilities. The questions in this section are based on these obligations.

3.11.1 Has your country adopted laws or policies requiring, as far as practicable, that prisoners have access to educational programmes that can meet their individual needs? ICESCR 13, UDHR 26, SMR 77(1), BPTP 6, R(89)12: 1, EPR 28.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	5	1	1
Total Europe - %	96	96	21	4	4
Czech Republic	X	X			

3.11.2 Has your country adopted laws or policies requiring that education provided in prisons shall be integrated, in so far as is practicable, with national educational systems/programmes enabling prisoners to continue their education following their release? SMR 77(2), R(89)12: 16, EPR 28.7.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	5	0	3
Total Europe - %	87	75	21	0	13
Czech Republic	X	X			

3.11.3 Has your country adopted laws or policies requiring that vocational training be available for those prisoners who are able to benefit from it, particularly young prisoners? SMR 71(5), BPTP 8, R(89)12: 9, EPR 26.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	20	5	0	2
Total Europe - %	92	83	21	0	8
Czech Republic	X	X			

Analysis

International instrument compliance

Despite the adoption of Czech commitments on the right to education for all prisoners and the legally binding international instruments on the right to an education which meets individual needs, the evidence from reports used as a basis for the situation in practice display shortcomings in this area.

Situation in practice

See 7.3.9 above.

The Committee also criticized the educators and pedagogues who worked at Valdice prison, concluding that their role was more aimed towards security and control than delivering a fulfilling education. In a similar vein, it was concluded that 6 monthly reviews and sentence management plans were treated as mere formalities.

7.3.12 Freedom of thought, conscience & religion

3.12.1 Has your country adopted laws or policies ensuring that prisoners have the opportunity to practice their religion and to follow their beliefs whilst in custody? ICCPR 18(1), CERD 5 (d) (vii), UDHR 18, SMR 42, BPTP 3, EPR 29.1 & 29.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	5	0	0
Total Europe - %	100	96	21	0	0
Czech Republic	X	X			

Analysis

International instrument compliance

In common with all the other EU Member States and in accordance to legally binding international legal instruments, Czech Republic has adopted a commitment on the prisoners' rights to freedom of thought, conscience and religion.

7.4 Health**7.4.1 Core principles**

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

CZECH REPUBLIC

4.1.1 Has your country adopted laws or policies requiring that primary healthcare services to meet the needs of all prisoners be provided in each prison to a standard equivalent to that available to the community in general? ICESCR 12(1), SMR 22(1), PME 1, R(98)7: 10, 11, 12 & 19, EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	6	0	1
Total Europe - %	96	92	25	0	4
Czech Republic	X	X			

4.1.2 Has your country adopted laws or policies to ensure that where a sick prisoner requires treatment that cannot be provided by the medical staff in the prison he/she shall be transferred to an appropriate hospital without undue delay? SMR 22(2), BPTP 9, R(98)7: 3, EPR 46.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	3	1	2
Total Europe - %	92	88	13	4	8
Czech Republic	X	X			

4.1.3 Has your country adopted laws or policies requiring that medical records be created and accurately maintained on all prisoners and that such records be treated as confidential? BOP 26, R(98)7: 13, EPR 42.3.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	5	0	3
Total Europe - %	87	83	21	0	13
Czech Republic	X	X			

Analysis

International instrument compliance

The Czech Republic has adopted all three commitments on the provision of healthcare in prisons as did the majority of the other EU Member States. Nonetheless there remain shortcomings concerning aspects of medical confidentiality in practice. Moreover no internationally legally binding instruments exist in this area.

Situation in practice

The Czech Prison authorities were criticized by the Committee for the practice of having two prison guards accompanying prisoners during medical examinations. The Committee found that this breached the principle of confidentiality thus undermining the patient-doctor relationship.

The Committee also highlighted that prison authorities had not been fully cooperative with its inspectors during their 2008 visit to Pankrác prison hospital. Upon arriving the inspectors discovered that they had no right to access patient files without prior patient permission following a recent directive from the Director General of the Prison Service. This position was substantially different to what inspectors had encountered before. In addition it was discovered that non-medical information had been stored on the patient's medical files, rendering it unavailable to the inspectors. In light of this the Committee was unable to carry out its tasks and

in particular was unable to investigate a report of serious ill-treatment by prison officials received before the visit.

7.4.2 *Women and children*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.2.1 Has your country adopted laws or policies to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor? CEDAW 12, SMR 23, BOP 5(2), R(98)7: 8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	7	3	0	17
Total Europe - %	29	29	13	0	71
Czech Republic					X

4.2.2 Has your country adopted laws or policies requiring that appropriate care be afforded to all pregnant prisoners and nursing mothers? CEDAW 12(2), SMR 23, R(98)7: 8 & 69, EPR 34.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Czech Republic	X	X			

Analysis

International instrument compliance

In accordance with the majority of EU Member States, Czech Republic has not adopted a national law to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor, whereas legally binding instruments are provided internationally. A commitment on appropriate care for pregnant women has however been adopted.

7.4.3 *Mental health care*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.3.1 Has your country adopted laws or policies requiring that prisoners with mental health difficulties be entitled to care appropriate to their circumstances, commensurate to the type of care available for people with similar mental health difficulties in the community? SMR 22(1), PPPMI 1 & 20, R(98)7:10, 11 & 52, R(2004)10: 35(1) & (2), EPR 40

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	4	0	3
Total Europe - %	87	79	17	0	13
Czech Republic	X	X			

4.3.2 Has your country adopted laws or policies to ensure that prisoners who require psychiatric in-patient care are transferred to a suitable hospital facility of an appropriate security level without undue delay? SMR 22(2), PPPMI 9(1) & 20, R(98)7: 3 & 55, R(2004)10: 8, 9(1) & 35(1), EPR 12(1) & 46(1)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	3	0	6
Total Europe - %	75	71	13	0	25
Czech Republic	X	X			

Analysis

International instrument compliance

As regards to mental healthcare, the Czech Republic has adopted all commitments in accordance with most other EU Member States. No legally binding international instruments are in effect.

7.4.4 Vulnerable prisoners

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.4.1 Has your country adopted laws or policies requiring that prisoners assessed as vulnerable be accommodated in areas of the prison which are most convenient and appropriate for their monitoring and treatment by the medical personnel and other relevant agencies? SMR 22(2) & 62, EPR 12.2, 39, 43.1, 46.2, 47.1 & 47.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	3	0	8
Total Europe - %	67	63	13	0	33
Czech Republic	X	X			

4.4.2 Has your country adopted laws or policies requiring that prisoners assessed as being at risk of suicide/self-harm be continuously monitored by both medical and prison staff throughout the prisoner's time in custody and that records are kept of such monitoring? R(98)7: 58, EPR 47(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	5	0	14
Total Europe - %	42	29	21	0	58
Czech Republic					X

4.4.3 Has your country adopted laws or policies requiring that prisoners detained in a special cell be visited daily, and as frequently as is necessary by a doctor who shall, inter alia, monitor his/ her physical and mental health? SMR 25(1) & 32(3), R(98)7: 66, EPR 43.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Czech Republic					X

Analysis

International instrument compliance

Only one of the legal safeguards concerning vulnerable prisoners are provided in the national law of Czech Republic.

7.4.5 *Medical & health care personnel*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.5.1 Has your country adopted laws or policies to ensure that every prisoner has access to appropriately qualified medical personnel in the prison at all times? SMR 24, BOP 24, R(98)7:1, 2 & 4, EPR 41.2 & 41.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Czech Republic	X	X			

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Analysis

International instrument compliance

In common with the vast majority of other EU Member States, the Czech Republic has adopted the commitment to ensure the access of every prisoner to appropriately qualified medical staff in prison.

7.4.6 Prisoners with addiction problems

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.6.1 Has your country adopted laws or policies to ensure that prisoners with addiction problems have access to appropriate treatment and support services, including those from external agencies? SMR 62, R(98)7: 7, 43, 44, 45, 46 & 47, EPR 42.3.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	8	0	3
Total Europe - %	88	79	33	0	13
Czech Republic	X	X			

Analysis

International instrument compliance

In line with the majority of EU states, the Czech Republic has incorporated the commitment concerning prisoners with addiction problems.

7.4.7 Hunger strikes

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.7.1 Has your country adopted laws or policies forbidding the practice of forced feeding of hunger strikers? DOMHS, R(98)7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	37	21	21	0	63
Czech Republic					X

Analysis

International instrument compliance

Czech Republic has not adopted the commitment concerning the prohibition of forced feeding in case of hunger strikers.

7.5 Good order**7.5.1 General approaches**

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.1.1 Has your country adopted laws or policies requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody? R(82)17: 8, EPR 51.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	0	9
Total Europe - %	62	62	13	0	38
Czech Republic					X

Analysis

International instrument compliance

Czech Republic has not adopted a commitment to ensure regular reviews regarding the level of security required for each prisoner throughout that prisoner's time in custody.

7.5.2 Safety & Security

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.2.1 Has your country adopted laws or policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat? EPR 51.5, 53.1 & 53.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	63	63	17	0	37
Czech Republic					X

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Analysis

International instrument compliance

The Czech Republic has not adopted a legal regulation concerning the placement of prisoners under protection status. Irregularities in practice have been noted as indicated below.

Situation in practice

The procedure by which prisoners were moved into the high security facilities were called into question by the CPT. In certain cases no reasons were given for decisions (which were authorised by the Deputy Director-General of the Prison Service). Few prisoners were aware of the reasons for their transfer or what they could do in order to return to “normal” conditions. The Committee found that several of the prisoners looked vulnerable and expressed surprise that they should be classified as high risk. There was a complete absence of an appeal mechanism to contest the decision of the Deputy Director General save complaining to him directly. Furthermore prisoners transferred to high security facilities were excluded from the routine processes of 6 monthly reviews and sentence management plans.

7.5.3 Searching of prisoners

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.3.1 Has your country adopted laws or policies requiring that searches conducted on prisoners be carried out with due regard to the prisoner’s dignity? ICCPR 10(1), BPTP 1, EPR 54.3 & 54.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	0	1
Total Europe - %	96	92	13	0	4
Czech Republic	X	X			

5.3.2 Has your country adopted laws or policies stipulating that prisoners may only be searched by a staff member of the same gender? ICCPR 10(1), BPTP 1, EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	1	0	1
Total Europe - %	96	92	4	0	4
Czech Republic	X	X			

5.3.3 Has your country adopted laws or policies stipulating that prisoners may only be subjected to a strip search in exceptional circumstances and for good reason and then, only in the presence of two officers in an appropriate place which ensures privacy? ICCPR 10(1), BPTP 1, EPR 54. 3, 54.4 & 54.6, *Van der Van v The Netherlands* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	3	1	13
Total Europe - %	66	54	13	4	54
Czech Republic					X

Analysis

International instrument compliance

In common with most other EU Member States, Czech Republic has adopted all commitments on searching of prisoners with one exception. In spite of the existence of legally binding international legal instruments on the strip search of inmates, Czech Republic has not adopted this in its national law. According to our SPOC, a strip search by one officer of the same sex is allowed.

7.5.4 *Criminal acts, discipline & punishment*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.4.1 Has your country adopted laws or policies stipulating that all inquiries into breach of prison discipline or rules shall be conducted in an independent and impartial manner? ICCPR 14(1), UDHR 10, ECHR 6(1), *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	2	1	8
Total Europe - %	67	63	8	4	33
Czech Republic	X	X			

5.4.2 Has your country adopted laws or policies requiring that all incidents of bullying/violence/threatening behaviour between prisoners, and any breach of discipline be reported to an officer of a higher rank, duly recorded and properly investigated? EPR 52.2 & 58

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	62	62	17	0	38
Czech Republic	X	X			

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5.4.3 Has your country adopted laws or policies stipulating that when a prisoner has been charged with a disciplinary offence he/she shall be promptly informed of the allegation made against him/her in a language that he/she understands? ICCPR 14(3)(a), CERD 5(a), SMR 30(2), ECHR 6(3)(a), EPR 59.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	3	0	7
Total Europe - %	71	71	13	0	29
Czech Republic	X	X			

5.4.4 Has your country adopted laws or policies stipulating if an inquiry is being conducted into a breach of prison discipline or rules the prisoner shall have adequate time to prepare his/her defence and/or to receive legal assistance? ICCPR 14(3)(b) & (d), SMR 30(2), ECHR 6(3)(b) & (c), EPR 59.b & 59.c, *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	2	0	9
Total Europe - %	62	58	8	0	38
Czech Republic	X	X			

5.4.5 Has your country adopted laws or policies stipulating that in any disciplinary proceedings prisoners must understand the proceedings and if necessary, appropriate interpretation facilities must be provided? ICCPR 14(3)(f), SMR 30(3), ECHR 6(3)(e), EPR 59.e

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Czech Republic					X

5.4.6 Has your country adopted laws or policies stipulating that no prison officer shall impose a punishment/penalty/deprivation on a prisoner without due process and in accordance with law and/or relevant rules or instruments? EPR 57.2.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	2	0	4
Total Europe - %	83	83	8	0	17
Czech Republic	X	X			

5.4.7 Has your country adopted laws or policies stipulating that if a prisoner is found guilty of a disciplinary offence, he/she shall be entitled to exercise his/her right of appeal to an independent and impartial tribunal established by law? ICCPR 14(5), BOP 30(2), EPR 61

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	1	0	5
Total Europe - %	79	79	4	0	21
Czech Republic	X	X			

5.4.8 Has your country adopted laws or policies requiring that when a prisoner is detained in any type of special cell (special observation/cladded/strip) he/she shall be regularly monitored by a prison officer? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	3	0	7
Total Europe - %	71	67	13	0	29
Czech Republic					X

5.4.9 Has your country adopted laws or policies requiring that a detailed record be maintained of, inter alia, the monitoring of such prisoners, their expressed requirements, actions taken in response to such requests and details of visits by officers or others to such prisoners? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	8	8	2	0	16
Total Europe - %	33	33	8	0	67
Czech Republic					X

5.4.10 Has your country adopted laws or policies to ensure that prisoners in a special cell are able to contact a member of staff at all times, including during the night and that a staff member shall respond without delay? ICCPR 6(1), EPR 18.2.c & 52.4, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	4	0	63
Czech Republic					X

Analysis

International instrument compliance

Six out of ten commitments have been incorporated.

However, there are no commitments to ensure that prisoners fully understand the procedures of discipline and there is no provision of interpretation facilities or no commitment on the use of special (observation) cells. Notwithstanding legislation exists to ensure that all incidents of bullying/ violence/threatening behaviour between prisoners, and any breach of discipline be reported to an officer of a higher rank and will be duly recorded and properly investigated, irregularities can still be found in reality.

Situation in practice

The inspectors noted an atmosphere of “intimidation and dread” in Valdice Prison and commented on the high levels of inter-prisoner violence including sexual violence. Furthermore there was a reluctance amongst prisoners to come forward and make complaints owing to fear of retribution ranging from removal of rights to deliberate placement in a cell with a prisoner with a known history of violence, including sexual abuse. It was concluded that there had been a

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worrying lack of progress in addressing these problems since 2006, when a CPT report including near identical criticisms was released and a Ministry of Justice regulation to deal with these issues had been enacted.

7.5.5 Use of force/weapons

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations

5.5.1 Has your country adopted laws or policies stipulating that members of staff will use force only when absolutely necessary and that any force used shall be proportionate to the situation? SMR 54(1), CCLEO 3, BPUF 4, EPR 64 & 6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	4	1	3
Total Europe - %	87	87	17	4	13
Czech Republic	X	X			

Analysis

International instrument compliance

The Czech Republic has adopted a commitment regarding the use of force/weapons as has the majority of the other EU Member States.

Situation in practice

Nonetheless, during their 2008 visit to Valdice prison, CPT inspectors were informed of an incident whereby a prisoner had been sprayed with pepper spray while locked alone in his cell. Furthermore, he had received no medical attention to relieve the effects of the spray after its use. Most worryingly it was the prisoner’s belief that the reason that the spray had been used was linked to the fact that he had filed a complaint. As a result, the Committee encouraged the Czech authorities to draw up rules in order to govern the potentially dangerous use of pepper spray in prisons.

7.5.6 Requests & complaints

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations

5.6.1 Has your country adopted laws or policies to ensure that prisoners have sufficient opportunity to make requests or complaints to the Governor of the prison or to any other competent authority? SMR 36(1) & (3), BOP 33(1), EPR 70.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	3	0	1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	96	96	13	0	4
Czech Republic	X	X			

5.6.2 Has your country adopted laws or policies establishing the right of a prisoner's legal advisor or to make a request or a complaint regarding that prisoner's treatment to the prison authorities, or other relevant authorities? BOP 33 (1) & (2), EPR 70.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	1	0	6
Total Europe - %	75	75	4	0	25
Czech Republic	X	X			

5.6.3 Has your country adopted laws or policies requiring that all complaints be promptly investigated in accordance with law? SMR 36(4), BOP 33(4)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	2	0	7
Total Europe - %	71	67	8	0	29
Czech Republic	X	X			

5.6.4 Has your country adopted laws or policies to ensure that where a request is denied or a complaint is rejected, the prisoner is informed promptly as to the reason(s) for such denial or rejection? SMR 36(4), BOP 33(4), EPR 70.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	2	1	7
Total Europe - %	71	63	8	4	29
Czech Republic					X

5.6.5 Has your country adopted laws or policies to ensure that prisoners are not disadvantaged for exercising their rights to make requests or complaints? BOP 33(4), EPR 70.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	3	0	13
Total Europe - %	46	42	13	0	54
Czech Republic					X

5.6.6 Has your country adopted laws or policies requiring that complaints made by members of staff against other members of staff be properly recorded and investigated in accordance with the law? EPR 88 & 87.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	11	3	0	11
Total Europe - %	54	46	13	0	46
Czech Republic	X	X			

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Analysis

International instrument compliance

Czech Republic has adopted four commitments out of six on requests/complaints. However, no commitment was adopted ensuring the prompt information of a denial for request/complaint nor a commitment relating to the legal guarantee to ensure that prisoners are not disadvantaged for exercising their rights to make requests or complaints.

7.6 Management & Staff

7.6.1 Training of staff

This section focuses on the staff training and prison management. International legal instruments place a series of obligations on States in respect of the training and management of prison staff. The questions in this section are based on these obligations.

6.1.1 Has your country adopted laws or policies to ensure that all prison staff receive appropriate training at regular intervals throughout their career? SMR 47(3), EPR 8, 76 & 81.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	14	7	0	5
Total Europe - %	79	58	29	0	21
Czech Republic	X	X			

6.1.2 Has your country adopted laws or policies to ensure that members of staff who work with particular groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, receive training particular to their individual work? R(82)17: 10, R(2004)10: 12(1), EPR 81.3, ERJO 129

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	38	21	21	0	62
Czech Republic					X

Analysis

International instrument compliance

Czech Republic has adopted the commitment to ensure that all prison staff receives appropriate training at regular intervals throughout their career, but no legislation has been passed for the appropriate training of staff working with particular groups of prisoners.

Situation in practice

The nature of the management was highlighted as problematic at Valdice prison by CPT. Neither the manager nor his deputy visited the work sections in order to talk to the staff or prisoners and daily management was often left in the hands of a special pedagogue who was solely interested in discipline and control.

7.7 Inspection & Monitoring

7.7.1 Governmental Inspection

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.1.1 Has your country adopted laws or policies requiring that prisons be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law? SMR 55, EPR 92, R(2004)10 36.1, ERJO 125, PPPMI 22

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	19	4	0	4
Total Europe - %	83	79	17	0	17
Czech Republic	X	X			

Analysis

International instrument compliance

Like the majority of EU Members, Czech Republic has adopted a commitment requiring that prisons be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law.

7.7.2 Independent monitoring

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.2.1 Has your country adopted laws or policies requiring that the conditions of detention and the treatment of prisoners shall be also monitored by an independent body or bodies, comprised of qualified experienced personnel, and whose findings shall be made public? OPCAT 3, 17, 18, 19, BOP 29.1, EPR 93.1, R(2004)10 36.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Czech Republic	X	X			

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7.2.2 Has your country adopted laws or policies granting such an independent body open access to places of detention, to prisoners and others whom it wishes to interview? OPCAT 19, 20, CPT 8,9 BOP 29.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	3	1	9
Total Europe - %	62	58	13	4	38
Czech Republic	X	X			

7.2.3 Has your country adopted laws or policies encouraging such independent bodies to co-operate with those international agencies that are legally entitled to visit prisons? CPT 2,7 EPR 93.2, ERJO 126.

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	6	1	0	17
Total Europe - %	29	25	4	0	71
Czech Republic	X	X			

Analysis

International instrument compliance

The Czech Republic has adopted all commitments on independent monitoring, which are legally binding on an international level.

Situation in practice

The Optional Protocol for the Convention Against Torture was ratified by the Czech Republic on the 10th of July 2006. The Czech authorities decided to alter the existing Public Defender of Rights, creating a new department to handle OP-CAT related work. The National Preventative Measure department is completely independent from departments which deal with complaints.

7.8 Sentenced Prisoners

This section focuses on the particular provisions relating to convicted prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

8.1.1 Has your country adopted laws or policies requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan? ICCPR 10(3), SMR 80, EPR 6, 103.2 & 103.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	6	2	4
Total Europe - %	83	83	25	8	17
Czech Republic	X	X			

8.1.2 Has your country adopted laws or policies requiring that a sentence management plan be prepared for each prisoner serving a sentence of 12 months or over as soon as practicable after their admission? It should provide for, inter alia, the welfare and health needs of the prisoner, training, employment or education needs he/she may have, and include a release plan for the prisoner. This plan shall be reviewed at regular intervals to take into account the changing circumstances of the prisoner. SMR 65, 66 & 69, R(2003)23: 3 & 9, EPR 6, 103 & 104.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	5	0	10
Total Europe - %	58	54	21	0	42
Czech Republic					X

Analysis

International instrument compliance

As regards to sentencing modalities, the Czech Republic has adopted commitments on the requirement of a central sentence management plan with the main goal constituting a prisoner's release and re-integration. However, it has not adopted a commitment requiring that a sentence management plan be prepared for each prisoner serving a sentence of 12 months or over as soon as practicable after their admission. This hiatus can be detected in practice.

Situation in practice

Inspectors were dissatisfied with the conditions of detention for high security prisoners at Valdice where it was found that while providing a highly secure environment, the high security section did little if anything to support the inmates. The CPT report was also critical of the section's "end of the line" approach with little or no attention paid to facilitating the re-introduction of prisoners into society.

Additionally the Committee were also dissatisfied with the regime for prisoners serving life sentences. The primary and over-arching criticism was that life sentence prisoners should be treated according to individualised plans, not merely according to their sentence. In Czech Prisons, prisoners with life sentences are subject to an entirely different regime to other prisoners. The Committee called for a fundamental review of the system in place for life-sentenced prisoners

7.9 Juveniles

This section focuses on the particular provisions relating to juvenile prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

9.1.1 Has your country adopted laws or policies requiring that juveniles be detained separately from adult offenders? ICCPR 10(3), CRC 37(c), BR 26.3, RPJDL 29, EPR 11.1, ERJO 59.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	1	3
Total Europe - %	87	87	13	4	13
Czech Republic	X	X			

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9.1.2 Has your country adopted laws or policies to ensure that, subject to reasonable conditions and restrictions, a sentenced prisoner under the age of 18 shall be entitled to receive a minimum of two weekly visits? CRC 37(c), SMR 37, BOP 19, RPJDL 60, ERJO 83, 84, 85.1 & 85.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	6	3	0	15
Total Europe - %	37	25	13	0	63
Czech Republic					X

Analysis

International instrument compliance

Czech Republic has adopted a commitment in its national law ensuring the separate detention of juveniles and adults. As regards to the safeguards of the right to a minimum of visits for juveniles, the Imprisonment Act, Article 61(8) provides the right for juveniles to receive visits for a period up to 5 hours during one calendar month according to the SPOC.

7.10 Sentence Execution Modalities

This section of the questionnaire is designed to collate information on the differing methods by which custodial sentences and measures involving deprivation of liberty are enforced across EU Member States.

10.1.1. Which of the following modalities of prison sentence execution are provided for in the law of your country?

	Weekend detention	Evening detention	Daytime detention	Home detention	
				no electronic monitoring	electronic monitoring
EUROPE	9 = 38%	10 = 42%	3 = 13%	6 = 25%	14 = 58%
Czech Republic					X

10.1.2. What is the maximum period for which home detention with electronic monitoring can be imposed?

	Under 12 months	12-24 months	25 months - 36 months	37 months - 50 months	More than 50 months
EUROPE	7 = 29%	4 = 17%	0 = 0%	1 = 4%	2 = 8%
Czech Republic		X			

10.2.1. In which of the following locations can custodial sentences or measures involving deprivation of liberty be imposed?

	Penitentiary institution	Psychiatric institution	Detoxification institution	Educational institution	Home

	Penitentiary institution	Psychiatric institution	Detoxification institution	Educational institution	Home
EUROPE	24 = 100%	20 = 83%	10 = 42%	7 = 29%	12 = 50%
Czech Republic	X				X

Analysis

Sentence execution modalities

In Czech Republic, the only additional sentence execution modality available is home detention coupled with electronic monitoring. Such electronic monitoring can be used for a period from twelve up to twenty four months. Custodial sentences or measures involving deprivation of liberty can be imposed in penitentiary institutions or at home.

7.11 Early release from prison, earned remission and suspension of sentence

7.11.1 Early release

Early release means the release of the offender before their prison term is finished. It is possible only while the sentence is still being served. Early release does not include the suspended enforcement of a penalty which is dealt with later in this questionnaire.

11.1.1. Has your country adopted laws and regulations under which prisoners are entitled to early release from prison?

	Yes	No
EUROPE	24 = 100%	0 = 0%
Czech Republic	X	

11.1.2.1. At what point in a prisoner's sentence do they become eligible for early release?

	One third of sentence or less	One third to one half of a sentence	One half to three quarters of a sentence	More than three quarters of a sentence	Other
EUROPE	2 = 8%	1 = 4%	7 = 29%	0 = 0%	14 = 58%
Czech Republic					X

CZECH REPUBLIC

11.1.2.2. Does your country have different regulations for the early release of prisoners based on:

	A prisoner's nationality (non-EU citizen)	A prisoner's nationality (EU citizen)	The length of sentence imposed
EUROPE	Yes - 3 = 12% No - 21 = 88%	Yes - 3 = 12% No - 21 = 88%	Yes - 24 = 100% No - 0 = 0%
Czech Republic	N	N	Y

11.1.2.3. Are provisions governing the early release of prisoners automatic or discretionary?

	Automatic (prisoners are automatically released at a certain point in their sentence)	Discretionary (prisoners are only released following assessment)
EUROPE	Yes - 7 = 29% No - 17 = 71%	Yes - 20 = 83% No - 4 = 17%
Czech Republic	N	Y

11.1.2.4. What factors are taken into consideration when deciding whether a prisoner will be granted early release?

	The circumstances surrounding the crime	Prior criminal record	The offender's progress during imprisonment	Assessment as to whether the prisoner is likely to reoffend	Recommendation from the sentencing judge
EUROPE	Yes - 24 = 50% No - 24 = 50%	Yes - 15 = 63% No - 9 = 37%	Yes - 22 = 92% No - 2 = 8%	Yes - 19 = 79% No - 5 = 21%	Yes - 4 = 17% No - 20 = 83%
Czech Republic	N	N	Y	N	N

11.1.3.1. What forms of monitoring and conditions can be applied to prisoners' early release?

1. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
2. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
4. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
5. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
6. Electronic monitoring
7. Weekend/evening /daytime detention
8. Requirement containing limitations on leaving the country
9. Requirement to leave the country

10. Requirement to pay compensation
11. Requirement to undertake community service
12. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	Other
EUROPE	Y - 83 N - 17	Y - 8 N - 92	Y - 58 N - 42	Y - 62 N - 38	Y - 33 N - 77	Y - 25 N - 75	Y - 13 N - 87	Y - 42 N - 58	Y - 21 N - 79	Y - 29 N - 71	Y - 21 N - 79	9
Czech Republic	Y	N	Y	N	N	Y	Y	N	N	Y	Y	X

7.11.2 Sentence reduction as a result of prison work

11.2.1. Can a prisoner earn remission on their sentence as a result of work carried out in prison?

	Yes	No
EUROPE	9= 38%	15 – 62%
Czech Republic		X

7.11.3 Suspension of sentence enforcement

11.3.1. Does the national law of your country make provision for the further execution of a prison sentence to be suspended during the course of the sentence?

	Yes	No
EUROPE	10=42%	14= 58%
Czech Republic	X	

11.3.2.1. What factors are taken into consideration when deciding whether a prisoner will have the further execution of their prison sentence suspended?

1. The circumstances surrounding the crime
2. Prior criminal record
3. The offender's progress during imprisonment
4. Assessment as to whether the prisoner is likely to reoffend
5. Recommendation from the sentencing judge
6. Suitability of home circumstances
7. Information from victim(s)
8. Willingness of the prisoner to leave the country upon release
9. The prisoner will be deported upon release
10. Other – please specify

	1	2	3	4	5	6	7	8	9	Other
EUROPE	Y - 8 N - 92	Y - 13 N - 78	Y - 17 N - 83	Y - 21 N - 79	Y - 0 N - 100	Y - 4 N - 96	Y - 0 N - 100	Y - 0 N - 100	Y - 0 N - 100	21
Czech	N	N	Y	Y	N	N	N	N	N	X

CZECH REPUBLIC

	1	2	3	4	5	6	7	8	9	Other
Republic										

11.3.3.1. What forms of monitoring and conditions can be applied to prisoners whose further execution of a prison sentence has been suspended?

1. Unconditional supervision
2. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
4. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
5. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
6. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
7. Electronic monitoring
8. Weekend/evening /daytime detention
9. Requirement containing limitations on leaving the country
10. Requirement to leave the country
11. Requirement to pay compensation
12. Requirement to undertake community service
13. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	12	Other
EUROPE	Y - 4 N - 96	Y - 38 N - 62	Y - 4 N - 96	Y - 29 N - 71	Y - 17 N - 83	Y - 17 N - 83	Y - 4 N - 96	Y - 4 N - 96	Y - 21 N - 79	Y - 0 N - 100	Y - 17 N - 83	Y - 4 N - 96	2
Czech Republic	N	Y	N	Y	N	N	Y	Y	N	N	Y	Y	X

Analysis

Early release from prison, earned remission and suspension of sentence

In common with all EU countries, Czech Republic has adopted measures under which prisoners are entitled to early release from prison. Prisoners become eligible after one half to two thirds of their sentence depending on the length of sentence imposed. The Czech early release system is based on discretionary provisions. Decisions on a prisoner's early release are based on three of the ten criteria identified. Once a prisoner is granted early release, seven of the twelve forms of monitoring or conditions identified, can be attached. No possibility exists in Czech law for prisoners to be granted remission as a result of work carried out in prison. Provisions are made for the further execution of a prison sentence to be suspended during the course of the sentence. The offender's progress during imprisonment, an assessment as to whether the

prisoner is likely to reoffend and a partial or complete compensation or atonement for the crime(s) previously committed and life-threatening (physical or mental) health conditions of the prisoner are taken into account when deciding whether a prisoner will have the further execution of their prison sentence suspended. Furthermore, pregnant prisoners and mothers of newborn children can receive suspension for up to one year after birth and prisoners called up for military service or deportation are also considered for suspension. In case of suspension, seven out of thirteen forms of monitoring and conditions can be applied.

Appendix – Legal & Policy Documents

1. Charter of fundamental rights and freedoms 2-1992
2. Criminal Code 40-2009
3. Criminal Procedure Code 141-1961
4. Imprisonment Act 169-1999
5. Juvenile Justice Act 218-2003
6. Ordinance governing the execution of Imprisonment 345-1999
7. Ordinance governing the execution of Pre-trial Detention 109-1994
8. Personal Data Protection Act 101-2000
9. Prison Service Act 555-1992
10. Public Defender of Rights Act 349-1999
11. Ordinance on Prisoners' Employment 365-1999
12. Ministry of Justice Regulation on Deduction for Prisoner's Remuneration 10-2000

8 Denmark

8.1 Introduction

The questionnaire was completed by Annette Esdorf. She works at the Department of Prisons and Probation, Ministry of Justice Denmark.

Denmark was visited in 2008 by a delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). Moreover, Denmark was visited in December 2006 by a delegation of the European Commissioner for Human Rights. Reports of both visits have been published. The Amnesty International report of 2010 on Denmark is noteworthy in this respect as well, as it reiterates findings of the UN Special Rapporteur on torture with regard to the extensive use of solitary confinement, particularly of pre-trial detainees. Also, the 2006 report of the Committee on the Rights of the Child has been checked.

Country	DENMARK
Ministry responsible	Ministry of Justice
Prison administration	Department of Prisons and Probation
Contact address	Strandgade 100, DK-1401 COPENHAGEN K, Denmark
Telephone/fax/website	tel: +45 32684000 / fax: +45 32684050 / www.kriminalforsorgen.dk
Head of prison administration (and title)	William Rentzmann Director General
Prison population total (including pre-trial detainees / remand prisoners)	4,091 at 1.4.2011 (national prison administration)
Prison population rate (per 100,000 of national population)	74 based on an estimated national population of 5.56 million at beginning of April 2011 (from Eurostat figures)
Pre-trial detainees / remand prisoners (percentage of prison population)	34.0% (1.4.2011)
Female prisoners (percentage of prison population)	4.4% (1.4.2011)
Juveniles / minors / young prisoners incl. definition (percentage of prison population)	0.3% (1.4.2011 - under 18)
Foreign prisoners (percentage of prison population)	21.7% (1.4.2011)
Number of establishments / institutions	50 (2011)
Official capacity of prison system	4,134 (1.4.2011)
Occupancy level (based on official	99.0% (1.4.2011)

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capacity)			
Recent prison population trend	1992	3,597	(70)
(year, prison population total, prison population rate)	1995	3,575	(68)
	1998	3,422	(65)
	2001	3,236	(60)
	2004	3,767	(70)
	2007	3,646	(67)
	2010	3,965	(71)

8.2 Overarching Principles

This section focuses on the overarching principles governing the management of prisons and the treatment of prisoners. International legal instruments place a series of obligations on States in respect of the management of prisons and the treatment of prisoners. The questions in this section are based on these obligations

2.1.1 Has your country adopted laws or policies specifically requiring that prisoners must be treated with respect for their human rights? ICCPR 10(1), UDHR 1, BOP 1, BPTP 1, EPR 1 & 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	19	7	1	2
Total Europe - %	92	79	29	4	8
Denmark	X		X		

2.1.2 Has your country adopted laws or policies specifically requiring prisons to be managed in accordance with human rights standards? EPR 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	4	3	3
Total Europe - %	88	75	16	13	12
Denmark	X		X		

2.1.3 Has your country adopted laws or policies explicitly prohibiting practices that could constitute torture, inhumane or degrading treatment or punishment of prisoners? ICCPR 7, BOP 6, ECHR 3, *Kalashnikov v Russia* (ECtHR 2003)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	1	3	2
Total Europe - %	92	88	4	12	8
Denmark	X	X			

2.1.4 Has your country adopted laws or policies specifically requiring that prisoners be provided with a range of activities during their sentence (for example - educational, recreational, work/training and welfare programmes)? SMR 77 & 78, BOP 28, BTP 6 & 8, EPR 25

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	0	0
Total Europe - %	100	96	29	0	0
Denmark	X	X			

Analysis

International instrument compliance

In common with the majority of EU member states, Denmark has passed legislation designed to protect the human rights of its prisoners and provide them with a meaningful regime during their time in custody. This legislation includes all of the commitments arising from legally binding international legal instruments.

Situation in practice

The Amnesty International report (2010) on Denmark noted that Danish criminal law continued to miss out torture as a specific crime in its own right. The law however contains provisions punishing acts that amount to torture. The UN Committee against Torture expressed concerns about the same issue in 2008.

The Amnesty International report notes furthermore that the UN Special Rapporteur on torture expressed worries about the fact that solitary confinement is used on great scale, especially where it concerns pre-trial detainees.

8.3 Conditions Of Imprisonment

8.3.1 Admission

This section focuses on the treatment of prisoners upon their admission to prison. International legal instruments place a series of obligations on States in respect of prisoner admission. The questions in this section are based on these obligations.

3.1.1 Has your country adopted laws or policies requiring that all prisoner details are recorded at the time of committal including, inter alia, details of any visible injuries and the prisoner's personal belongings? SMR 7(1), EPR 15.1, 31.1, 31.2 & 31.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	7	1	7
Total Europe - %	71	63	29	4	29
Denmark	X	X			

3.1.2 Has your country adopted laws or policies requiring that upon admission, each prisoner is given a booklet outlining his/her rights, duties, obligations and privileges and the rules and regulations governing the prison which apply to the individual prisoner? The booklet shall be written in a language that the prisoner understands. CERD 7, SMR 35, BOP 13, EPR 30

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	6	1	6
Total Europe - %	63	54	25	4	25
Denmark	X	X			

3.1.3 Has your country adopted laws or policies requiring that upon admission, every prisoner shall undergo a medical examination either by a nurse reporting to a doctor or by a doctor? SMR 24, BOP 24, R(98)7: 1, EPR 42.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	20	6	1	1
Total Europe - %	96	83	25	4	4
Denmark	X	X			

3.1.4 Has your country adopted laws or policies requiring the doctor/nurse to pay particular attention to the detection of injuries, mental illnesses, of withdrawal symptoms resulting from the use of drugs, medication or alcohol, of contagious and chronic conditions, and, to assess the prisoner's suicide/self-harm risk? SMR 24, R(98)7: 1, EPR 42.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	10	8	1	9
Total Europe - %	62	42	33	4	38
Denmark					X

3.1.5 Has your country adopted laws or policies requiring injuries detected during such an examination to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner? EPR 15.1.e & 42.3.c

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	5	4	1	17
Total Europe - %	29	21	17	4	71
Denmark					X

3.1.6 Has your country adopted laws or policies requiring upon admission that each prisoner be assessed to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves? ICCPR 6, UDHR 3, ECHR 2, R(2003)23: 12, EPR 52.1, *Keenan v The United Kingdom* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	5	1	13
Total Europe - %	46	42	21	4	54
Denmark					X

3.1.7 Has your country adopted laws or policies requiring that such risks be managed for the duration of the prisoner's sentence? ICCPR 6, UDHR 3, ECHR 2, EPR 52.2, *Osman v The United Kingdom* (ECtHR 2000)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	3	1	12
Total Europe - %	50	50	13	4	50
Denmark					X

Analysis

International instrument compliance

Denmark has adopted laws or policies complying with 3 of the 7 commitments established by international legal instruments relating to the procedures governing admission of prisoners to custodial institutions: this includes the legally binding commitment relating to the provision of a book outlining a prisoner's rights at the time of admission. Commitments not adopted relate to the risk management of prisoners throughout the duration of their sentence and the need to assess prisoners to see whether they pose a threat to themselves or others. Notwithstanding the absence of latter commitments relating to risk management, safety risks are in practice assessed according to the SPOC.

Situation in practice

Many of the prisoners reported that they had not been given a medical examination upon arrival. With regard to health care service, the CPT recommended that all prisoners should be systematically checked upon their arrival in prison.

8.3.2 Allocation

This section focuses on the allocation of prisoners to a particular prison. International legal instruments place a series of obligations on States in respect of prisoner allocation. The question in this section is based on these obligations.

3.2.1 Has your country adopted laws or policies requiring prisoners to be assigned to a prison as near to their home area as possible in order to maintain relationships with families and friends, subject to the maintenance of good order and security? BOP 20, EPR 17.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	15	6	1	5
Total Europe - %	79	63	25	4	21
Denmark	X	X	X		

Analysis

International instrument compliance

In common with the majority of other EU Member States, Denmark has adopted the commitment relating to allocation of prisoners.

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8.3.3 Accommodation

This section focuses on the living conditions of prisoners. International legal instruments place a series of obligations on States in respect of the accommodation of prisoners. The questions in this section are based on these obligations.

3.3.1 Has your country adopted laws or policies requiring that where possible prisoners should have individual cells to sleep in? SMR 9(1), EPR 18.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	3	0	10
Total Europe - %	58	54	13	0	42
Denmark					X

3.3.2. Has your country adopted laws or policies stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation? ICCPR 6(1), UDHR 3, SMR 9(2), ECHR 2, EPR 18.6 & 18.7, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	4	0	14
Total Europe - %	42	29	17	0	58
Denmark					X

3.3.3 Has your country adopted laws or policies requiring that the size of a cell must be suitable for its purpose? The suitability of the cell size should be dependent on the number of hours spent in the cell, the number of prisoners accommodated in the cell and the availability of in-cell-sanitation facilities that ensure privacy. SMR 9, 10, 11 & 12, EPR 18 & 19.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	8	2	1	15
Total Europe - %	37	33	8	4	63
Denmark	X		X		

3.3.4 Has your country adopted laws or policies requiring that cells should not be used to accommodate more prisoners than the intended design capacity, unless justified in exceptional circumstances? SMR 9(1) & 10, EPR 18.1, 18.3, 18.4 & 18.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Denmark					X

3.3.5 Has your country adopted laws or policies requiring that cells be suitable for accommodating prisoners in respect of size, lighting, heating, ventilation and fittings? SMR 9, 10, 11, 12 & 13, EPR 18

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	16	4	0	6
Total Europe - %	75	67	17	0	25
Denmark	X		X		

3.3.6 Has your country adopted laws or policies requiring that all prisoners have in-cell access to a working alarm bell that attracts the attention of staff at all times? ICCPR 6(1), UDHR 3, ECHR 2, EPR 18.2.c & 52.4, IPR 18(4), *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	13	2	0	4
Total Europe - %	83	54	8	0	17
Denmark					X

Analysis

International instrument compliance

Denmark has incorporated 2 of the 6 commitments relating to accommodation in its policy. Further information is provided by the SPOC in her comments above. The commitments based on legally binding international instruments relating to the assessment of prisoners to share a cell and the need for all cells to have a working alarm bell have not been adopted, but according to the SPOC there are rules about these issues.

Situation in practice

CPT found Danish prisons, in general, to be of a highly satisfactory standard. Cells in all prisons visited were sufficiently sized and more than adequately furnished.

8.3.4 *Hygiene & Sanitation*

This section focuses on the hygiene and sanitation facilities for prisoners. International legal instruments place a series of obligations on States in respect of hygiene and sanitation. The questions in this section are based on these obligations.

3.4.1 Has your country adopted laws or policies to ensure that all prisoners have access to adequate and appropriate sanitary and washing facilities that respect their privacy? SMR 12 & 13, EPR 19.3, 19.4 & 19.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	2	0	10
Total Europe - %	58	58	8	0	42
Denmark					X

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3.4.2 Has your country adopted laws or policies requiring that all In-cell sanitation facilities must be adequately screened? ICCPR 10(1), SMR 12, BOP 1, BPTP 1, ECHR 3, EPR 19.3, *Peers v Greece* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	4	1	9
Total Europe - %	62	54	17	4	38
Denmark					X

Analysis

International instrument compliance

The commitments regarding hygiene and sanitation have not been incorporated in Danish law. However, comments from the SPOC indicate that these provisions are being complied with in part.

Situation in practice

CPT indicated the lack of in-cell sanitation in only one prison (Nyborg Prison). However, here extra staff was available to enable prisoners to make use of the facilities when the cells were locked.

8.3.5 *Clothing & Bedding*

This section focuses on clothing and bedding provisions for prisoners. International legal instruments place a series of obligations on States in respect of the provision of clothing and bedding. The questions in this section are based on these obligations.

3.5.1 Has your country adopted laws or policies to ensure that prisoners are provided with clothing that is suitable for the climate, is not degrading or humiliating and is age appropriate? SMR 17(1), EPR 20.1 & 20.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	10	0	7
Total Europe - %	71	71	42	0	29
Denmark					X

3.5.2 Has your country adopted laws or policies requiring each prisoner to be provided with a bed and appropriate bedding and to ensure that all bedding is in good condition, is changed regularly and laundered? SMR 19, EPR 21

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	2	0	6
Total Europe - %	75	71	8	0	25
Denmark	X		X		

Analysis

International instrument compliance

Denmark has incorporated one of the two commitments concerning prisoners clothing and bedding into (non-binding) policy. Comments from the SPOC indicate the clothing provisions are being complied with in practice.

8.3.6 Nutrition

This section focuses on the nutrition requirements of prisoners. International legal instruments place a series of obligations on States in respect of prisoner's nutrition. The questions in this section are based on these obligations.

3.6.1 Has your country adopted laws or policies to ensure that prisoners are provided with a sufficient quantity of nutritious food taking into account their health, physical condition, special dietary requirements, religion and culture? SMR 20(1), EPR 22.1 & 22.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	5	1	4
Total Europe - %	83	83	21	4	17
Denmark	X	X	X		

3.6.2 Has your country adopted laws or policies to ensure that prisoners have access to clean drinking water? SMR 20(2), EPR 22.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	16	5	1	5
Total Europe - %	79	67	21	4	21
Denmark					X

Analysis

International instrument compliance

Denmark has incorporated one of the two commitments concerning prisoner's access to drinking water and adequate nutrition into (non-binding) policy. See further comments of SPOC above.

8.3.7 Legal advice, info & rights

This section focuses on the entitlement of prisoners to legal advice and information. International legal instruments place a series of obligations on States in respect of access to legal advice and information. The questions in this section are based on these obligations.

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3.7.1 Has your country adopted laws or policies requiring that adequate time and facilities be provided to prisoners to receive professional visits from their legal advisers? BOP 18(2), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	4	1	2
Total Europe - %	92	92	17	4	8
Denmark	X	X			

3.7.2 Has your country adopted laws or policies establishing the right of prisoners to communicate with their legal advisers by telephone and by letter? BOP 18(1), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	3	3	3
Total Europe - %	87	83	13	13	13
Denmark	X	X			

3.7.3 Has your country adopted laws or policies requiring that communications between a prisoner and his/her legal adviser remain confidential and can only be restricted by law or judicial authority? ICCPR 17, BOP 18(3) & (4), ECHR 8, EPR 23.4 & 23.5, *Campbell v The United Kingdom* (ECtHR 1992)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	3	1	2
Total Europe - %	92	92	13	4	8
Denmark	X	X			

Analysis

International instrument compliance

All commitments (both legally binding and voluntary) have been incorporated into Danish law.

8.3.8 Contact with the outside world

8.3.8.1 Visits

This section focuses on the entitlement of prisoners to maintain contacts with the outside world. International legal instruments place a series of obligations on states in respect of prisoners' on-going contact with the outside world. The questions in this section are based on these obligations.

3.8.1.1 Has your country adopted laws or policies establishing the right of prisoners to communicate with their family and friends by correspondence and by receiving visits, subject to reasonable conditions/restrictions imposed by law or another authority? ICCPR 23(1), UDHR 16(3), SMR 37, BOP 15 & 19, EPR 24.1 & 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	2	0
Total Europe - %	100	96	29	8	0
Denmark	X	X	X		

3.8.1.2 Has your country adopted laws or policies requiring that visits take place in an environment that enables prisoners to maintain and develop family and other relationships in as normal a manner as is possible subject to the maintenance of good order and security in the prison? SMR 79, EPR 24.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	6	0	2
Total Europe - %	92	88	25	0	8
Denmark	X	X			

8.3.8.2 Searching of visitors

3.8.2.1 Has your country adopted laws or policies requiring that searching procedures for visitors be undertaken in a manner that respects a person's dignity? SMR 27, BOP 19, EPR 54.1.c, 54.3, 54.4 & 54.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	4	0	7
Total Europe - %	71	63	17	0	29
Denmark	X	X			

3.8.2.2 Has your country adopted laws or policies requiring that prison officers only be permitted to search visitors of the same gender? EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	9	1	0	12
Total Europe - %	50	38	4	0	50
Denmark					X

8.3.8.3 Restrictions on visits

3.8.3.1 Has your country adopted laws or policies requiring the authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party(ies) and to review these circumstances on a regular basis? SMR 27, 79 & 80, EPR 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	0	0	63

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Denmark	X	X			

3.8.3.2 Has your country adopted laws or policies preventing the withdrawal of contact for female prisoners with their children as a disciplinary action except in exceptional circumstances? SMR 27, 79 & 80, EPR 24.2 & 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	2	0	12
Total Europe - %	50	50	8	0	50
Denmark	X	X			

8.3.8.4 *Death, illness & transfer*

3.8.4.1 Has your country adopted laws or policies requiring that prisoners be informed of the death/serious illness of a close relative/ friend without delay? SMR 44(2), EPR 24.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	2	0	13
Total Europe - %	46	42	8	0	54
Denmark					X

3.8.4.2 Has your country adopted laws or policies allowing a prisoner to leave the prison to visit a sick relative/friend, attend a funeral or for other humanitarian reasons? SMR 44(2), EPR 24.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Denmark	X	X			

3.8.4.3 Has your country adopted laws or policies ensuring that prisoners are allowed to inform their families or other nominated persons without delay of their imprisonment, transfer to another institution or of any serious illness that they may suffer from? SMR 44(1) & (3), BOP 16(1), EPR 24.8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Denmark	X	X			

3.8.4.4 Has your country adopted laws or policies requiring the prison authorities to immediately inform the spouse or the nearest relative to the prisoner (or any other person previously nominated), if the prisoner dies in custody, is removed to a hospital or suffers a serious injury/illness? SMR 44(1), EPR 24.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	3	0	6
Total Europe - %	75	75	13	0	25
Denmark					X

8.3.8.5 Telephone and letters

3.8.5.1 Has your country adopted laws or policies preventing the monitoring or censoring of telephone calls unless the prisoner or the recipient of the call is informed of the possibility of such monitoring or, such monitoring has been agreed by any lawful authority? ICCPR 17, UDHR 12, SMR 37, BOP 19, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	3	1	5
Total Europe - %	79	79	13	4	21
Denmark	X	X			

3.8.5.2 Has your country adopted laws or policies permitting prisoners to send a minimum of 7 letters a week free of charge and more if he/she can afford it, and to receive as many letters as are sent to him/her? SMR 37, BOP 19, EPR 24.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	11	1	0	12
Total Europe - %	50	46	4	0	50
Denmark	X	X			

3.8.5.3 Has your country adopted laws or policies preventing the prison authorities from opening prisoners' private correspondence subject to the maintenance of good order and safe and secure custody in the prison? ICCPR 17, UDHR 12, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	1	9
Total Europe - %	62	62	13	4	38
Denmark	X	X			

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8.3.8.6 *Media*

3.8.6.1 Has your country adopted laws or policies entitling prisoners to be kept informed of current affairs and other developments outside the prison by reading newspapers and periodicals and by listening to radio or television broadcasts (subject to the maintenance of good order and safe and secure custody)? SMR 39, BOP 28, EPR 24.10

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	1	1
Total Europe - %	96	92	21	4	4
Denmark	X	X			

Analysis

International instrument compliance

Denmark has complied with 11 out of 14 commitments relating to prisoner’s contact with the outside world. These include the legally binding commitments relating to prisoners’ rights to maintain contact with family and friends by means of visits or letters and the circumstances in which prisoners’ telephone and written correspondence can be legitimately monitored. Provisions that have not been incorporated include the obligation requiring that prisoners be informed of the death/serious illness of a close relative/ friend without delay.

Situation in practice

According to the CPT, the visiting regime was highly satisfactory. Prisoners were entitled to one visit lasting up to an hour, once per week. It was possible for prisoners to apply for extended, unsupervised visits in order to enable them to maintain family or personal relations. In addition, the visiting rooms were considered highly satisfactory in all the establishments.

8.3.9 *Work*

This section focuses on work in prison. International legal instruments place a series of obligations on States in respect of work in prison. The questions in this section are based on these obligations.

3.9.1 Has your country adopted laws or policies requiring work to be incorporated as a positive aspect of prison regimes and prohibiting its use as a form of punishment? SMR 71(1), EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Denmark	X	X	X		

3.9.2 Has your country adopted laws or policies requiring that prison work provided should prepare prisoners for worthwhile work on their release and facilitate their reintegration into the workforce? SMR 71(3) & (4), BPTP 8, EPR 26.3 & 26.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	18	7	0	4
Total Europe - %	83	75	29	0	17
Denmark	X	X	X		

3.9.3 Has your country adopted laws or policies entitling prisoners to be remunerated in respect of prison work carried out? ICESCR 7(a), UDHR 23, SMR 76(1), BPTP 8, EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	1	1
Total Europe - %	96	92	13	4	4
Denmark	X	X			

Analysis

International instrument compliance

All commitments relating to prison work have been incorporated into Danish law.

Situation in practice

Prisoners were able to take advantage of a wide variety of activities, including education, work in a number of highly commended workshops and recreation in high quality leisure facilities. Furthermore, there were numerous programs aimed at reducing recidivism, such as anger and stress management and addiction treatment programs. It was noted that prisoners appreciated the opportunity to prepare their own food and eat in communal spaces. From time to time the custodial staff would eat with the prisoners.

8.3.10 Exercise & recreation

This section focuses on facilities for exercise and recreation in prison. International legal instruments place a series of obligations on States in respect of exercise and recreational facilities. The questions in this section are based on these obligations.

3.10.1 Has your country adopted laws or policies ensuring that, subject to the constraints of the particular prison and the maintenance of good order and security, prisoners shall be entitled to spend as much time out of their cells as is possible? EPR 25(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Denmark	X	X	X		

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3.10.2 Has your country adopted laws or policies ensuring that prisoners receive at least one hours exercise each day in the open air, weather permitting? SMR 21, EPR 27.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	2	1
Total Europe - %	96	92	21	8	4
Denmark	X	X			

3.10.3 Has your country adopted laws or policies ensuring that prisoners shall have access to a well-stocked library at least once a week (subject to the maintenance of good order and safe and secure custody)? R(89)12: 10, EPR 28.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	13	0	0	11
Total Europe - %	54	54	0	0	46
Denmark					X

Analysis

International instrument compliance

All commitments relating to exercise and recreation have been incorporated into Danish law except that regarding weekly access to a library. However, comments of SPOC indicate that this provision has been complied with in part.

Situation in practice

See 8.3.9 above.

8.3.11 Education

This section focuses on facilities for education in prison. International legal instruments place a series of obligations on States in respect of prison education facilities. The questions in this section are based on these obligations.

3.11.1 Has your country adopted laws or policies requiring, as far as practicable, that prisoners have access to educational programmes that can meet their individual needs? ICESCR 13, UDHR 26, SMR 77(1), BPTP 6, R(89)12: 1, EPR 28.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	5	1	1
Total Europe - %	96	96	21	4	4
Denmark	X	X	X		

3.11.2 Has your country adopted laws or policies requiring that education provided in prisons shall be integrated, in so far as is practicable, with national educational systems/programmes enabling prisoners to continue their education following their release? SMR 77(2), R(89)12: 16, EPR 28.7.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	5	0	3
Total Europe - %	87	75	21	0	13
Denmark	X		X		

3.11.3 Has your country adopted laws or policies requiring that vocational training be available for those prisoners who are able to benefit from it, particularly young prisoners? SMR 71(5), BPTP 8, R(89)12: 9, EPR 26.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	20	5	0	2
Total Europe - %	92	83	21	0	8
Denmark	X	X	X		

Analysis

International instrument compliance

All commitments relating to education have been incorporated either in law or policy, including the legally binding one requiring that prisoners have access to educational programs that can meet their individual needs.

8.3.12 Freedom of thought, conscience & religion

3.12.1 Has your country adopted laws or policies ensuring that prisoners have the opportunity to practice their religion and to follow their beliefs whilst in custody? ICCPR 18(1), CERD 5 (d) (vii), UDHR 18, SMR 42, BPTP 3, EPR 29.1 & 29.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	5	0	0
Total Europe - %	100	96	21	0	0
Denmark	X	X			

Analysis

International instrument compliance

In common with all other EU Member States, Denmark has adopted legislation to protect the right to freedom of thought, conscience and religion.

DENMARK

8.4 Health

8.4.1 Core principles

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.1.1 Has your country adopted laws or policies requiring that primary healthcare services to meet the needs of all prisoners be provided in each prison to a standard equivalent to that available to the community in general? ICESCR 12(1), SMR 22(1), PME 1, R(98)7: 10, 11, 12 & 19, EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	6	0	1
Total Europe - %	96	92	25	0	4
Denmark	X	X	X		

4.1.2 Has your country adopted laws or policies to ensure that where a sick prisoner requires treatment that cannot be provided by the medical staff in the prison he/she shall be transferred to an appropriate hospital without undue delay? SMR 22(2), BPTP 9, R(98)7: 3, EPR 46.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	3	1	2
Total Europe - %	92	88	13	4	8
Denmark	X	X			

4.1.3 Has your country adopted laws or policies requiring that medical records be created and accurately maintained on all prisoners and that such records be treated as confidential? BOP 26, R(98)7: 13, EPR 42.3.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	5	0	3
Total Europe - %	87	83	21	0	13
Denmark	X	X			

Analysis

International instrument compliance

All commitments concerning the core principles of healthcare during incarceration have been adopted.

8.4.2 *Women and children*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.2.1 Has your country adopted laws or policies to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor? CEDAW 12, SMR 23, BOP 5(2), R(98)7: 8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	7	3	0	17
Total Europe - %	29	29	13	0	71
Denmark					X

4.2.2 Has your country adopted laws or policies requiring that appropriate care be afforded to all pregnant prisoners and nursing mothers? CEDAW 12(2), SMR 23, R(98)7: 8 & 69, EPR 34.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Denmark	X	X			

Analysis

International instrument compliance

One of two legally binding commitments relating to women's healthcare in prison has been adopted.

8.4.3 *Mental health care*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.3.1 Has your country adopted laws or policies requiring that prisoners with mental health difficulties be entitled to care appropriate to their circumstances, commensurate to the type of care available for people with similar mental health difficulties in the community? SMR 22(1), PPPMI 1 & 20, R(98)7:10, 11 & 52, R(2004)10: 35(1) & (2), EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	4	0	3
Total Europe - %	87	79	17	0	13
Denmark	X	X			

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4.3.2 Has your country adopted laws or policies to ensure that prisoners who require psychiatric in-patient care are transferred to a suitable hospital facility of an appropriate security level without undue delay? SMR 22(2), PPPMI 9(1) & 20, R(98)7: 3 & 55, R(2004)10: 8, 9(1) & 35(1), EPR 12(1) & 46(1)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	3	0	6
Total Europe - %	75	71	13	0	25
Denmark	X	X			

Analysis

International instrument compliance

Both commitments relating mental healthcare in prison have been adopted.

Situation in practice

CPT noted that in some instances, it was problematic for prisoners to be transferred for psychiatric care in specialist establishments.

8.4.4 Vulnerable prisoners

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.4.1 Has your country adopted laws or policies requiring that prisoners assessed as vulnerable be accommodated in areas of the prison which are most convenient and appropriate for their monitoring and treatment by the medical personnel and other relevant agencies? SMR 22(2) & 62, EPR 12.2, 39, 43.1, 46.2, 47.1 & 47.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	3	0	8
Total Europe - %	67	63	13	0	33
Denmark					X

4.4.2 Has your country adopted laws or policies requiring that prisoners assessed as being at risk of suicide/self-harm be continuously monitored by both medical and prison staff throughout the prisoner's time in custody and that records are kept of such monitoring? R(98)7: 58, EPR 47(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	5	0	14
Total Europe - %	42	29	21	0	58
Denmark	X	X			

4.4.3 Has your country adopted laws or policies requiring that prisoners detained in a special cell be visited daily, and as frequently as is necessary by a doctor who shall, inter alia, monitor his/ her physical and mental health? SMR 25(1) & 32(3), R(98)7: 66, EPR 43.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Denmark					X

Analysis

International instrument compliance

One of the three commitments regarding vulnerable prisoners has been incorporated into Danish law.

See comments above of the SPOC regarding question 4.4.3.

8.4.5 *Medical & health care personnel*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.5.1 Has your country adopted laws or policies to ensure that every prisoner has access to appropriately qualified medical personnel in the prison at all times? SMR 24, BOP 24, R(98)7:1, 2 & 4, EPR 41.2 & 41.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Denmark	X	X			

Analysis

International instrument compliance

In common with the majority of other EU Member States, the commitment ensuring access to appropriately qualified personnel has been incorporated into Danish law.

Situation in practice

In terms of staff and the resources available to them (premises, facilities and equipment), the healthcare available to prisoners in Denmark was highly satisfactory. In addition, the system for maintaining medical records was complimented.

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8.4.6 Prisoners with addiction problems

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.6.1 Has your country adopted laws or policies to ensure that prisoners with addiction problems have access to appropriate treatment and support services, including those from external agencies? SMR 62, R(98)7: 7, 43, 44, 45, 46 & 47, EPR 42.3.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	8	0	3
Total Europe - %	88	79	33	0	13
Denmark	X	X	X		

Analysis

International instrument compliance

The commitment relating to prisoners with addiction problems has been incorporated both in Danish law and policy.

8.4.7 Hunger strikes

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.7.1 Has your country adopted laws or policies forbidding the practice of forced feeding of hunger strikers? DOMHS, R(98)7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	37	21	21	0	63
Denmark	X	X			

Analysis

International instrument compliance

Commitment regarding the prohibition of forced feeding of hunger strikers has been adopted in Denmark.

8.5 Good order

8.5.1 General approaches

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.1.1 Has your country adopted laws or policies requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody? R(82)17: 8, EPR 51.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	0	9
Total Europe - %	62	62	13	0	38
Denmark	X	X	X		

Analysis

International instrument compliance

This commitment has been incorporated into Danish law.

8.5.2 Safety & Security

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.2.1 Has your country adopted laws or policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat? EPR 51.5, 53.1 & 53.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	63	63	17	0	37
Denmark	X	X	X		

Analysis

International instrument compliance

This commitment has been adopted by Denmark.

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8.5.3 *Searching of prisoners*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.3.1 Has your country adopted laws or policies requiring that searches conducted on prisoners be carried out with due regard to the prisoner's dignity? ICCPR 10(1), BPTP 1, EPR 54.3 & 54.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	0	1
Total Europe - %	96	92	13	0	4
Denmark	X	X			

5.3.2 Has your country adopted laws or policies stipulating that prisoners may only be searched by a staff member of the same gender? ICCPR 10(1), BPTP 1, EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	1	0	1
Total Europe - %	96	92	4	0	4
Denmark	X	X			

5.3.3 Has your country adopted laws or policies stipulating that prisoners may only be subjected to a strip search in exceptional circumstances and for good reason and then, only in the presence of two officers in an appropriate place which ensures privacy? ICCPR 10(1), BPTP 1, EPR 54. 3, 54.4 & 54.6, *Van der Van v The Netherlands* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	3	1	13
Total Europe - %	66	54	13	4	54
Denmark	X	X			

Analysis

International instrument compliance

All commitments relating to the searching of prisoners have been incorporated into Danish law.

8.5.4 *Criminal acts, discipline & punishment*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.4.1 Has your country adopted laws or policies stipulating that all inquiries into breach of prison discipline or rules shall be conducted in an independent and impartial manner? ICCPR 14(1), UDHR 10, ECHR 6(1), *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	2	1	8
Total Europe - %	67	63	8	4	33
Denmark	X	X			

5.4.2 Has your country adopted laws or policies requiring that all incidents of bullying/violence/threatening behaviour between prisoners, and any breach of discipline be reported to an officer of a higher rank, duly recorded and properly investigated? EPR 52.2 & 58

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	62	62	17	0	38
Denmark					X

5.4.3 Has your country adopted laws or policies stipulating that when a prisoner has been charged with a disciplinary offence he/she shall be promptly informed of the allegation made against him/her in a language that he/she understands? ICCPR 14(3)(a), CERD 5(a), SMR 30(2), ECHR 6(3)(a), EPR 59.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	3	0	7
Total Europe - %	71	71	13	0	29
Denmark	X	X	X		

5.4.4 Has your country adopted laws or policies stipulating if an inquiry is being conducted into a breach of prison discipline or rules the prisoner shall have adequate time to prepare his/her defence and/or to receive legal assistance? ICCPR 14(3)(b) & (d), SMR 30(2), ECHR 6(3)(b) & (c), EPR 59.b & 59.c, *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	2	0	9
Total Europe - %	62	58	8	0	38
Denmark	X	X			

5.4.5 Has your country adopted laws or policies stipulating that in any disciplinary proceedings prisoners must understand the proceedings and if necessary, appropriate interpretation facilities must be provided? ICCPR 14(3)(f), SMR 30(3), ECHR 6(3)(e), EPR 59.e

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Denmark	X		X		

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5.4.6 Has your country adopted laws or policies stipulating that no prison officer shall impose a punishment/penalty/deprivation on a prisoner without due process and in accordance with law and/or relevant rules or instruments? EPR 57.2.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	2	0	4
Total Europe - %	83	83	8	0	17
Denmark	X	X			

5.4.7 Has your country adopted laws or policies stipulating that if a prisoner is found guilty of a disciplinary offence, he/she shall be entitled to exercise his/her right of appeal to an independent and impartial tribunal established by law? ICCPR 14(5), BOP 30(2), EPR 61

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	1	0	5
Total Europe - %	79	79	4	0	21
Denmark	X	X			

5.4.8 Has your country adopted laws or policies requiring that when a prisoner is detained in any type of special cell (special observation/cladded/strip) he/she shall be regularly monitored by a prison officer? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	3	0	7
Total Europe - %	71	67	13	0	29
Denmark	X	X			

5.4.9 Has your country adopted laws or policies requiring that a detailed record be maintained of, inter alia, the monitoring of such prisoners, their expressed requirements, actions taken in response to such requests and details of visits by officers or others to such prisoners? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	8	8	2	0	16
Total Europe - %	33	33	8	0	67
Denmark	X	X			

5.4.10 Has your country adopted laws or policies to ensure that prisoners in a special cell are able to contact a member of staff at all times, including during the night and that a staff member shall respond without delay? ICCPR 6(1), EPR 18.2.c & 52.4, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	4	0	63
Denmark	X	X			

Analysis

International instrument compliance

9 of the 10 commitments relating to discipline and punishment of prisoners have been incorporated. The only commitment that has not been adopted is the commitment requiring that all incidents of bullying/violence/threatening behaviour between prisoners, and any breach of discipline be reported to an officer of a higher rank, duly recorded and properly investigated.

See additional comments of the SPOC above.

Situation in practice

CPT noted that the incidence of inter-prisoner violence was on the decline as a consequence of a number of initiatives on the part of the Danish government (e.g. the negative strong regime). In order to combat inter-prisoner violence, special units for negatively strong prisoners had been created. In terms of prison regime, these units were similar to the ordinary regime, but these negatively strong prisoners were restricted on going outside. Furthermore, they were not able to attend church.

Disciplinary hearings for prisoners were considered to have adequate safeguards and records of the proceedings were kept carefully. However, occasionally translation proved problematic; it was relatively common practice for a second prisoner to be used as a translator.

8.5.5 Use of force/weapons

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations

5.5.1 Has your country adopted laws or policies stipulating that members of staff will use force only when absolutely necessary and that any force used shall be proportionate to the situation? SMR 54(1), CCLEO 3, BPUF 4, EPR 64 & 6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	4	1	3
Total Europe - %	87	87	17	4	13
Denmark	X	X			

Analysis

International instrument compliance

In common with the majority of EU Member States, Denmark has adopted the commitment relating to the use of force and weapons.

DENMARK

8.5.6 Requests & complaints

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations

5.6.1 Has your country adopted laws or policies to ensure that prisoners have sufficient opportunity to make requests or complaints to the Governor of the prison or to any other competent authority? SMR 36(1) & (3), BOP 33(1), EPR 70.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	3	0	1
Total Europe - %	96	96	13	0	4
Denmark	X	X			

5.6.2 Has your country adopted laws or policies establishing the right of a prisoner's legal advisor or to make a request or a complaint regarding that prisoner's treatment to the prison authorities, or other relevant authorities? BOP 33 (1) & (2), EPR 70.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	1	0	6
Total Europe - %	75	75	4	0	25
Denmark	X	X			

5.6.3 Has your country adopted laws or policies requiring that all complaints be promptly investigated in accordance with law? SMR 36(4), BOP 33(4)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	2	0	7
Total Europe - %	71	67	8	0	29
Denmark					X

5.6.4 Has your country adopted laws or policies to ensure that where a request is denied or a complaint is rejected, the prisoner is informed promptly as to the reason(s) for such denial or rejection? SMR 36(4), BOP 33(4), EPR 70.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	2	1	7
Total Europe - %	71	63	8	4	29
Denmark	X	X			

5.6.5 Has your country adopted laws or policies to ensure that prisoners are not disadvantaged for exercising their rights to make requests or complaints? BOP 33(4), EPR 70.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	3	0	13
Total Europe - %	46	42	13	0	54

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Denmark					X

5.6.6 Has your country adopted laws or policies requiring that complaints made by members of staff against other members of staff be properly recorded and investigated in accordance with the law? EPR 88 & 87.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	11	3	0	11
Total Europe - %	54	46	13	0	46
Denmark					X

Analysis

International instrument compliance

Denmark has adopted three of the six commitments relating to prison requests and complaints. Omissions are the obligation to investigate complaints made by members of staff against other members of staff in accordance with the law, non-discrimination protection to be afforded to prisoners who complain and the provision that all complaints be promptly investigated in accordance with law.

Situation in practice

There was found to be no systematic approach for dealing with complaints in place at the time of the CPT's visit in 2008.

8.6 Management & Staff

8.6.1 *Training of staff*

This section focuses on the staff training and prison management. International legal instruments place a series of obligations on States in respect of the training and management of prison staff. The questions in this section are based on these obligations.

6.1.1 Has your country adopted laws or policies to ensure that all prison staff receive appropriate training at regular intervals throughout their career? SMR 47(3), EPR 8, 76 & 81.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	14	7	0	5
Total Europe - %	79	58	29	0	21
Denmark	X		X		

6.1.2 Has your country adopted laws or policies to ensure that members of staff who work with particular groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, receive training particular to their individual work? R(82)17: 10, R(2004)10: 12(1), EPR 81.3, ERJO 129

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	38	21	21	0	62
Denmark					X

Analysis

International instrument compliance

The commitment regarding specialist training for staff has not been incorporated.

Situation in practice

Staff in Danish prisons has been offered training on ethnic issues. Prison staff working with negatively strong prisoners should, according to the CPT, be trained and encouraged to engage more with these prisoners. Integrating these prisoners in normal regimes might be impossible, so resocialisation activities as well as positive relations between staff and prisoners, should be promoted.

8.7 Inspection & Monitoring

8.7.1 Governmental Inspection

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.1.1 Has your country adopted laws or policies requiring that prisons be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law? SMR 55, EPR 92, R(2004)10 36.1, ERJO 125, PPPMI 22

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	19	4	0	4
Total Europe - %	83	79	17	0	17
Denmark					X

Analysis

International instrument compliance

In contrast with the majority of the other EU Member States, Denmark has not adopted the commitment on governmental monitoring. However, the comments of the SPOC indicate that this provision is complied with in practice.

8.7.2 *Independent monitoring*

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.2.1 Has your country adopted laws or policies requiring that the conditions of detention and the treatment of prisoners shall be also monitored by an independent body or bodies, comprised of qualified experienced personnel, and whose findings shall be made public? OPCAT 3, 17, 18, 19, BOP 29.1, EPR 93.1, R(2004)10 36.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Denmark	X	X			

7.2.2 Has your country adopted laws or policies granting such an independent body open access to places of detention, to prisoners and others whom it wishes to interview? OPCAT 19, 20, CPT 8,9 BOP 29.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	3	1	9
Total Europe - %	62	58	13	4	38
Denmark	X		X		

7.2.3 Has your country adopted laws or policies encouraging such independent bodies to cooperate with those international agencies that are legally entitled to visit prisons? CPT 2,7 EPR 93.2, ERJO 126.

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	6	1	0	17
Total Europe - %	29	25	4	0	71
Denmark	X		X		

Analysis

International instrument compliance

Denmark has incorporated all commitments relating to independent monitoring into its national law or (voluntary) policy.

Situation in practice

Denmark ratified OP-CAT on the 25th of June 2004 (with the territorial exclusion of the Faroe Islands). The Parliamentary Commissioner for Civil and Military Administration, in collaboration with RCT (Rehabilitation and research centre for torture victims) and Danish Institute for Human Rights have been designated as NPM. At a regional level, Denmark is party to all relevant conventions.

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8.8 Sentenced Prisoners

This section focuses on the particular provisions relating to convicted prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

8.1.1 Has your country adopted laws or policies requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan? ICCPR 10(3), SMR 80, EPR 6, 103.2 & 103.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	6	2	4
Total Europe - %	83	83	25	8	17
Denmark	X	X	X		

8.1.2 Has your country adopted laws or policies requiring that a sentence management plan be prepared for each prisoner serving a sentence of 12 months or over as soon as practicable after their admission? It should provide for, inter alia, the welfare and health needs of the prisoner, training, employment or education needs he/she may have, and include a release plan for the prisoner. This plan shall be reviewed at regular intervals to take into account the changing circumstances of the prisoner. SMR 65, 66 & 69, R(2003)23: 3 & 9, EPR 6, 103 & 104.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	5	0	10
Total Europe - %	58	54	21	0	42
Denmark	X	X	X		

Analysis

International instrument compliance

Both commitments relating to the sentence objective, including the legally binding one, have been adopted.

Situation in practice

The CPT recommended that an effort should be taken to promote social rehabilitation of negatively strong prisoners. According to the CPT, it is unlikely that this group of prisoners (in East Jutland State Prison the group is split up in the Hells Angels gang and the Bikers gang) can (re-)integrate in other (lighter) prison regimes and work towards release of prison. Therefore, resocialisation should be promoted within the regime itself.

8.9 Juveniles

This section focuses on the particular provisions relating to juvenile prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

9.1.1 Has your country adopted laws or policies requiring that juveniles be detained separately from adult offenders? ICCPR 10(3), CRC 37(c), BR 26.3, RPJDL 29, EPR 11.1, ERJO 59.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	1	3
Total Europe - %	87	87	13	4	13
Denmark					X

9.1.2 Has your country adopted laws or policies to ensure that, subject to reasonable conditions and restrictions, a sentenced prisoner under the age of 18 shall be entitled to receive a minimum of two weekly visits? CRC 37(c), SMR 37, BOP 19, RPJDL 60, ERJO 83, 84, 85.1 & 85.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	6	3	0	15
Total Europe - %	37	25	13	0	63
Denmark	X		X		

Analysis

International instrument compliance

The commitment relating to juveniles based on legally binding international instruments has not been adopted. However, the comments of the SPOC indicate that provisions are complied with in practice.

Situation in practice

In 2008, the CPT found that two girls and one boy were being held in Western Prison instead of at a secure department for minors and juveniles. In 2010 Amnesty International also reports on the issue of detaining minors together with adults in the same facilities; a practice which is not in line with international and European standards.

Another problem with respect to the detention of juveniles, concerns the use of solitary confinement. In 1999, the Supreme Court ruled that solitary confinement may be used only in exceptional cases. Juveniles cannot be held in solitary confinement for more than eight uninterrupted weeks. However, the Committee on the Rights of the Child expressed its worries about the practice of solitary confinement and imprisonment in youth institutions of persons below 18 with serious behavioural problems, notwithstanding the clear and exhaustive rules for measures that might be taken against persons under the age of 15.

8.10 Sentence Execution Modalities

This section of the questionnaire is designed to collate information on the differing methods by which custodial sentences and measures involving deprivation of liberty are enforced across EU Member States.

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10.1.1. Which of the following modalities of prison sentence execution are provided for in the law of your country?

	Weekend detention	Evening detention	Daytime detention	Home detention	
				no electronic monitoring	electronic monitoring
EUROPE	9 = 38%	10 = 42%	3 = 13%	6 = 25%	14 = 58%
Denmark					X

10.1.2. What is the maximum period for which home detention with electronic monitoring can be imposed?

	Under 12 months	12-24 months	25 months - 36 months	37 months - 50 months	More than 50 months
	EUROPE	7 = 29%	4 = 17%	0 = 0%	1 = 4%
Denmark	X				

10.2.1. In which of the following locations can custodial sentences or measures involving deprivation of liberty be imposed?

	Penitentiary institution	Psychiatric institution	Detoxification institution	Educational institution	Home
	EUROPE	24 = 100%	20 = 83%	10 = 42%	7 = 29%
Denmark	X	X	X	X	X

Analysis

Sentence execution modalities

In Denmark, the only additional sentence execution modality available is home detention coupled with electronic monitoring. Such electronic monitoring can be used for a period up to twelve months. Custodial sentences or measures involving deprivation of liberty can be imposed in a series of locations besides penitentiary institutions, namely psychiatric institutions, detoxification institutions, educational institutions, at home, in hospital or in all treatment centres.

8.11 Early release from prison, earned remission and suspension of sentence

8.11.1 Early release

Early release means the release of the offender before their prison term is finished. It is possible only while the sentence is still being served. Early release does not include the suspended enforcement of a penalty which is dealt with later in this questionnaire.

11.1.1. Has your country adopted laws and regulations under which prisoners are entitled to early release from prison?

	Yes	No
EUROPE	24 = 100%	0 = 0%
Denmark		

11.1.2.1. At what point in a prisoner's sentence do they become eligible for early release?

	One third of sentence or less	One third to one half of a sentence	One half to three quarters of a sentence	More than three quarters of a sentence	Other
EUROPE	2 = 8%	1 = 4%	7 = 29%	0 = 0%	14 = 58%
Denmark			X		

11.1.2.2. Does your country have different regulations for the early release of prisoners based on:

	A prisoner's nationality (non-EU citizen)	A prisoner's nationality (EU citizen)	The length of sentence imposed
EUROPE	Yes - 3 = 12% No - 21 = 88%	Yes - 3 = 12% No - 21 = 88%	Yes - 24 = 100% No - 0 = 0%
Denmark	N	N	Y

11.1.2.3. Are provisions governing the early release of prisoners automatic or discretionary?

	Automatic (prisoners are automatically released at a certain point in their sentence)	Discretionary (prisoners are only released following assessment)
EUROPE	Yes - 7 = 29% No - 17 = 71%	Yes - 20 = 83% No - 4 = 17%
Denmark	N	Y

11.1.2.4. What factors are taken into consideration when deciding whether a prisoner will be granted early release?

	The circumstances surrounding the crime	Prior criminal record	The offender's progress during imprisonment	Assessment as to whether the prisoner is likely to reoffend	Recommendation from the sentencing judge
EUROPE	Yes - 24 = 50% No - 24 = 50%	Yes - 15 = 63% No - 9 = 37%	Yes - 22 = 92% No - 2 = 8%	Yes - 19 = 79% No - 5 = 21%	Yes - 4 = 17% No - 20 = 83%
Denmark	Y	Y	Y	Y	N

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11.1.3.1 What forms of monitoring and conditions can be applied to prisoners' early release?

1. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
2. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
4. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
5. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
6. Electronic monitoring
7. Weekend/evening /daytime detention
8. Requirement containing limitations on leaving the country
9. Requirement to leave the country
10. Requirement to pay compensation
11. Requirement to undertake community service
12. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	Other
EUROPE	Y - 83	Y - 8	Y - 58	Y - 62	Y - 33	Y - 25	Y - 13	Y - 42	Y - 21	Y - 29	Y - 21	
	N - 17	N - 92	N - 42	N - 38	N - 77	N - 75	N - 87	N - 58	N - 79	N - 71	N - 79	9
Denmark	Y	N	Y	Y	Y	N	N	Y	N	N	Y	

8.11.2 Sentence reduction as a result of prison work

11.2.1. Can a prisoner earn remission on their sentence as a result of work carried out in prison?

	Yes	No
EUROPE	9= 38%	15 – 62%
Denmark		X

8.11.3 Suspension of sentence enforcement

11.3.1 Does the national law of your country make provision for the further execution of a prison sentence to be suspended during the course of the sentence?

	Yes	No
EUROPE	10=42%	14= 58%
Denmark	X	

11.3.2.1. What factors are taken into consideration when deciding whether a prisoner will have the further execution of their prison sentence suspended?

1. The circumstances surrounding the crime
2. Prior criminal record
3. The offender's progress during imprisonment
4. Assessment as to whether the prisoner is likely to reoffend
5. Recommendation from the sentencing judge
6. Suitability of home circumstances
7. Information from victim(s)
8. Willingness of the prisoner to leave the country upon release
9. The prisoner will be deported upon release
10. Other – please specify

	1	2	3	4	5	6	7	8	9	Other
EUROPE	Y - 8 N - 92	Y - 13 N - 78	Y - 17 N - 83	Y - 21 N - 79	Y - 0 N - 100	Y - 4 N - 96	Y - 0 N - 100	Y - 0 N - 100	Y - 0 N - 100	21
Denmark	N	N	N	Y	N	Y	N	N	N	

11.3.3.1. What forms of monitoring and conditions can be applied to prisoners whose further execution of a prison sentence has been suspended?

1. Unconditional supervision
2. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
4. Compulsory therapeutic interventions (*e.g.* drug/alcohol counselling, anger management courses etc.)
5. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
6. Compulsory access and contact restrictions (*e.g.* an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
7. Electronic monitoring
8. Weekend/evening /daytime detention
9. Requirement containing limitations on leaving the country
10. Requirement to leave the country
11. Requirement to pay compensation
12. Requirement to undertake community service
13. Other – please specify

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	1	2	3	4	5	6	7	8	9	10	11	12	Other
EUROPE	Y - 4	Y - 38	Y - 4	Y - 29	Y - 17	Y - 17	Y - 4	Y - 4	Y - 21	Y - 0	Y - 17	Y - 4	2
	N - 96	N - 62	N - 96	N - 71	N - 83	N - 83	N - 96	N - 96	N - 79	N - 100	N - 83	N - 96	
Denmark	N	Y	Y	Y	Y	Y	N	N	Y	N	N	N	

Analysis

Early release from prison, earned remission and suspension of sentence

In common with all EU countries, Denmark has adopted measures under which prisoners are entitled to early release from prison. Prisoners become eligible after one half to three quarters of their sentence depending on the length of sentence imposed. The Danish early release system is based on discretionary provisions. Decisions on a prisoner's early release are based on seven of the ten criteria identified. Once a prisoner is granted early release, six of the twelve forms of monitoring or conditions identified, can be attached. No possibility exists in Danish law for prisoners to be granted remission as a result of work carried out in prison. Provisions are made for the further execution of a prison sentence to be suspended during the course of the sentence. An assessment as to whether the prisoner is likely to reoffend and the suitability of home circumstances are taken in to account when deciding whether a prisoner will have the further execution of their prison sentence suspended. In case of suspension, six out of thirteen forms of monitoring and conditions can be applied.

Appendix – Legal & Policy Documents

1. Act on Enforcement of Sentences, etc. (straffuldbyrdelsesloven)
2. Amendment Law to the Act on enforcement of Sentences
3. Amendment Danish Penal Code - torture aggregation
4. Circular on equipment of cells and inmates bedding
5. Constitution Right of inmates to bring court cases
6. Danish Act on Enforcement of Sentences Right to treatment for drug addiction
7. ECHR incorporated into Danish Law
8. Execution Order on Juveniles
9. Executive Order on Disciplinary Cells, Interrogation Cells and the Examination of Disciplinary Cases in State and Local Prisons (Disciplinary Punishment Order)
10. Executive Order on Exclusion of Inmates from Association, Including Segregation in Observation Cells, etc., in State and Local Prisons (Exclusion from Association Order)
11. Executive Order on Healthcare for Inmates in the Institutions of the Prison and Probation Service
12. Executive Order on Leave for Inmates Serving a Sentence of Imprisonment or Safe Custody in the Institutions of the Prison and Probation Service (Leave Order)
13. Executive order on medical recording and keeping (Danish)
14. Executive Order on Release of Inmates Serving a Prison Sentence (Release Order)
15. Executive Order on Search of an Inmate's Person and Room in the Institutions of the

- Prison and Probation Service (Search Order)
16. Executive Order on the Inmates' Right to Bring with them, Possess and Dispose of their own Property and Money in the Institutions of the Prison and Probation Service (Property Order)
 17. Executive Order on the Occupation of Inmates in the Institutions of the Prison and Probation Service (Occupation Order)
 18. Executive Order on the Right to Correspondence by Letter of Inmates Serving a Sentence of Imprisonment or Safe Custody in the Institutions of the Prison and Probation Service (Letters Order)
 19. Executive Order on the Right to Have Telephone Conversations for Inmates Serving a Sentence of Imprisonment or Safe Custody in the Institutions of the Prison and Probation Service (Telephone Order)
 20. Executive Order on the Right to Visits of Inmates Serving a Sentence of Imprisonment or Safe Custody in the Institutions of the Prison and Probation Service (Visits Order)
 21. Executive Order on the Use of Means of Restraint in State and Local Prisons
 22. Forvaltningsloven
 23. General rules on medical records
 24. Handleplanscirkulare (Circular on sentence planning)
 25. Handleplansvejledning (Instructions on sentence plans)
 26. Inspections
 27. Law relating to the handling of juveniles
 28. Penal Code
 29. Principprogram UK - 09-2008
 30. The Ombudsman Act
 31. The OPCAT Tasks
 32. Tolk
 33. VEJ nr 29 om l sning af sager
 34. VEJ nr 49 om unge

9 Estonia

9.1 Introduction

The questionnaire was completed by Rait Kuuse, Inspector with the Estonian Prison Service.

Estonia was visited by the CPT in 2007 (report published in 2011) and in 2003 (which report is included in this study also). The European Commissioner for Human Rights visited Estonia in 2007 and reported, *inter alia*, on conditions of detention and health care in prison. The UN Committee Against Torture reported on aspects of detention conditions in Estonia in 2007. Additional information has been sourced from the Committee on the Rights of the Child and the International Centre for Prison Studies.

Country	ESTONIA
Ministry responsible	Ministry of Justice
Prison administration	Department of Prisons
Contact address	Tõnismägi 5a, EE-15191 TALLINN, Estonia
Telephone/fax/website	tel: +372 6 20 82 29 or 20 82 00 fax: +372 6 20 82 72 / Web: www.vangla.ee
Head of prison administration (and title)	Priit Kama Deputy Secretary General
Prison population total (including pre-trial detainees / remand prisoners)	3,405 at 28.3.2011 (Ministry of Justice)
Prison population rate (per 100,000 of national population)	254 based on an estimated national population of 1.34 million at March 2011 (from Eurostat figures)
Pre-trial detainees / remand prisoners (percentage of prison population)	20.3% (28.3.2011)
Female prisoners (percentage of prison population)	5.8% (28.3.2011)
Juveniles / minors / young prisoners incl. definition (percentage of prison population)	1.0% (28.3.2011 - under 18)
Foreign prisoners (percentage of prison population)	39.4% (1.1.2010 - includes persons of unspecified citizenship)
Number of establishments / institutions	5 (2010)
Official capacity of prison system	3,656 (1.1.2010)
Occupancy level (based on	97.2%

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official capacity)	(1.1.2010)		
Recent prison population trend (year, prison population total, prison population rate)	1992	4,778	306
	1995	4,401	295
	1998	4,791	330
	2001	4,803	351
	2004	4,576	339
	2007	4,327	322

9.2 Overarching Principles

This section focuses on the overarching principles governing the management of prisons and the treatment of prisoners. International legal instruments place a series of obligations on States in respect of the management of prisons and the treatment of prisoners. The questions in this section are based on these obligations.

2.1.1 Has your country adopted laws or policies specifically requiring that prisoners must be treated with respect for their human rights? ICCPR 10(1), UDHR 1, BOP 1, BPTP 1, EPR 1 & 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	19	7	1	2
Total Europe - %	92	79	29	4	8
Estonia	X	X			

2.1.2 Has your country adopted laws or policies specifically requiring prisons to be managed in accordance with human rights standards? EPR 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	4	3	3
Total Europe - %	88	75	16	13	12
Estonia	X	X			

2.1.3 Has your country adopted laws or policies explicitly prohibiting practices that could constitute torture, inhumane or degrading treatment or punishment of prisoners? ICCPR 7, BOP 6, ECHR 3, *Kalashnikov v Russia* (ECtHR 2003)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	1	3	2
Total Europe - %	92	88	4	12	8
Estonia	X	X			

2.1.4 Has your country adopted laws or policies specifically requiring that prisoners be provided with a range of activities during their sentence (for example - educational, recreational, work/training and welfare programmes)? SMR 77 & 78, BOP 28, BTP 6 & 8, EPR 25

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	0	0
Total Europe - %	100	96	29	0	0
Estonia	X	X			

Analysis

International instrument compliance

In common with the majority of EU member states, Estonia has passed legislation designed to protect the human rights of its prisoners and provide them with a meaningful regime during their time in custody. This legislation includes all of the commitments arising from legally binding international legal instruments.

Situation in practice

The 2007 CPT report notes that there is a problem concerning prison overcrowding. Moreover, the CPT recommends that the legal standard with regard to living space per prisoner should be raised as quickly as possible. The standard is at least 4 m² per prisoner in multi-occupancy cells (this should not be regarded as a norm; see commentary to European Prison Rule 18).

9.3 Conditions Of Imprisonment

9.3.1 Admission

This section focuses on the treatment of prisoners upon their admission to prison. International legal instruments place a series of obligations on States in respect of prisoner admission. The questions in this section are based on these obligations.

3.1.1 Has your country adopted laws or policies requiring that all prisoner details are recorded at the time of committal including, inter alia, details of any visible injuries and the prisoner's personal belongings? SMR 7(1), EPR 15.1, 31.1, 31.2 & 31.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	7	1	7
Total Europe - %	71	63	29	4	29
Estonia	X	X			

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3.1.2 Has your country adopted laws or policies requiring that upon admission, each prisoner is given a booklet outlining his/her rights, duties, obligations and privileges and the rules and regulations governing the prison which apply to the individual prisoner? The booklet shall be written in a language that the prisoner understands. CERD 7, SMR 35, BOP 13, EPR 30

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	6	1	6
Total Europe - %	63	54	25	4	25
Estonia	X	X			

3.1.3 Has your country adopted laws or policies requiring that upon admission, every prisoner shall undergo a medical examination either by a nurse reporting to a doctor or by a doctor? SMR 24, BOP 24, R(98)7: 1, EPR 42.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	20	6	1	1
Total Europe - %	96	83	25	4	4
Estonia	X	X			

3.1.4 Has your country adopted laws or policies requiring the doctor/nurse to pay particular attention to the detection of injuries, mental illnesses, of withdrawal symptoms resulting from the use of drugs, medication or alcohol, of contagious and chronic conditions, and, to assess the prisoner's suicide/self-harm risk? SMR 24, R(98)7: 1, EPR 42.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	10	8	1	9
Total Europe - %	62	42	33	4	38
Estonia					X

3.1.5 Has your country adopted laws or policies requiring injuries detected during such an examination to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner? EPR 15.1.e & 42.3.c

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	5	4	1	17
Total Europe - %	29	21	17	4	71
Estonia					X

3.1.6 Has your country adopted laws or policies requiring upon admission that each prisoner be assessed to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves? ICCPR 6, UDHR 3, ECHR 2, R(2003)23: 12, EPR 52.1, *Keenan v The United Kingdom* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	5	1	13
Total Europe - %	46	42	21	4	54
Estonia	X	X			

3.1.7 Has your country adopted laws or policies requiring that such risks be managed for the duration of the prisoner's sentence? ICCPR 6, UDHR 3, ECHR 2, EPR 52.2, *Osman v The United Kingdom* (ECtHR 2000)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	3	1	12
Total Europe - %	50	50	13	4	50
Estonia	X	X			

Analysis

International instrument compliance

Estonia has incorporated five of the seven commitments relating to prison admission into its national law. This includes commitments arising from legally binding legal instruments relating to the provision of a booklet to prisoners at the time of their admission setting out their rights and the regulations governing the institute in which they will be held and commitments relating to the initial and on-going assessment of a prisoner's risk both in relation to themselves and others. The commitment relating to the need for an external medical opinion in cases where a prisoner alleges that their injuries may have arisen through ill-treatment has not been incorporated however.

Situation in practice

The CPT raised concerns regarding the process of medical examination of prisoners upon their admission to prison and highlighted that the record which is drawn up after person is admitted to prison or after a (regular) medical examination should include: a full account of statements made by the prisoner concerned which are relevant to the medical examination, including any allegations of ill-treatment made by him; a full account of objective medical findings based on a thorough examination; the doctor's conclusions in the light of (i) and (ii); and these conclusions should be made available to the prisoner and his/her lawyer.

These shortcomings correspond with the assessment from the SPOC concerning shortcomings in Estonian law and policy concerning the detection and examination of injuries at the point of admission to prison (see 3.1.5 above). Any allegations of ill-treatment of prisoners should, furthermore, be brought to the attention of the public prosecutor.

9.3.2 *Allocation*

This section focuses on the allocation of prisoners to a particular prison. International legal instruments place a series of obligations on States in respect of prisoner allocation. The question in this section is based on these obligations.

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3.2.1 Has your country adopted laws or policies requiring prisoners to be assigned to a prison as near to their home area as possible in order to maintain relationships with families and friends, subject to the maintenance of good order and security? BOP 20, EPR 17.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	15	6	1	5
Total Europe - %	79	63	25	4	21
Estonia	X	X			

Analysis

International instrument compliance

Commitment relating to the allocation of prisoners has been adopted by Estonia.

9.3.3 Accommodation

This section focuses on the living conditions of prisoners. International legal instruments place a series of obligations on States in respect of the accommodation of prisoners. The questions in this section are based on these obligations.

3.3.1 Has your country adopted laws or policies requiring that where possible prisoners should have individual cells to sleep in? SMR 9(1), EPR 18.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	3	0	10
Total Europe - %	58	54	13	0	42
Estonia					X

3.3.2. Has your country adopted laws or policies stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation? ICCPR 6(1), UDHR 3, SMR 9(2), ECHR 2, EPR 18.6 & 18.7, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	4	0	14
Total Europe - %	42	29	17	0	58
Estonia	X	X			

3.3.3 Has your country adopted laws or policies requiring that the size of a cell must be suitable for its purpose? The suitability of the cell size should be dependent on the number of hours spent in the cell, the number of prisoners accommodated in the cell and the availability of in-cell-sanitation facilities that ensure privacy. SMR 9, 10, 11 & 12, EPR 18 & 19.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	8	2	1	15
Total Europe - %	37	33	8	4	63
Estonia	X	X			

3.3.4 Has your country adopted laws or policies requiring that cells should not be used to accommodate more prisoners than the intended design capacity, unless justified in exceptional circumstances? SMR 9(1) & 10, EPR 18.1, 18.3, 18.4 & 18.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Estonia	X	X			

3.3.5 Has your country adopted laws or policies requiring that cells be suitable for accommodating prisoners in respect of size, lighting, heating, ventilation and fittings? SMR 9, 10, 11, 12 & 13, EPR 18

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	16	4	0	6
Total Europe - %	75	67	17	0	25
Estonia	X	X			

3.3.6 Has your country adopted laws or policies requiring that all prisoners have in-cell access to a working alarm bell that attracts the attention of staff at all times? ICCPR 6(1), UDHR 3, ECHR 2, EPR 18.2.c & 52.4, IPR 18(4), *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	13	2	0	4
Total Europe - %	83	54	8	0	17
Estonia	X	X	X		

Analysis

International instrument compliance

Estonia has adopted five of the six commitments relating to the accommodation of prisoners. This includes commitments arising from legally binding instruments relating to the need to assess prisoners are suitable for sharing cells and that requiring that all cells be fitted with alarms that can attract the attention of prison staff. Estonian prison law or policy makes no provision for prisoners to be housed in individual cells.

Situation in practice

At 28 March 2011, the prison population in Estonia was 3,405. Based on an estimated national population of 1.34 million, the prison population rate (per 100,000 of the national population) is 254 which makes Estonia a country with one of the highest prison population rates within Europe. However, a recent prison population rate available via the website of the ICPS (254) is much lower than the rate reported in 2001 (351). The European Commissioner for Human Rights reported in 2007 on Estonian prison data as well and found that in December 2006, the prison population stood at 4,349. The Commissioner reported that in order to combat high prison rates, the Estonian authorities have introduced an electronic surveillance system for the purpose of probationary release. The Commissioner also noted that as there were fewer prisoners than

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available places, there was no general problem with prison overcrowding. He did not highlight problems of overcrowding in Tallin prison which had been criticised by the CPT during its visit to Estonia in 2003. However, he did make clear that official data did not present an accurate picture because pre-trial detainees and persons convicted of short sentences were also detained in arrest houses, which do not fall under the responsibility of the Minister of Justice but under the responsibility of the Minister of Interior. According to data supplied by the ICPS, there was no systematic overcrowding in Estonian prisons, the occupancy level being 97.2% as 1 January 2010. Around 20.3% of the total prison population is in pre-trial detention at 28 March 2011.

Estonia is currently undergoing an important prison construction programme with the objective of demolishing the oldest institutions that are not in accordance with current European prison standards. Tartu Prison was the first modern detention establishment to be opened in 2002 and it was positively evaluated by the CPT in 2003. In Viru, a new prison with a capacity of 1,100 inmates was opened in 2008. The construction of a prison in Tallinn originally planned for 2010 has been delayed due to a dispute over location. Nonetheless, following the prison reconstruction programme highlighted above, two-thirds of the prison population are now housed in newly built facilities. As such, some of the issues appearing in this report concerning material detention conditions may no longer be up to date or accurate.

9.3.4 Hygiene & Sanitation

This section focuses on the hygiene and sanitation facilities for prisoners. International legal instruments place a series of obligations on States in respect of hygiene and sanitation. The questions in this section are based on these obligations.

3.4.1 Has your country adopted laws or policies to ensure that all prisoners have access to adequate and appropriate sanitary and washing facilities that respect their privacy? SMR 12 & 13, EPR 19.3, 19.4 & 19.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	2	0	10
Total Europe - %	58	58	8	0	42
Estonia	X	X			

3.4.2 Has your country adopted laws or policies requiring that all In-cell sanitation facilities must be adequately screened? ICCPR 10(1), SMR 12, BOP 1, BPTP 1, ECHR 3, EPR 19.3, *Peers v Greece* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	4	1	9
Total Europe - %	62	54	17	4	38
Estonia	X		X		

Analysis

International instrument compliance

Both commitments relating to prisoners' hygiene and sanitation have been adopted by Estonia albeit that the legally binding commitment relating to the screening of in-cell sanitation facilities only has a basis in policy.

Situation in practice

In spite of the legal situation highlighted above, the Commissioner for Human Rights office found several problems with regard to detention conditions in Tallinn prison. There was a problem with regard to access to hot water. Some convicted inmates (including an number with health problems) and remand prisoners got access to hot water only when they showered which was once a week. The Ministry of Justice, responsible for the prison system, explained that access to hot water for all prisoners was too expensive and not worth investing in since the prison was to be demolished after the opening of the new Tallinn prison in 2010. Another problem was the fact that inmates had to pay themselves for toiletries. Shampoo etc. was not made available by the prison management. Prisoners were, furthermore, provided with one toilet role per month only. The Commissioner asked that the relevant authorities improve these conditions. Although the prison block where these conditions were discovered was old and at the point of closing, the Commissioner highlighted that improving these conditions should not be delayed until the opening of a new detention block.

9.3.5 Clothing & Bedding

This section focuses on clothing and bedding provisions for prisoners. International legal instruments place a series of obligations on States in respect of the provision of clothing and bedding. The questions in this section are based on these obligations.

3.5.1 Has your country adopted laws or policies to ensure that prisoners are provided with clothing that is suitable for the climate, is not degrading or humiliating and is age appropriate? SMR 17(1), EPR 20.1 & 20.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	10	0	7
Total Europe - %	71	71	42	0	29
Estonia	X	X			

3.5.2 Has your country adopted laws or policies requiring each prisoner to be provided with a bed and appropriate bedding and to ensure that all bedding is in good condition, is changed regularly and laundered? SMR 19, EPR 21

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	2	0	6
Total Europe - %	75	71	8	0	25
Estonia	X	X			

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Analysis

International instrument compliance

Both commitments relating to prisoners' clothing and bedding have been adopted by Estonia. Situation in practice.

9.3.6 Nutrition

This section focuses on the nutrition requirements of prisoners. International legal instruments place a series of obligations on States in respect of prisoner's nutrition. The questions in this section are based on these obligations.

3.6.1 Has your country adopted laws or policies to ensure that prisoners are provided with a sufficient quantity of nutritious food taking into account their health, physical condition, special dietary requirements, religion and culture? SMR 20(1), EPR 22.1 & 22.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	5	1	4
Total Europe - %	83	83	21	4	17
Estonia	X	X			

3.6.2 Has your country adopted laws or policies to ensure that prisoners have access to clean drinking water? SMR 20(2), EPR 22.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	16	5	1	5
Total Europe - %	79	67	21	4	21
Estonia	X	X			

Analysis

International instrument compliance

Both commitments relating to prisoners' nutrition have been adopted by Estonia.

Situation in practice

In spite of the legal framework outlined above, some prisoners reported problems to the European Commissioner for Human Rights in receiving the diet which they wished to have. For example, Muslim prisoners, for example, expressed difficulties in obtaining a diet which corresponded to their religious beliefs.

9.3.7 Legal advice, info & rights

This section focuses on the entitlement of prisoners to legal advice and information. International legal instruments place a series of obligations on States in respect of access to legal advice and information. The questions in this section are based on these obligations.

3.7.1 Has your country adopted laws or policies requiring that adequate time and facilities be provided to prisoners to receive professional visits from their legal advisers? BOP 18(2), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	4	1	2
Total Europe - %	92	92	17	4	8
Estonia	X	X			

3.7.2 Has your country adopted laws or policies establishing the right of prisoners to communicate with their legal advisers by telephone and by letter? BOP 18(1), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	3	3	3
Total Europe - %	87	83	13	13	13
Estonia	X	X			

3.7.3 Has your country adopted laws or policies requiring that communications between a prisoner and his/her legal adviser remain confidential and can only be restricted by law or judicial authority? ICCPR 17, BOP 18(3) & (4), ECHR 8, EPR 23.4 & 23.5, *Campbell v The United Kingdom* (ECtHR 1992)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	3	1	2
Total Europe - %	92	92	13	4	8
Estonia	X	X			

Analysis

International instrument compliance

All commitments relating to prisoners' legal advice have been incorporated by Estonia including the legally binding commitment protecting the confidentiality of a prisoner's correspondence with their legal advisor.

9.3.8 *Contact with the outside world*

9.3.8.1 *Visits*

This section focuses on the entitlement of prisoners to maintain contacts with the outside world. International legal instruments place a series of obligations on states in respect of prisoners' on-going contact with the outside world. The questions in this section are based on these obligations.

3.8.1.1 Has your country adopted laws or policies establishing the right of prisoners to communicate with their family and friends by correspondence and by receiving visits, subject to reasonable conditions/restrictions imposed by law or another authority? ICCPR 23(1), UDHR 16(3), SMR 37, BOP 15 & 19, EPR 24.1 & 24.2

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	2	0
Total Europe - %	100	96	29	8	0
Estonia	X	X			

3.8.1.2 Has your country adopted laws or policies requiring that visits take place in an environment that enables prisoners to maintain and develop family and other relationships in as normal a manner as is possible subject to the maintenance of good order and security in the prison? SMR 79, EPR 24.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	6	0	2
Total Europe - %	92	88	25	0	8
Estonia	X	X			

9.3.8.2 *Searching of visitors*

3.8.2.1 Has your country adopted laws or policies requiring that searching procedures for visitors be undertaken in a manner that respects a person's dignity? SMR 27, BOP 19, EPR 54.1.c, 54.3, 54.4 & 54.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	4	0	7
Total Europe - %	71	63	17	0	29
Estonia	X	X			

3.8.2.2 Has your country adopted laws or policies requiring that prison officers only be permitted to search visitors of the same gender? EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	9	1	0	12
Total Europe - %	50	38	4	0	50
Estonia	X	X			

9.3.8.3 *Restrictions on visits*

3.8.3.1 Has your country adopted laws or policies requiring the authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party(ies) and to review these circumstances on a regular basis? SMR 27, 79 & 80, EPR 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	0	0	63
Estonia	X	X			

3.8.3.2 Has your country adopted laws or policies preventing the withdrawal of contact for female prisoners with their children as a disciplinary action except in exceptional circumstances? SMR 27, 79 & 80, EPR 24.2 & 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	2	0	12
Total Europe - %	50	50	8	0	50
Estonia	X	X			

9.3.8.4 Death, illness & transfer

3.8.4.1 Has your country adopted laws or policies requiring that prisoners be informed of the death/serious illness of a close relative/ friend without delay? SMR 44(2), EPR 24.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	2	0	13
Total Europe - %	46	42	8	0	54
Estonia	X	X			

3.8.4.2 Has your country adopted laws or policies allowing a prisoner to leave the prison to visit a sick relative/friend, attend a funeral or for other humanitarian reasons? SMR 44(2), EPR 24.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Estonia	X	X			

3.8.4.3 Has your country adopted laws or policies ensuring that prisoners are allowed to inform their families or other nominated persons without delay of their imprisonment, transfer to another institution or of any serious illness that they may suffer from? SMR 44(1) & (3), BOP 16(1), EPR 24.8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Estonia	X	X			

3.8.4.4 Has your country adopted laws or policies requiring the prison authorities to immediately inform the spouse or the nearest relative to the prisoner (or any other person previously nominated), if the prisoner dies in custody, is removed to a hospital or suffers a serious injury/illness? SMR 44(1), EPR 24.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	3	0	6
Total Europe - %	75	75	13	0	25
Estonia	X	X			

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9.3.8.5 Telephone and letters

3.8.5.1 Has your country adopted laws or policies preventing the monitoring or censoring of telephone calls unless the prisoner or the recipient of the call is informed of the possibility of such monitoring or, such monitoring has been agreed by any lawful authority? ICCPR 17, UDHR 12, SMR 37, BOP 19, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	3	1	5
Total Europe - %	79	79	13	4	21
Estonia	X	X			

3.8.5.2 Has your country adopted laws or policies permitting prisoners to send a minimum of 7 letters a week free of charge and more if he/she can afford it, and to receive as many letters as are sent to him/her? SMR 37, BOP 19, EPR 24.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	11	1	0	12
Total Europe - %	50	46	4	0	50
Estonia	X	X			

3.8.5.3 Has your country adopted laws or policies preventing the prison authorities from opening prisoners' private correspondence subject to the maintenance of good order and safe and secure custody in the prison? ICCPR 17, UDHR 12, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	1	9
Total Europe - %	62	62	13	4	38
Estonia	X	X			

9.3.8.6 Media

3.8.6.1 Has your country adopted laws or policies entitling prisoners to be kept informed of current affairs and other developments outside the prison by reading newspapers and periodicals and by listening to radio or television broadcasts (subject to the maintenance of good order and safe and secure custody)? SMR 39, BOP 28, EPR 24.10

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	1	1
Total Europe - %	96	92	21	4	4
Estonia	X	X			

Analysis

International instrument compliance

Estonia has incorporated all of the fourteen commitments relating to prisoners' contact with the outside world into its national law. These include the legally binding commitments establishing a prisoner's right to communicate with and receive visits from friends and family and defining (thus restricting) the circumstances whereby the authorities can monitor a prisoner's telephone conversations and open a prisoner's mail.

9.3.9 Work

This section focuses on work in prison. International legal instruments place a series of obligations on States in respect of work in prison. The questions in this section are based on these obligations.

3.9.1 Has your country adopted laws or policies requiring work to be incorporated as a positive aspect of prison regimes and prohibiting its use as a form of punishment? SMR 71(1), EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Estonia	X	X	X		

3.9.2 Has your country adopted laws or policies requiring that prison work provided should prepare prisoners for worthwhile work on their release and facilitate their reintegration into the workforce? SMR 71(3) & (4), BPTP 8, EPR 26.3 & 26.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	18	7	0	4
Total Europe - %	83	75	29	0	17
Estonia	X		X		

3.9.3 Has your country adopted laws or policies entitling prisoners to be remunerated in respect of prison work carried out? ICESCR 7(a), UDHR 23, SMR 76(1), BPTP 8, EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	1	1
Total Europe - %	96	92	13	4	4
Estonia	X	X			

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Analysis

International instrument compliance

Estonia has adopted all of the commitments relating to prison work including the legally binding commitment requiring that prisoners be paid for work undertaken in prison.

Situation in practice

The CPT commented in 2003 on the lack of access to work opportunities for prisoners in Tallin prison. also in 2007 the CPT recommended to take steps to ensure that all prisoners at Murru and Tallinn Prisons have access to an appropriate range of out-of-cell activities, such as work. The Commissioner for Human Rights' delegation reported in 2007 on a very positive system of internal bank account usage. They referred to Art. 44(2) of the Imprisonment Act which rules that wages and other funds paid to a prisoner (e.g. money from relatives) is transferred to the prisoner's internal bank account and that "of the funds (...) 50% shall be reserved for the victim's compensation, 20% (...) as a savings fund handed over to the prisoner on release and the rest (...) for the use of the prisoner inside the prison". However, complaints were heard about the functioning of this system: money sent from families could only partly be used to improve the prisoner's living conditions.

9.3.10 Exercise & recreation

This section focuses on facilities for exercise and recreation in prison. International legal instruments place a series of obligations on States in respect of exercise and recreational facilities. The questions in this section are based on these obligations.

3.10.1 Has your country adopted laws or policies ensuring that, subject to the constraints of the particular prison and the maintenance of good order and security, prisoners shall be entitled to spend as much time out of their cells as is possible? EPR 25(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Estonia	X	X			

3.10.2 Has your country adopted laws or policies ensuring that prisoners receive at least one hours exercise each day in the open air, weather permitting? SMR 21, EPR 27.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	2	1
Total Europe - %	96	92	21	8	4
Estonia	X	X			

3.10.3 Has your country adopted laws or policies ensuring that prisoners shall have access to a well-stocked library at least once a week (subject to the maintenance of good order and safe and secure custody)? R(89)12: 10, EPR 28.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	13	0	0	11
Total Europe - %	54	54	0	0	46
Estonia	X	X			

Analysis

International instrument compliance

All commitments relating to prisoners' exercise and recreation have been adopted by Estonia.

Situation in practice

Following its 2003 visit, the CPT highlighted that the regime activities for remand prisoners should be improved. Remand prisoners should be able to spend a reasonable part of the day outside their cells and engage in useful activities of a varied nature, e.g. work, group association activities, sport etc. Moreover, the Committee recommended that outdoor facilities should be made of size which enables prisoners to exercise. Also in 2007, the CPT recommended that steps should be taken to ensure that all prisoners at Murru and Tallinn Prisons have access to an appropriate range of out-of-cell activities, such as recreational activities, sports, etc.

9.3.11 Education

This section focuses on facilities for education in prison. International legal instruments place a series of obligations on States in respect of prison education facilities. The questions in this section are based on these obligations.

3.11.1 Has your country adopted laws or policies requiring, as far as practicable, that prisoners have access to educational programmes that can meet their individual needs? ICESCR 13, UDHR 26, SMR 77(1), BPTP 6, R(89)12: 1, EPR 28.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	5	1	1
Total Europe - %	96	96	21	4	4
Estonia	X	X			

3.11.2 Has your country adopted laws or policies requiring that education provided in prisons shall be integrated, in so far as is practicable, with national educational systems/programmes enabling prisoners to continue their education following their release? SMR 77(2), R(89)12: 16, EPR 28.7.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	5	0	3
Total Europe - %	87	75	21	0	13

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Estonia	X	X			

3.11.3 Has your country adopted laws or policies requiring that vocational training be available for those prisoners who are able to benefit from it, particularly young prisoners? SMR 71(5), BPTP 8, R(89)12: 9, EPR 26.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	20	5	0	2
Total Europe - %	92	83	21	0	8
Estonia	X	X			

Analysis

International instrument compliance

All of the commitments relating prison education have been adopted by Estonia including the legally binding obligation relating to prisoners' access to education programmes that meet their individual needs.

Situation in practice

In 2007, the CPT recommended that steps should be taken to ensure that all prisoners at Murru and Tallinn Prisons have access to an appropriate range of out-of-cell activities, such as education.

9.3.12 Freedom of thought, conscience & religion

3.12.1 Has your country adopted laws or policies ensuring that prisoners have the opportunity to practice their religion and to follow their beliefs whilst in custody? ICCPR 18(1), CERD 5 (d) (vii), UDHR 18, SMR 42, BPTP 3, EPR 29.1 & 29.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	5	0	0
Total Europe - %	100	96	21	0	0
Estonia	X	X			

Analysis

International instrument compliance

The legally binding commitment relating to a prisoner's freedom to practice their religion whilst in prison has been adopted by Estonia.

9.4 Health

9.4.1 Core principles

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.1.1 Has your country adopted laws or policies requiring that primary healthcare services to meet the needs of all prisoners be provided in each prison to a standard equivalent to that available to the community in general? ICESCR 12(1), SMR 22(1), PME 1, R(98)7: 10, 11, 12 & 19, EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	6	0	1
Total Europe - %	96	92	25	0	4
Estonia	X	X			

4.1.2 Has your country adopted laws or policies to ensure that where a sick prisoner requires treatment that cannot be provided by the medical staff in the prison he/she shall be transferred to an appropriate hospital without undue delay? SMR 22(2), BPTP 9, R(98)7: 3, EPR 46.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	3	1	2
Total Europe - %	92	88	13	4	8
Estonia	X	X			

4.1.3 Has your country adopted laws or policies requiring that medical records be created and accurately maintained on all prisoners and that such records be treated as confidential? BOP 26, R(98)7: 13, EPR 42.3.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	5	0	3
Total Europe - %	87	83	21	0	13
Estonia	X	X			

Analysis

International instrument compliance

All commitments relating to the core principles underpinning prison health care have been adopted by Estonia including the legally binding commitment requiring that primary health care is provided to an equivalent standard to that available in the community.

Situation in practice

See comments relating to medical records created at the time of admission to prison at section 3.1 above. The UN Committee against torture expressed some concerns about the health and medical services in detention facilities in its report of 2007, especially regarding the lack of

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adequate food and the lack of appropriate treatment, especially with regards to HIV and TBC infected detainees.

In 2007, the CPT recommended to immediately stop the practice of forcible urine tests in all prisons.

9.4.2 Women and children

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations

4.2.1 Has your country adopted laws or policies to ensure that the necessary facilities and services required for women’s healthcare are available in women’s prisons and that women prisoners have access to a female doctor? CEDAW 12, SMR 23, BOP 5(2), R(98)7: 8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	7	3	0	17
Total Europe - %	29	29	13	0	71
Estonia	X	X			

4.2.2 Has your country adopted laws or policies requiring that appropriate care be afforded to all pregnant prisoners and nursing mothers? CEDAW 12(2), SMR 23, R(98)7: 8 & 69, EPR 34.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Estonia	X	X			

Analysis

International instrument compliance

Both commitments relating to women’s healthcare have been adopted by Estonia including the legally binding commitment requiring the authorities to ensure that women prisoners have access to a female doctor.

9.4.3 Mental health care

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.3.1 Has your country adopted laws or policies requiring that prisoners with mental health difficulties be entitled to care appropriate to their circumstances, commensurate to the type of care available for people with similar mental health difficulties in the community? SMR 22(1), PPPMI 1 & 20, R(98)7:10, 11 & 52, R(2004)10: 35(1) & (2), EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	4	0	3
Total Europe - %	87	79	17	0	13
Estonia	X	X			

4.3.2 Has your country adopted laws or policies to ensure that prisoners who require psychiatric in-patient care are transferred to a suitable hospital facility of an appropriate security level without undue delay? SMR 22(2), PPPMI 9(1) & 20, R(98)7: 3 & 55, R(2004)10: 8, 9(1) & 35(1), EPR 12(1) & 46(1)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	3	0	6
Total Europe - %	75	71	13	0	25
Estonia	X	X			

Analysis

International instrument compliance

All commitments relating to the mental health care of prisoners have been incorporated into Estonian law.

9.4.4 Vulnerable prisoners

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.4.1 Has your country adopted laws or policies requiring that prisoners assessed as vulnerable be accommodated in areas of the prison which are most convenient and appropriate for their monitoring and treatment by the medical personnel and other relevant agencies? SMR 22(2) & 62, EPR 12.2, 39, 43.1, 46.2, 47.1 & 47.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	3	0	8
Total Europe - %	67	63	13	0	33
Estonia	X	X			

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4.4.2 Has your country adopted laws or policies requiring that prisoners assessed as being at risk of suicide/self-harm be continuously monitored by both medical and prison staff throughout the prisoner's time in custody and that records are kept of such monitoring? R(98)7: 58, EPR 47(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	5	0	14
Total Europe - %	42	29	21	0	58
Estonia					X

4.4.3 Has your country adopted laws or policies requiring that prisoners detained in a special cell be visited daily, and as frequently as is necessary by a doctor who shall, inter alia, monitor his/ her physical and mental health? SMR 25(1) & 32(3), R(98)7: 66, EPR 43.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Estonia	X	X			

Analysis

International instrument compliance

All provisions relating to vulnerable prisoners have been adopted by Estonia.

9.4.5 *Medical & health care personnel*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.5.1 Has your country adopted laws or policies to ensure that every prisoner has access to appropriately qualified medical personnel in the prison at all times? SMR 24, BOP 24, R(98)7:1, 2 & 4, EPR 41.2 & 41.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Estonia	X	X			

Analysis

International instrument compliance

The commitment relating to access to appropriately qualified medical personnel has been adopted by Estonia.

Situation in practice

In 2007, the CPT recommended to review the health care staff at Murru Prison. steps should be taken by Estonian authorities to fill the vacant post of a psychiatrist.

9.4.6 Prisoners with addiction problems

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.6.1 Has your country adopted laws or policies to ensure that prisoners with addiction problems have access to appropriate treatment and support services, including those from external agencies? SMR 62, R(98)7: 7, 43, 44, 45, 46 & 47, EPR 42.3.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	8	0	3
Total Europe - %	88	79	33	0	13
Estonia	X	X	X		

*Analysis**International instrument compliance*

The commitment relating to the provision of services to prisoners with addiction problems has been adopted by Estonia.

Situation in practice

The European Commissioner for Human Rights reported in 2007 that drugs in detention remain a problem noting that drug injection instruments are often used repeatedly and that there was no needle exchange service available. The Commissioner was also worried that an estimated 30% of Estonian prisoners were injecting drugs and the risk of HIV/AIDS and hepatitis B and C transmissions was high. At the time of this visit, the Ministry of Justice, responsible for prisons, had stopped the drug substitution programme in prisons. Therefore, no methadone was given to drug addicted inmates. One of the reasons for stopping this, was the fact that arrest houses (which are under the responsibility of the Ministry of Interior) did not provide for such a substitution programme. According to the Commissioner, this practice was unacceptable as drug addicts need appropriate and immediate assistance to solve their problems. Comments from the SPOC above indicate that this situation has now altered.

9.4.7 Hunger strikes

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

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4.7.1 Has your country adopted laws or policies forbidding the practice of forced feeding of hunger strikers? DOMHS, R(98)7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	37	21	21	0	63
Estonia	X		X		

Analysis

International instrument compliance

The force feeding of hunger strikers is not permitted under Estonian prison policy.

9.5 Good order

9.5.1 General approaches

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.1.1 Has your country adopted laws or policies requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody? R(82)17: 8, EPR 51.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	0	9
Total Europe - %	62	62	13	0	38
Estonia	X	X			

Analysis

International instrument compliance

The commitment regarding the on-going review of the security level required for each prisoners has been adopted by Estonia.

Situation in practice

The CPT recommended in 2007 that the national authorities should combat inter-prisoner violence. Fill vacant posts for prison officers could contribute to this. Moreover, attention should be paid to the problem of inter-prisoner violence in the context of initial and in-service training programmes for prison officers. In 2006, there were two incidents between prisoners at Murru Prison. Each of which had resulted in the killing of a prisoner by fellow inmates. The CPT wants to receive information in these incidents.

9.5.2 Safety & Security

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.2.1 Has your country adopted laws or policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat? EPR 51.5, 53.1 & 53.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	63	63	17	0	37
Estonia	X	X			

Analysis

International instrument compliance

The commitment regarding regular reviews of prisoners placed on protection has been adopted by Estonia.

9.5.3 Searching of prisoners

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.3.1 Has your country adopted laws or policies requiring that searches conducted on prisoners be carried out with due regard to the prisoner's dignity? ICCPR 10(1), BPTP 1, EPR 54.3 & 54.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	0	1
Total Europe - %	96	92	13	0	4
Estonia	X	X			

5.3.2 Has your country adopted laws or policies stipulating that prisoners may only be searched by a staff member of the same gender? ICCPR 10(1), BPTP 1, EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	1	0	1
Total Europe - %	96	92	4	0	4
Estonia	X	X			

5.3.3 Has your country adopted laws or policies stipulating that prisoners may only be subjected to a strip search in exceptional circumstances and for good reason and then, only in the

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presence of two officers in an appropriate place which ensures privacy? ICCPR 10(1), BPTP 1, EPR 54. 3, 54.4 & 54.6, *Van der Van v The Netherlands* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	3	1	13
Total Europe - %	66	54	13	4	54
Estonia	X	X	X		

Analysis

International instrument compliance

The legally binding commitments relating to the searching of prisoners have been incorporated into Estonian law.

9.5.4 Criminal acts, discipline & punishment

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.4.1 Has your country adopted laws or policies stipulating that all inquiries into breach of prison discipline or rules shall be conducted in an independent and impartial manner? ICCPR 14(1), UDHR 10, ECHR 6(1), *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	2	1	8
Total Europe - %	67	63	8	4	33
Estonia	X	X			

5.4.2 Has your country adopted laws or policies requiring that all incidents of bullying/violence/threatening behaviour between prisoners, and any breach of discipline be reported to an officer of a higher rank, duly recorded and properly investigated? EPR 52.2 & 58

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	62	62	17	0	38
Estonia	X	X			

5.4.3 Has your country adopted laws or policies stipulating that when a prisoner has been charged with a disciplinary offence he/she shall be promptly informed of the allegation made against him/her in a language that he/she understands? ICCPR 14(3)(a), CERD 5(a), SMR 30(2), ECHR 6(3)(a), EPR 59.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	3	0	7
Total Europe - %	71	71	13	0	29

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Estonia	X	X			

5.4.4 Has your country adopted laws or policies stipulating if an inquiry is being conducted into a breach of prison discipline or rules the prisoner shall have adequate time to prepare his/her defence and/or to receive legal assistance? ICCPR 14(3)(b) & (d), SMR 30(2), ECHR 6(3)(b) & (c), EPR 59.b & 59.c, *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	2	0	9
Total Europe - %	62	58	8	0	38
Estonia	X	X			

5.4.5 Has your country adopted laws or policies stipulating that in any disciplinary proceedings prisoners must understand the proceedings and if necessary, appropriate interpretation facilities must be provided? ICCPR 14(3)(f), SMR 30(3), ECHR 6(3)(e), EPR 59.e

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Estonia	X	X			

5.4.6 Has your country adopted laws or policies stipulating that no prison officer shall impose a punishment/penalty/deprivation on a prisoner without due process and in accordance with law and/or relevant rules or instruments? EPR 57.2.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	2	0	4
Total Europe - %	83	83	8	0	17
Estonia	X	X			

5.4.7 Has your country adopted laws or policies stipulating that if a prisoner is found guilty of a disciplinary offence, he/she shall be entitled to exercise his/her right of appeal to an independent and impartial tribunal established by law? ICCPR 14(5), BOP 30(2), EPR 61

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	1	0	5
Total Europe - %	79	79	4	0	21
Estonia	X	X			

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5.4.8 Has your country adopted laws or policies requiring that when a prisoner is detained in any type of special cell (special observation/cladded/strip) he/she shall be regularly monitored by a prison officer? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	3	0	7
Total Europe - %	71	67	13	0	29
Estonia	X	X			

5.4.9 Has your country adopted laws or policies requiring that a detailed record be maintained of, inter alia, the monitoring of such prisoners, their expressed requirements, actions taken in response to such requests and details of visits by officers or others to such prisoners? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	8	8	2	0	16
Total Europe - %	33	33	8	0	67
Estonia					X

5.4.10 Has your country adopted laws or policies to ensure that prisoners in a special cell are able to contact a member of staff at all times, including during the night and that a staff member shall respond without delay? ICCPR 6(1), EPR 18.2.c & 52.4, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	4	0	63
Estonia	X	X			

Analysis

International instrument compliance

Estonia has adopted nine of the ten commitments relating to criminal acts and discipline within the prison. Legally binding commitments relating to the impartial investigation of breaches of prison discipline, ensuring that prisoners have access to information about the charges against them in a language which they understand, have adequate time to prepare their defence, can access interpretation facilities during a hearing if required, can appeal to an independent and impartial tribunal and requiring the authorities to monitor prisoners placed in special cells and ensuring that such prisoners are able to contact prison staff at all times have been incorporated. The legally binding requirement stipulating that the authorities must record information relating to the same has not, however, been incorporated.

Situation in practice

The CPT found that, during its 2003 visit, the material detention conditions in the disciplinary cells were totally unacceptable. The European Commissioner of Human Rights recommended later, in 2007, that the Estonian authorities should review the detention conditions in disciplinary cells, as prisoners detained were not allowed to use private belongings. According

to the Commissioner the maximum time in disciplinary cells was too long and the absence of private belongings and reading material made the 'regime' within the disciplinary cells too strict. In 2007, the CPT recommended that prisoners facing disciplinary charges to have the right to be heard in person by the Governor before a decision is taken on the matter. Prisoners should receive a copy of this decision. The maximum period of placement in a punishment cell in respect of adult prisoners to be substantially reduced, according to the CPT (recommendation after its visit to Estonia in 2007). The CPT requested for information in the procedure in force in Tartu Prison with regard to a bed equipped with fixation points. Inter alia, the CPT wishes to receive information on how this equipment is used and on the training of staff required to use such equipment.

9.5.5 Use of force/weapons

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.5.1 Has your country adopted laws or policies stipulating that members of staff will use force only when absolutely necessary and that any force used shall be proportionate to the situation? SMR 54(1), CCLEO 3, BPUF 4, EPR 64 & 6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	4	1	3
Total Europe - %	87	87	17	4	13
Estonia	X	X			

Analysis

International instrument compliance

The commitment requiring force to be used only when necessary and that its use must be proportional has been incorporated into Estonian law.

9.5.6 Requests & complaints

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.6.1 Has your country adopted laws or policies to ensure that prisoners have sufficient opportunity to make requests or complaints to the Governor of the prison or to any other competent authority? SMR 36(1) & (3), BOP 33(1), EPR 70.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	3	0	1
Total Europe - %	96	96	13	0	4
Estonia	X	X			

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5.6.2 Has your country adopted laws or policies establishing the right of a prisoner's legal advisor or to make a request or a complaint regarding that prisoner's treatment to the prison authorities, or other relevant authorities? BOP 33 (1) & (2), EPR 70.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	1	0	6
Total Europe - %	75	75	4	0	25
Estonia	X	X			

5.6.3 Has your country adopted laws or policies requiring that all complaints be promptly investigated in accordance with law? SMR 36(4), BOP 33(4)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	2	0	7
Total Europe - %	71	67	8	0	29
Estonia	X	X			

5.6.4 Has your country adopted laws or policies to ensure that where a request is denied or a complaint is rejected, the prisoner is informed promptly as to the reason(s) for such denial or rejection? SMR 36(4), BOP 33(4), EPR 70.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	2	1	7
Total Europe - %	71	63	8	4	29
Estonia	X	X			

5.6.5 Has your country adopted laws or policies to ensure that prisoners are not disadvantaged for exercising their rights to make requests or complaints? BOP 33(4), EPR 70.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	3	0	13
Total Europe - %	46	42	13	0	54
Estonia					X

5.6.6 Has your country adopted laws or policies requiring that complaints made by members of staff against other members of staff be properly recorded and investigated in accordance with the law? EPR 88 & 87.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	11	3	0	11
Total Europe - %	54	46	13	0	46
Estonia	X		X		

Analysis

International instrument compliance

All commitments relating to prison complaints and requests processes have been adopted by Estonia.

9.6 Management & Staff

9.6.1 Training of staff

This section focuses on the staff training and prison management. International legal instruments place a series of obligations on States in respect of the training and management of prison staff. The questions in this section are based on these obligations.

6.1.1 Has your country adopted laws or policies to ensure that all prison staff receive appropriate training at regular intervals throughout their career? SMR 47(3), EPR 8, 76 & 81.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	14	7	0	5
Total Europe - %	79	58	29	0	21
Estonia	X	X	X		

6.1.2 Has your country adopted laws or policies to ensure that members of staff who work with particular groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, receive training particular to their individual work? R(82)17: 10, R(2004)10: 12(1), EPR 81.3, ERJO 129

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	38	21	21	0	62
Estonia	X	X	X		

Analysis

International instrument compliance

All commitments relating to management staff and have been adopted by Estonia.

Situation in practice

See also above 5.1 and 5.4.

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9.7 Inspection & Monitoring

9.7.1 Governmental Inspection

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.1.1 Has your country adopted laws or policies requiring that prisons be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law? SMR 55, EPR 92, R(2004)10 36.1, ERJO 125, PPPMI 22

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	19	4	0	4
Total Europe - %	83	79	17	0	17
Estonia	X	X			

Analysis

International instrument compliance

The commitment relating to governmental inspection has been adopted by Estonia.

9.7.2 Independent monitoring

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.2.1 Has your country adopted laws or policies requiring that the conditions of detention and the treatment of prisoners shall be also monitored by an independent body or bodies, comprised of qualified experienced personnel, and whose findings shall be made public? OPCAT 3, 17, 18, 19, BOP 29.1, EPR 93.1, R(2004)10 36.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Estonia	X	X			

7.2.2 Has your country adopted laws or policies granting such an independent body open access to places of detention, to prisoners and others whom it wishes to interview? OPCAT 19, 20, CPT 8,9 BOP 29.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	3	1	9
Total Europe - %	62	58	13	4	38
Estonia	X	X			

7.2.3 Has your country adopted laws or policies encouraging such independent bodies to cooperate with those international agencies that are legally entitled to visit prisons? CPT 2,7 EPR 93.2, ERJO 126.

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	6	1	0	17
Total Europe - %	29	25	4	0	71
Estonia	X	X			

Analysis

International instrument compliance

All commitments relating to independent inspection have been adopted by Estonia.

Situation in practice

Estonia ratified the OPCAT at 18 December 2008 and designated the Chancellor of Justice as its NPM. In 2008, the UN Committee against Torture expressed concerns about, *inter alia*, the independence, mandate and resources assigned to this body and recommended that the Estonian authorities consider 'establishing a national institution for the promotion and protection of human rights in accordance with the Paris Principles.

9.8 Sentenced Prisoners

This section focuses on the particular provisions relating to convicted prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

8.1.1 Has your country adopted laws or policies requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan? ICCPR 10(3), SMR 80, EPR 6, 103.2 & 103.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	6	2	4
Total Europe - %	83	83	25	8	17
Estonia	X	X			

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8.1.2 Has your country adopted laws or policies requiring that a sentence management plan be prepared for each prisoner serving a sentence of 12 months or over as soon as practicable after their admission? It should provide for, inter alia, the welfare and health needs of the prisoner, training, employment or education needs he/she may have, and include a release plan for the prisoner. This plan shall be reviewed at regular intervals to take into account the changing circumstances of the prisoner. SMR 65, 66 & 69, R(2003)23: 3 & 9, EPR 6, 103 & 104.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	5	0	10
Total Europe - %	58	54	21	0	42
Estonia					X

Analysis

International instrument compliance

All commitments in relation to sentenced prisoners have been adopted by Estonia including the legally binding commitment requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan.

9.9 Juveniles

This section focuses on the particular provisions relating to juvenile prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

9.1.1 Has your country adopted laws or policies requiring that juveniles be detained separately from adult offenders? ICCPR 10(3), CRC 37(c), BR 26.3, RPJDL 29, EPR 11.1, ERJO 59.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	1	3
Total Europe - %	87	87	13	4	13
Estonia	X	X			

9.1.2 Has your country adopted laws or policies to ensure that, subject to reasonable conditions and restrictions, a sentenced prisoner under the age of 18 shall be entitled to receive a minimum of two weekly visits? CRC 37(c), SMR 37, BOP 19, RPJDL 60, ERJO 83, 84, 85.1 & 85.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	6	3	0	15
Total Europe - %	37	25	13	0	63
Estonia					X

Analysis

International instrument compliance

Both commitments relating juveniles have been incorporated into Estonian law.

Situation in practice

According to the European standards and the UN Convention on the Rights of a child, juveniles should not be detained and accommodated together with adults. However in 2007, the Commissioner for Human Rights met in the two arrest houses visited young children –several being less than 15 years old. The children that were in these arrest houses did not have access to activities or recreational spaces. Activities were limited to a small number of board games provided to them by the police authorities. None of the children whom the delegation met had access to a schoolbook or had seen a teacher in spite of being detained for several weeks. Also in the arrest houses minors were detained together in conditions the Commissioner characterized as deplorable. This, in combination with the absence of activities and the limited access to media or entertainment was considered to amount to inhuman and degrading treatment. The Commissioner considered it as a matter of urgency that suitable solutions were found for inmates in these arrest houses in general. As regards the minors, the Commissioners recommended that minors should be detained in a appropriate environment where they could have access to education and other activities essential for a child's development and well-being. Apart from this, he highlighted that minors should not be detained with adult inmates.

9.10 Sentence Execution Modalities

This section of the questionnaire is designed to collate information on the differing methods by which custodial sentences and measures involving deprivation of liberty are enforced across EU Member States.

10.1.1. Which of the following modalities of prison sentence execution are provided for in the law of your country?

	Weekend detention	Evening detention	Daytime detention	Home detention	
				no electronic monitoring	electronic monitoring
EUROPE	9 = 38%	10= 42%	3 = 13%	6 = 25%	14 = 58%
Estonia	X				X

10.1.2. What is the maximum period for which home detention with electronic monitoring can be imposed?

	Under 12 months	12-24 months	25 months - 36 months	37 months - 50 months	More than 50 months
EUROPE	7 = 29%	4 = 17%	0=0%	1 = 4%	2 = 8 %
Estonia		X			

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10.2.1. In which of the following locations can custodial sentences or measures involving deprivation of liberty be imposed?

	Penitentiary institution	Psychiatric institution	Detoxification institution	Educational institution	Home
EUROPE	24 = 100%	20 = 83%	10 = 42%	7 = 29%	12 = 50%
Estonia	X	X			

Analysis

Sentence execution modalities

Estonian law provides for two additional sentence execution modalities: weekend detention and home detention with electronic monitoring. Such monitoring can be imposed for a period between 12 and 24 months. From 2011, electronic monitoring scheme will also be available for remand prisoners as a substitute for short prison terms and as a supplementary obligation to all groups of probationers. Custodial sentences or measures involving deprivation of liberty can be imposed in relation to penitentiary and psychiatric institutions in Estonia.

9.11 Early release from prison, earned remission and suspension of sentence

9.11.1 Early release

Early release means the release of the offender before their prison term is finished. It is possible only while the sentence is still being served. Early release does not include the suspended enforcement of a penalty which is dealt with later in this questionnaire.

11.1.2.1. Has your country adopted laws and regulations under which prisoners are entitled to early release from prison ?

	Yes	No
EUROPE	24 = 100%	0 = 0%
Estonia	X	

11.1.2.2. At what point in a prisoner's sentence do they become eligible for early release?

	One third of sentence or less	One third to one half of a sentence	One half to three quarters of a sentence	More than three quarters of a sentence	Other
EUROPE	2 = 8%	1 = 4%	7 = 29%	0 = 0%	14 = 58%
Estonia					X

11.1.2.2. Does your country have different regulations for the early release of prisoners based on:

	A prisoner's nationality (non-EU citizen)	A prisoner's nationality (EU citizen)	The length of sentence imposed
EUROPE	Yes - 3 = 12% No - 21 = 88%	Yes - 3 = 12% No - 21 = 88%	Yes - 24 = 100% No - 0 = 0%
Estonia	N	N	Y

11.1.2.3. Are provisions governing the early release of prisoners automatic or discretionary?

	Automatic (prisoners are automatically released at a certain point in their sentence)	Discretionary (prisoners are only released following assessment)
EUROPE	Yes - 7 = 29% No - 17 = 71%	Yes - 20 = 83% No - 4 = 17%
Estonia	N	Y

11.1.2.4. What factors are taken into consideration when deciding whether a prisoner will be granted early release?

	The circumstances surrounding the crime	Prior criminal record	The offender's progress during imprisonment	Assessment as to whether the prisoner is likely to reoffend	Recommendation from the sentencing judge
EUROPE	Yes - 24 = 50% No - 24 = 50%	Yes - 15 = 63% No - 9 = 37%	Yes - 22 = 92% No - 2 = 8%	Yes - 19 = 79% No - 5 = 21%	Yes - 4 = 17% No - 20 = 83%
Estonia	Y	Y	Y	Y	N

11.1.3.1. What forms of monitoring and conditions can be applied to prisoners' early release?

1. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
2. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
4. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
5. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
6. Electronic monitoring
7. Weekend/evening /daytime detention
8. Requirement containing limitations on leaving the country

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9. Requirement to leave the country
10. Requirement to pay compensation
11. Requirement to undertake community service
12. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	Other
EUROPE	Y - 83	Y - 8	Y - 58	Y - 62	Y - 33	Y - 25	Y - 13	Y - 42	Y - 21	Y - 29	Y - 21	
	N - 17	N - 92	N - 42	N - 38	N - 77	N - 75	N - 87	N - 58	N - 79	N - 71	N - 79	9
Estonia	Y	N	Y	Y	Y	Y	Y	N	Y	Y	Y	

9.11.2 Sentence reduction as a result of prison work

11.2.1.1. Can a prisoner earn remission on their sentence as a result of work carried out in prison?

	Yes	No
EUROPE	9= 38%	15 – 62%
Estonia		X

9.11.3 Suspension of sentence enforcement

11.3.1. Does the national law of your country make provision for the further execution of a prison sentence to be suspended during the course of the sentence?

	Yes	No
EUROPE	10=42%	14= 58%
Estonia		X

11.3.2.1. What factors are taken into consideration when deciding whether a prisoner will have the further execution of their prison sentence suspended?

1. The circumstances surrounding the crime
2. Prior criminal record
3. The offender's progress during imprisonment
4. Assessment as to whether the prisoner is likely to reoffend
5. Recommendation from the sentencing judge
6. Suitability of home circumstances
7. Information from victim(s)
8. Willingness of the prisoner to leave the country upon release
9. The prisoner will be deported upon release
10. Other – please specify

	1	2	3	4	5	6	7	8	9	Other
EUROPE	Y - 8 N - 92	Y - 13 N - 78	Y - 17 N - 83	Y - 21 N - 79	Y - 0 N - 100	Y - 4 N - 96	Y - 0 N - 100	Y - 0 N - 100	Y - 0 N - 100	21
Estonia	N	N	N	N	N	N	N	N	N	

11.3.3.1. What forms of monitoring and conditions can be applied to prisoners whose further execution of a prison sentence has been suspended?

1. Unconditional supervision
2. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
4. Compulsory therapeutic interventions (*e.g.* drug/alcohol counselling, anger management courses etc.)
5. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
6. Compulsory access and contact restrictions (*e.g.* an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
7. Electronic monitoring
8. Weekend/evening /daytime detention
9. Requirement containing limitations on leaving the country
10. Requirement to leave the country
11. Requirement to pay compensation
12. Requirement to undertake community service
13. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	12	Other
EUROPE	Y - 4 N - 96	Y - 38 N - 62	Y - 4 N - 96	Y - 29 N - 71	Y - 17 N - 83	Y - 17 N - 83	Y - 4 N - 96	Y - 4 N - 96	Y - 21 N - 79	Y - 0 N - 100	Y - 17 N - 83	Y - 4 N - 96	2
Estonia	Y	N	N	N	N	N	N	N	N	N	N	N	

Analysis

Early release from prison, earned remission and suspension of sentence

In common with all EU countries, Estonia has adopted measures under which prisoners are entitled to early release from prison. Prisoners in Estonia can become eligible for early release between one third and two thirds of the way through their sentence albeit that differing regulations apply depending on the length of sentence imposed. The early release system in Estonia is based around discretionary provisions. Decisions on a prisoner's early release are based on six of the ten criteria identified. Prisoners release early are always subject

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to a period of supervision, which is determined to the extent of the un-served part of the term of the punishment but for not less than one year. Nine forms of monitoring and conditions can be applied to a prisoner granted early release. Early release is also possible for persons sentenced to life imprisonment, but only after they have served at least 30 years of the term of the punishment. In that case early release will be connected with a probation period of between five to ten years. Prisoners in Estonia are not able to earn remission from their sentence as a result of work undertaken in prison. Neither is provision is made for the further execution of a prison sentence to be suspended during the course of the sentence.

Appendix

1. Chancellor of Justice Act (1999)
2. Haldusmenetluse seadus (2002)
3. Vangla sisekorraeskiri (2000)
4. T  itmisplaan (regulation on allocations)
5. Estonian Constitution
6. Vangistusseadus

10 Finland

10.1 Introduction

The questionnaire was completed by Ulla Mohell, Counsellor of Legislation at the Ministry of Justice.

Finland was visited in 2008 by a delegation from the Committee for the Prevention of Torture. The report from this visit was used as a basis for information on the situation in practice.

Country	FINLAND		
Ministry responsible	Ministry of Justice		
Prison administration	Department of Prison Administration		
Contact address	P O Box 319, Albertinkatu 25, FIN-00181 Helsinki, Finland		
Telephone/fax/website	tel: +358 9 1601 / fax: +358 9 1608 8556 or 8410 web: www.vankeinhoito.fi/		
Head of prison administration (and title)	Esa Vesterbacka Director General		
Prison population total (including pre-trial detainees / remand prisoners)	3,189 at 1.1.2011 (national prison administration - not including a small number of remand prisoners in police establishments)		
Prison population rate (per 100,000 of national population)	59 based on an estimated national population of 5.58 million as of 28.2.2011 (Finnish govt. figures)		
Pre-trial detainees / remand prisoners (percentage of prison population)	18.1% (1.1.2011 – not including 67 remand prisoners in police establishments)		
Female prisoners (percentage of prison population)	7.1% (1.1.2011)		
Juveniles / minors / young prisoners incl. definition (percentage of prison population)	0.1% (1-1-2011 - under 18)		
Foreign prisoners (percentage of prison population)	13.3% (1.1.2011)		
Number of establishments / institutions	30 (2011 - 28 prisons, 2 prison hospitals of which one is a psychiatric hospital)		
Official capacity of prison system	3,113 (1.1.2011)		
Occupancy level (based on official capacity)	99.6% (1.1.2011 – excluding 89 prisoners located outside the prisons)		
Recent prison population trend (year, prison population total, prison population rate)	1992	3,511	70
	1995	3,248	64
	1998	2,809	55
	2001	3,135	60
	2004	3,577	68

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	2007	3,551	67
	2010	3,291	61

10.2 Overarching Principles

This section focuses on the overarching principles governing the management of prisons and the treatment of prisoners. International legal instruments place a series of obligations on States in respect of the management of prisons and the treatment of prisoners. The questions in this section are based on these obligations.

2.1.1 Has your country adopted laws or policies specifically requiring that prisoners must be treated with respect for their human rights? ICCPR 10(1), UDHR 1, BOP 1, BPTP 1, EPR 1 & 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	19	7	1	2
Total Europe - %	92	79	29	4	8
Finland	X	X			

2.1.2 Has your country adopted laws or policies specifically requiring prisons to be managed in accordance with human rights standards? EPR 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	4	3	3
Total Europe - %	88	75	16	13	12
Finland	X	X			

2.1.3 Has your country adopted laws or policies explicitly prohibiting practices that could constitute torture, inhumane or degrading treatment or punishment of prisoners? ICCPR 7, BOP 6, ECHR 3, *Kalashnikov v Russia* (ECtHR 2003)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	1	3	2
Total Europe - %	92	88	4	12	8
Finland	X	X			

2.1.4 Has your country adopted laws or policies specifically requiring that prisoners be provided with a range of activities during their sentence (for example - educational, recreational, work/training and welfare programmes)? SMR 77 & 78, BOP 28, BPTP 6 & 8, EPR 25

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	0	0
Total Europe - %	100	96	29	0	0
Finland	X	X			

Analysis

International instrument compliance

In common with the majority of EU member states, Finland has passed legislation designed to protect the human rights of its prisoners and provide them with a meaningful regime during their time in custody. This legislation includes all of the commitments arising from legally binding international legal instruments.

10.3 Conditions Of Imprisonment

10.3.1 Admission

This section focuses on the treatment of prisoners upon their admission to prison. International legal instruments place a series of obligations on States in respect of prisoner admission. The questions in this section are based on these obligations.

3.1.1 Has your country adopted laws or policies requiring that all prisoner details are recorded at the time of committal including, inter alia, details of any visible injuries and the prisoner's personal belongings? SMR 7(1), EPR 15.1, 31.1, 31.2 & 31.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	7	1	7
Total Europe - %	71	63	29	4	29
Finland	X	X			

3.1.2 Has your country adopted laws or policies requiring that upon admission, each prisoner is given a booklet outlining his/her rights, duties, obligations and privileges and the rules and regulations governing the prison which apply to the individual prisoner? The booklet shall be written in a language that the prisoner understands. CERD 7, SMR 35, BOP 13, EPR 30

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	6	1	6
Total Europe - %	63	54	25	4	25
Finland	X		X		

3.1.3 Has your country adopted laws or policies requiring that upon admission, every prisoner shall undergo a medical examination either by a nurse reporting to a doctor or by a doctor? SMR 24, BOP 24, R(98)7: 1, EPR 42.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	20	6	1	1
Total Europe - %	96	83	25	4	4
Finland	X		X		

3.1.4 Has your country adopted laws or policies requiring the doctor/nurse to pay particular attention to the detection of injuries, mental illnesses, of withdrawal symptoms resulting from

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the use of drugs, medication or alcohol, of contagious and chronic conditions, and, to assess the prisoner's suicide/self-harm risk? SMR 24, R(98)7: 1, EPR 42.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	10	8	1	9
Total Europe - %	62	42	33	4	38
Finland	X		X		

3.1.5 Has your country adopted laws or policies requiring injuries detected during such an examination to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner? EPR 15.1.e & 42.3.c

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	5	4	1	17
Total Europe - %	29	21	17	4	71
Finland	X		X		

3.1.6 Has your country adopted laws or policies requiring upon admission that each prisoner be assessed to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves? ICCPR 6, UDHR 3, ECHR 2, R(2003)23: 12, EPR 52.1, *Keenan v The United Kingdom* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	5	1	13
Total Europe - %	46	42	21	4	54
Finland	X	X			

3.1.7 Has your country adopted laws or policies requiring that such risks be managed for the duration of the prisoner's sentence? ICCPR 6, UDHR 3, ECHR 2, EPR 52.2, *Osman v The United Kingdom* (ECtHR 2000)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	3	1	12
Total Europe - %	50	50	13	4	50
Finland	X	X			

Analysis

International instrument compliance

Finland has adopted laws or policies complying with all of the commitments established by international legal instruments relating to the procedures governing admission of prisoners to custodial institutions.

Situation in practice

Notwithstanding the legislation highlighted above, CPT found that information was not readily available to prisoners. Many had not received any information upon their arrival in prison and the delegation observed that the leaflets available referred to outdated legislation.

10.3.2 Allocation

This section focuses on the allocation of prisoners to a particular prison. International legal instruments place a series of obligations on States in respect of prisoner allocation. The question in this section is based on these obligations.

3.2.1 Has your country adopted laws or policies requiring prisoners to be assigned to a prison as near to their home area as possible in order to maintain relationships with families and friends, subject to the maintenance of good order and security? BOP 20, EPR 17.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	15	6	1	5
Total Europe - %	79	63	25	4	21
Finland	X	X			

Analysis

International instrument compliance

Finland has adopted the commitment requiring prisoners to be assigned to a prison as near to their home area as possible.

10.3.3 Accommodation

This section focuses on the living conditions of prisoners. International legal instruments place a series of obligations on States in respect of the accommodation of prisoners. The questions in this section are based on these obligations.

3.3.1 Has your country adopted laws or policies requiring that where possible prisoners should have individual cells to sleep in? SMR 9(1), EPR 18.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	3	0	10
Total Europe - %	58	54	13	0	42
Finland	X		X		

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3.3.2. Has your country adopted laws or policies stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation? ICCPR 6(1), UDHR 3, SMR 9(2), ECHR 2, EPR 18.6 & 18.7, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	4	0	14
Total Europe - %	42	29	17	0	58
Finland	X		X		

3.3.3 Has your country adopted laws or policies requiring that the size of a cell must be suitable for its purpose? The suitability of the cell size should be dependent on the number of hours spent in the cell, the number of prisoners accommodated in the cell and the availability of in-cell-sanitation facilities that ensure privacy. SMR 9, 10, 11 & 12, EPR 18 & 19.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	8	2	1	15
Total Europe - %	37	33	8	4	63
Finland	X	X			

3.3.4 Has your country adopted laws or policies requiring that cells should not be used to accommodate more prisoners than the intended design capacity, unless justified in exceptional circumstances? SMR 9(1) & 10, EPR 18.1, 18.3, 18.4 & 18.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Finland	X		X		

3.3.5 Has your country adopted laws or policies requiring that cells be suitable for accommodating prisoners in respect of size, lighting, heating, ventilation and fittings? SMR 9, 10, 11, 12 & 13, EPR 18

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	16	4	0	6
Total Europe - %	75	67	17	0	25
Finland	X	X			

3.3.6 Has your country adopted laws or policies requiring that all prisoners have in-cell access to a working alarm bell that attracts the attention of staff at all times? ICCPR 6(1), UDHR 3, ECHR 2, EPR 18.2.c & 52.4, IPR 18(4), *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	13	2	0	4
Total Europe - %	83	54	8	0	17
Finland	X	X			

Analysis

International instrument compliance

Finland has adopted laws or policies complying with all the commitments relating to accommodation.

Situation in practice

According to the data of the ICPS, Finland did not have a problem with regard prison overcrowding at 1 January 2011, since the occupancy level was 99.6%. However, the delegation of the CPT visiting Finland in 2008 found overcrowded prisons, with up to 150% overpopulation in some prisons. On the other hand, material conditions of detention in Finnish prisons were generally of a satisfactory standard. Cells were well furnished and of more than adequate size.

10.3.4 Hygiene & Sanitation

This section focuses on the hygiene and sanitation facilities for prisoners. International legal instruments place a series of obligations on States in respect of hygiene and sanitation. The questions in this section are based on these obligations.

3.4.1 Has your country adopted laws or policies to ensure that all prisoners have access to adequate and appropriate sanitary and washing facilities that respect their privacy? SMR 12 & 13, EPR 19.3, 19.4 & 19.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	2	0	10
Total Europe - %	58	58	8	0	42
Finland	X	X			

3.4.2 Has your country adopted laws or policies requiring that all In-cell sanitation facilities must be adequately screened? ICCPR 10(1), SMR 12, BOP 1, BPTP 1, ECHR 3, EPR 19.3, *Peers v Greece* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	4	1	9
Total Europe - %	62	54	17	4	38
Finland	X	X			

Analysis

International instrument compliance

Both commitments relating to hygiene and sanitation have been adopted.

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Situation in practice

According to the CPT, the availability of sanitary facilities varied from prison to prison. In Vantaa Prison for example, each cell had its own integrated and partitioned sanitation annexes. However, at Helsinki prisoners on one wing still had to “slop out” (i.e. lack of sanitary annexes in cells).

10.3.5 Clothing & Bedding

This section focuses on clothing and bedding provisions for prisoners. International legal instruments place a series of obligations on States in respect of the provision of clothing and bedding. The questions in this section are based on these obligations.

3.5.1 Has your country adopted laws or policies to ensure that prisoners are provided with clothing that is suitable for the climate, is not degrading or humiliating and is age appropriate? SMR 17(1), EPR 20.1 & 20.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	10	0	7
Total Europe - %	71	71	42	0	29
Finland					X

3.5.2 Has your country adopted laws or policies requiring each prisoner to be provided with a bed and appropriate bedding and to ensure that all bedding is in good condition, is changed regularly and laundered? SMR 19, EPR 21

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	2	0	6
Total Europe - %	75	71	8	0	25
Finland	X	X			

Analysis

International instrument compliance

Both commitments regarding prisoner’s clothing and bedding have been adopted.

10.3.6 Nutrition

This section focuses on the nutrition requirements of prisoners. International legal instruments place a series of obligations on States in respect of prisoner’s nutrition. The questions in this section are based on these obligations.

3.6.1 Has your country adopted laws or policies to ensure that prisoners are provided with a sufficient quantity of nutritious food taking into account their health, physical condition, special dietary requirements, religion and culture? SMR 20(1), EPR 22.1 & 22.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	5	1	4
Total Europe - %	83	83	21	4	17
Finland	X	X			

3.6.2 Has your country adopted laws or policies to ensure that prisoners have access to clean drinking water? SMR 20(2), EPR 22.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	16	5	1	5
Total Europe - %	79	67	21	4	21
Finland	X	X			

Analysis

International instrument compliance

Both commitments relating to nutrition have been incorporated into Finnish law.

Situation in practice

The CPT found that many complaints at Vantaa Prison about the meals being served at unusual times. The last meal was generally served around 2.30 pm.

10.3.7 *Legal advice, info & rights*

This section focuses on the entitlement of prisoners to legal advice and information. International legal instruments place a series of obligations on States in respect of access to legal advice and information. The questions in this section are based on these obligations.

3.7.1 Has your country adopted laws or policies requiring that adequate time and facilities be provided to prisoners to receive professional visits from their legal advisers? BOP 18(2), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	4	1	2
Total Europe - %	92	92	17	4	8
Finland	X	X			

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3.7.2 Has your country adopted laws or policies establishing the right of prisoners to communicate with their legal advisers by telephone and by letter? BOP 18(1), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	3	3	3
Total Europe - %	87	83	13	13	13
Finland	X	X			

3.7.3 Has your country adopted laws or policies requiring that communications between a prisoner and his/her legal adviser remain confidential and can only be restricted by law or judicial authority? ICCPR 17, BOP 18(3) & (4), ECHR 8, EPR 23.4 & 23.5, *Campbell v The United Kingdom* (ECtHR 1992)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	3	1	2
Total Europe - %	92	92	13	4	8
Finland	X	X			

Analysis

International instrument compliance

In common with the majority of the other EU Member States, Finland has passed legislation ensuring the entitlement of prisoners to legal advice and information.

10.3.8 Contact with the outside world

10.3.8.1 Visits

This section focuses on the entitlement of prisoners to maintain contacts with the outside world. International legal instruments place a series of obligations on states in respect of prisoners' on-going contact with the outside world. The questions in this section are based on these obligations.

3.8.1.1 Has your country adopted laws or policies establishing the right of prisoners to communicate with their family and friends by correspondence and by receiving visits, subject to reasonable conditions/restrictions imposed by law or another authority? ICCPR 23(1), UDHR 16(3), SMR 37, BOP 15 & 19, EPR 24.1 & 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	2	0
Total Europe - %	100	96	29	8	0
Finland	X	X			

3.8.1.2 Has your country adopted laws or policies requiring that visits take place in an environment that enables prisoners to maintain and develop family and other relationships in as normal a manner as is possible subject to the maintenance of good order and security in the prison? SMR 79, EPR 24.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	6	0	2
Total Europe - %	92	88	25	0	8
Finland	X	X			

10.3.8.2 Searching of visitors

3.8.2.1 Has your country adopted laws or policies requiring that searching procedures for visitors be undertaken in a manner that respects a person's dignity? SMR 27, BOP 19, EPR 54.1.c, 54.3, 54.4 & 54.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	4	0	7
Total Europe - %	71	63	17	0	29
Finland	X	X			

3.8.2.2 Has your country adopted laws or policies requiring that prison officers only be permitted to search visitors of the same gender? EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	9	1	0	12
Total Europe - %	50	38	4	0	50
Finland	X	X			

10.3.8.3 Restrictions on visits

3.8.3.1 Has your country adopted laws or policies requiring the authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party(ies) and to review these circumstances on a regular basis? SMR 27, 79 & 80, EPR 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	0	0	63
Finland	X	X			

3.8.3.2 Has your country adopted laws or policies preventing the withdrawal of contact for female prisoners with their children as a disciplinary action except in exceptional circumstances? SMR 27, 79 & 80, EPR 24.2 & 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	2	0	12
Total Europe - %	50	50	8	0	50

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Finland	X	X			

10.3.8.4 *Death, illness & transfer*

3.8.4.1 Has your country adopted laws or policies requiring that prisoners be informed of the death/serious illness of a close relative/ friend without delay? SMR 44(2), EPR 24.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	2	0	13
Total Europe - %	46	42	8	0	54
Finland	X	X			

3.8.4.2 Has your country adopted laws or policies allowing a prisoner to leave the prison to visit a sick relative/friend, attend a funeral or for other humanitarian reasons? SMR 44(2), EPR 24.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Finland	X	X			

3.8.4.3 Has your country adopted laws or policies ensuring that prisoners are allowed to inform their families or other nominated persons without delay of their imprisonment, transfer to another institution or of any serious illness that they may suffer from? SMR 44(1) & (3), BOP 16(1), EPR 24.8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Finland	X	X			

3.8.4.4 Has your country adopted laws or policies requiring the prison authorities to immediately inform the spouse or the nearest relative to the prisoner (or any other person previously nominated), if the prisoner dies in custody, is removed to a hospital or suffers a serious injury/illness? SMR 44(1), EPR 24.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	3	0	6
Total Europe - %	75	75	13	0	25
Finland	X	X			

10.3.8.5 Telephone and letters

3.8.5.1 Has your country adopted laws or policies preventing the monitoring or censoring of telephone calls unless the prisoner or the recipient of the call is informed of the possibility of such monitoring or, such monitoring has been agreed by any lawful authority? ICCPR 17, UDHR 12, SMR 37, BOP 19, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	3	1	5
Total Europe - %	79	79	13	4	21
Finland	X	X			

3.8.5.2 Has your country adopted laws or policies permitting prisoners to send a minimum of 7 letters a week free of charge and more if he/she can afford it, and to receive as many letters as are sent to him/her? SMR 37, BOP 19, EPR 24.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	11	1	0	12
Total Europe - %	50	46	4	0	50
Finland	X	X			

3.8.5.3 Has your country adopted laws or policies preventing the prison authorities from opening prisoners' private correspondence subject to the maintenance of good order and safe and secure custody in the prison? ICCPR 17, UDHR 12, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	1	9
Total Europe - %	62	62	13	4	38
Finland	X	X			

10.3.8.6 Media

3.8.6.1 Has your country adopted laws or policies entitling prisoners to be kept informed of current affairs and other developments outside the prison by reading newspapers and periodicals and by listening to radio or television broadcasts (subject to the maintenance of good order and safe and secure custody)? SMR 39, BOP 28, EPR 24.10

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	1	1
Total Europe - %	96	92	21	4	4
Finland	X	X			

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Analysis

International instrument compliance

All commitments relating to prisoner’s contact with the outside world, have been incorporated into Finnish law.

Situation in practice

After the 2008 visit, the CPT concluded that prisoners in general enjoyed good opportunities to maintain contact with their families and friends. Visits, calls, leave and ‘family camps’ were all available. However, a number of prisoners complained that visits could only take place in closed conditions – behind a Perspex screen – as a consequence of renewed efforts by prison authorities to prevent drugs being smuggled into the prisons. This was applied on a systematic basis, with no differentiation according to risk.

10.3.9 Work

This section focuses on work in prison. International legal instruments place a series of obligations on States in respect of work in prison. The questions in this section are based on these obligations.

3.9.1 Has your country adopted laws or policies requiring work to be incorporated as a positive aspect of prison regimes and prohibiting its use as a form of punishment? SMR 71(1), EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Finland	X	X			

3.9.2 Has your country adopted laws or policies requiring that prison work provided should prepare prisoners for worthwhile work on their release and facilitate their reintegration into the workforce? SMR 71(3) & (4), BPTP 8, EPR 26.3 & 26.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	18	7	0	4
Total Europe - %	83	75	29	0	17
Finland	X	X			

3.9.3 Has your country adopted laws or policies entitling prisoners to be remunerated in respect of prison work carried out? ICESCR 7(a), UDHR 23, SMR 76(1), BPTP 8, EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	1	1
Total Europe - %	96	92	13	4	4
Finland	X	X			

Analysis

International instrument compliance

All commitments relating to prison work arising from international legal instruments have been incorporated into Finnish law including the legally binding commitment entitling prisoners to be remunerated for work undertaken.

10.3.10 Exercise & recreation

This section focuses on facilities for exercise and recreation in prison. International legal instruments place a series of obligations on States in respect of exercise and recreational facilities. The questions in this section are based on these obligations.

3.10.1 Has your country adopted laws or policies ensuring that, subject to the constraints of the particular prison and the maintenance of good order and security, prisoners shall be entitled to spend as much time out of their cells as is possible? EPR 25(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Finland	X	X			

3.10.2 Has your country adopted laws or policies ensuring that prisoners receive at least one hours exercise each day in the open air, weather permitting? SMR 21, EPR 27.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	2	1
Total Europe - %	96	92	21	8	4
Finland	X	X			

3.10.3 Has your country adopted laws or policies ensuring that prisoners shall have access to a well-stocked library at least once a week (subject to the maintenance of good order and safe and secure custody)? R(89)12: 10, EPR 28.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	13	0	0	11
Total Europe - %	54	54	0	0	46
Finland	X	X			

Analysis

International instrument compliance

All commitments regarding exercise and recreation have been adopted.

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Situation in practice

A wide range of activities were available in the establishments visited by the CPT, including workshops, educational classes and programs to reduce recidivism. While a large proportion of inmates were able to take advantage of programs such as these at Riihimäki, the numbers elsewhere were less satisfactory. Indeed at Vantaa the staff lamented the fact that emphasis was placed on security rather than engaging with prisoners.

10.3.11 Education

This section focuses on facilities for education in prison. International legal instruments place a series of obligations on States in respect of prison education facilities. The questions in this section are based on these obligations.

3.11.1 Has your country adopted laws or policies requiring, as far as practicable, that prisoners have access to educational programmes that can meet their individual needs? ICESCR 13, UDHR 26, SMR 77(1), BPTP 6, R(89)12: 1, EPR 28.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	5	1	1
Total Europe - %	96	96	21	4	4
Finland	X	X			

3.11.2 Has your country adopted laws or policies requiring that education provided in prisons shall be integrated, in so far as is practicable, with national educational systems/programmes enabling prisoners to continue their education following their release? SMR 77(2), R(89)12: 16, EPR 28.7.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	5	0	3
Total Europe - %	87	75	21	0	13
Finland	X	X			

3.11.3 Has your country adopted laws or policies requiring that vocational training be available for those prisoners who are able to benefit from it, particularly young prisoners? SMR 71(5), BPTP 8, R(89)12: 9, EPR 26.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	20	5	0	2
Total Europe - %	92	83	21	0	8
Finland	X	X			

Analysis

International instrument compliance

All commitments relating to education have been incorporated into Finnish law including the legally binding commitment regarding access to education as set out in question 3.11.1.

Situation in practice

See 3.10 above.

10.3.12 Freedom of thought, conscience & religion

3.12.1 Has your country adopted laws or policies ensuring that prisoners have the opportunity to practice their religion and to follow their beliefs whilst in custody? ICCPR 18(1), CERD 5 (d) (vii), UDHR 18, SMR 42, BPTP 3, EPR 29.1 & 29.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	5	0	0
Total Europe - %	100	96	21	0	0
Finland	X	X			

Analysis

International instrument compliance

Commitment relating to freedom of thought, conscience and religion has been incorporated into Finnish law.

10.4 Health**10.4.1 Core principles**

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.1.1 Has your country adopted laws or policies requiring that primary healthcare services to meet the needs of all prisoners be provided in each prison to a standard equivalent to that available to the community in general? ICESCR 12(1), SMR 22(1), PME 1, R(98)7: 10, 11, 12 & 19, EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	6	0	1
Total Europe - %	96	92	25	0	4

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Finland	X	X			

4.1.2 Has your country adopted laws or policies to ensure that where a sick prisoner requires treatment that cannot be provided by the medical staff in the prison he/she shall be transferred to an appropriate hospital without undue delay? SMR 22(2), BPTP 9, R(98)7: 3, EPR 46.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	3	1	2
Total Europe - %	92	88	13	4	8
Finland	X	X			

4.1.3 Has your country adopted laws or policies requiring that medical records be created and accurately maintained on all prisoners and that such records be treated as confidential? BOP 26, R(98)7: 13, EPR 42.3.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	5	0	3
Total Europe - %	87	83	21	0	13
Finland					X

Analysis

International instrument compliance

All commitments relating to the core principles of prison health care have been incorporated into Finnish law including the legally binding commitment regarding the need to ensure that prisoners have access to health care of an equivalent standard to that available in the community in general.

Situation in practice

In spite of the commitments highlighted above, the provision of healthcare in Finnish prisons was limited by the chronic shortages of qualified staff. In all prisons visited, the CPT delegation reported an insufficiency of doctors and nurses. At Riihimaki prison, there were no regular visits from psychiatric staff.

10.4.2 Women and children

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations

4.2.1 Has your country adopted laws or policies to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor? CEDAW 12, SMR 23, BOP 5(2), R(98)7: 8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	7	3	0	17
Total Europe - %	29	29	13	0	71
Finland	X	X			

4.2.2 Has your country adopted laws or policies requiring that appropriate care be afforded to all pregnant prisoners and nursing mothers? CEDAW 12(2), SMR 23, R(98)7: 8 & 69, EPR 34.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Finland	X	X			

Analysis

International instrument compliance

Both commitments regarding the specific healthcare of women and children in prisons have been adopted. However, the SPOC indicates the lack of female prisoner's right to a female doctor, which is part of the provision set out in question 4.2.1.

10.4.3 Mental health care

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.3.1 Has your country adopted laws or policies requiring that prisoners with mental health difficulties be entitled to care appropriate to their circumstances, commensurate to the type of care available for people with similar mental health difficulties in the community? SMR 22(1), PPPMI 1 & 20, R(98)7:10, 11 & 52, R(2004)10: 35(1) & (2), EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	4	0	3
Total Europe - %	87	79	17	0	13
Finland	X	X			

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4.3.2 Has your country adopted laws or policies to ensure that prisoners who require psychiatric in-patient care are transferred to a suitable hospital facility of an appropriate security level without undue delay? SMR 22(2), PPPMI 9(1) & 20, R(98)7: 3 & 55, R(2004)10: 8, 9(1) & 35(1), EPR 12(1) & 46(1)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	3	0	6
Total Europe - %	75	71	13	0	25
Finland	X	X			

Analysis

International instrument compliance

Both commitments have been incorporated.

Situation in practice

According to the Commissioner, the psychiatric facility at Vantaa suffered from a lack of staff with no nurses available at night and no staff qualified to provide therapeutic and rehabilitative activities. In addition, the facility was reported to be somewhat severe and devoid of a personal touch. The CPT also strongly criticised the fact that agitated patients were not treated as such, but as prisoners refusing to obey orders. In an incident immediately before the arrival of the inspectors a patient had been shot with a laser while agitated. Only custodial staff, not medical staff, had the authority to place patients in involuntary seclusion.

10.4.4 Vulnerable prisoners

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.4.1 Has your country adopted laws or policies requiring that prisoners assessed as vulnerable be accommodated in areas of the prison which are most convenient and appropriate for their monitoring and treatment by the medical personnel and other relevant agencies? SMR 22(2) & 62, EPR 12.2, 39, 43.1, 46.2, 47.1 & 47.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	3	0	8
Total Europe - %	67	63	13	0	33
Finland	X	X			

4.4.2 Has your country adopted laws or policies requiring that prisoners assessed as being at risk of suicide/self-harm be continuously monitored by both medical and prison staff throughout the prisoner's time in custody and that records are kept of such monitoring? R(98)7: 58, EPR 47(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	5	0	14
Total Europe - %	42	29	21	0	58
Finland	X	X			

4.4.3 Has your country adopted laws or policies requiring that prisoners detained in a special cell be visited daily, and as frequently as is necessary by a doctor who shall, inter alia, monitor his/ her physical and mental health? SMR 25(1) & 32(3), R(98)7: 66, EPR 43.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Finland	X	X			

Analysis

International instrument compliance

Finland has adopted all commitments regarding the protection of vulnerable prisoners.

10.4.5 *Medical & health care personnel*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.5.1 Has your country adopted laws or policies to ensure that every prisoner has access to appropriately qualified medical personnel in the prison at all times? SMR 24, BOP 24, R(98)7:1, 2 & 4, EPR 41.2 & 41.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Finland	X	X			

Analysis

International instrument compliance

The commitment relating to access to appropriately qualified medical staff has been incorporated.

FINLAND

Situation in practice

The provision of healthcare in Finnish prisons was limited by the chronic shortages of qualified staff.

See 4.1 above.

10.4.6 Prisoners with addiction problems

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.6.1 Has your country adopted laws or policies to ensure that prisoners with addiction problems have access to appropriate treatment and support services, including those from external agencies? SMR 62, R(98)7: 7, 43, 44, 45, 46 & 47, EPR 42.3.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	8	0	3
Total Europe - %	88	79	33	0	13
Finland	X	X			

Analysis

International instrument compliance

This commitment has been incorporated within Finnish law.

10.4.7 Hunger strikes

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.7.1 Has your country adopted laws or policies forbidding the practice of forced feeding of hunger strikers? DOMHS, R(98)7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	37	21	21	0	63
Finland	X		X		

Analysis

International instrument compliance

Finland has complied with the commitment forbidding forced feeding of hunger strikers through (voluntary) policy.

10.5 Good order

10.5.1 General approaches

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.1.1 Has your country adopted laws or policies requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody? R(82)17: 8, EPR 51.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	0	9
Total Europe - %	62	62	13	0	38
Finland	X	X			

Analysis

International instrument compliance

Commitment incorporated within Finnish law.

Situation in practice

CPT noted that in the past inter-prisoner violence had been a troubling phenomenon in Finnish prisons. However, new approaches such as smaller detention units and better risk assessment were having a significant positive effect.

Prisoners seeking protection were not engaged in any purposeful activities and were often given a cell in the same unit as their aggressors. The CPT believed it would be severely damaging for 'fearful' prisoners to be kept alone, with an absence of physical or mental stimulation for such long periods.

10.5.2 Safety & Security

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.2.1 Has your country adopted laws or policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat? EPR 51.5, 53.1 & 53.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	63	63	17	0	37

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Finland	X	X			

Analysis

International instrument compliance

Commitment incorporated within Finnish law.

Situation in practice

The delegation heard complaints about prisoners left in the observation room who would frequently be left naked for several hours at a time and expressed serious misgivings over the use of stun guns.

Custodial staff in Finland had the power to detain those suspected of concealing unlawful substances in their bodies. They were placed in special detention for seven days under constant observation; including while making use of sanitary facilities. Prisoners interviewed found this treatment particularly degrading and it was recommended that a less intrusive regime need not compromise the search for evidence provided it was well designed.

10.5.3 Searching of prisoners

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.3.1 Has your country adopted laws or policies requiring that searches conducted on prisoners be carried out with due regard to the prisoner's dignity? ICCPR 10(1), BPTP 1, EPR 54.3 & 54.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	0	1
Total Europe - %	96	92	13	0	4
Finland	X	X			

5.3.2 Has your country adopted laws or policies stipulating that prisoners may only be searched by a staff member of the same gender? ICCPR 10(1), BPTP 1, EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	1	0	1
Total Europe - %	96	92	4	0	4
Finland	X	X			

5.3.3 Has your country adopted laws or policies stipulating that prisoners may only be subjected to a strip search in exceptional circumstances and for good reason and then, only in the presence of two officers in an appropriate place which ensures privacy? ICCPR 10(1), BPTP 1, EPR 54. 3, 54.4 & 54.6, *Van der Van v The Netherlands* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	3	1	13
Total Europe - %	66	54	13	4	54
Finland					X

Analysis

International instrument compliance

All commitments relating to the searching of prisoners have been incorporated within Finnish law.

10.5.4 Criminal acts, discipline & punishment

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.4.1 Has your country adopted laws or policies stipulating that all inquiries into breach of prison discipline or rules shall be conducted in an independent and impartial manner? ICCPR 14(1), UDHR 10, ECHR 6(1), *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	2	1	8
Total Europe - %	67	63	8	4	33
Finland	X	X			

5.4.2 Has your country adopted laws or policies requiring that all incidents of bullying/violence/threatening behaviour between prisoners, and any breach of discipline be reported to an officer of a higher rank, duly recorded and properly investigated? EPR 52.2 & 58

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	62	62	17	0	38
Finland					X

FINLAND

5.4.3 Has your country adopted laws or policies stipulating that when a prisoner has been charged with a disciplinary offence he/she shall be promptly informed of the allegation made against him/her in a language that he/she understands? ICCPR 14(3)(a), CERD 5(a), SMR 30(2), ECHR 6(3)(a), EPR 59.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	3	0	7
Total Europe - %	71	71	13	0	29
Finland	X	X			

5.4.4 Has your country adopted laws or policies stipulating if an inquiry is being conducted into a breach of prison discipline or rules the prisoner shall have adequate time to prepare his/her defence and/or to receive legal assistance? ICCPR 14(3)(b) & (d), SMR 30(2), ECHR 6(3)(b) & (c), EPR 59.b & 59.c, *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	2	0	9
Total Europe - %	62	58	8	0	38
Finland					X

5.4.5 Has your country adopted laws or policies stipulating that in any disciplinary proceedings prisoners must understand the proceedings and if necessary, appropriate interpretation facilities must be provided? ICCPR 14(3)(f), SMR 30(3), ECHR 6(3)(e), EPR 59.e

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Finland	X	X			

5.4.6 Has your country adopted laws or policies stipulating that no prison officer shall impose a punishment/penalty/deprivation on a prisoner without due process and in accordance with law and/or relevant rules or instruments? EPR 57.2.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	2	0	4
Total Europe - %	83	83	8	0	17
Finland	X	X			

5.4.7 Has your country adopted laws or policies stipulating that if a prisoner is found guilty of a disciplinary offence, he/she shall be entitled to exercise his/her right of appeal to an independent and impartial tribunal established by law? ICCPR 14(5), BOP 30(2), EPR 61

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	1	0	5
Total Europe - %	79	79	4	0	21
Finland	X	X			

5.4.8 Has your country adopted laws or policies requiring that when a prisoner is detained in any type of special cell (special observation/cladded/strip) he/she shall be regularly monitored by a prison officer? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	3	0	7
Total Europe - %	71	67	13	0	29
Finland	X	X			

5.4.9 Has your country adopted laws or policies requiring that a detailed record be maintained of, inter alia, the monitoring of such prisoners, their expressed requirements, actions taken in response to such requests and details of visits by officers or others to such prisoners? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	8	8	2	0	16
Total Europe - %	33	33	8	0	67
Finland					X

5.4.10 Has your country adopted laws or policies to ensure that prisoners in a special cell are able to contact a member of staff at all times, including during the night and that a staff member shall respond without delay? ICCPR 6(1), EPR 18.2.c & 52.4, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	4	0	63
Finland					X

Analysis

International instrument compliance

Finland has adopted all commitments arising from international legal instruments which relate to prison disciplinary procedures.

Situation in practice

Sanctions such as solitary confinement were not used excessively, either in frequency or duration and furthermore, the procedure contained appropriate safeguards. However, medical staff was made to confirm the prisoner was fit for punishment.

10.5.5 *Use of force/weapons*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

FINLAND

5.5.1 Has your country adopted laws or policies stipulating that members of staff will use force only when absolutely necessary and that any force used shall be proportionate to the situation? SMR 54(1), CCLEO 3, BPUF 4, EPR 64 & 6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	4	1	3
Total Europe - %	87	87	17	4	13
Finland	X	X			

Analysis

International instrument compliance

In common with the majority of the other EU Member States, Finland has adopted a commitment relating to the use of force and violence.

Situation in practice

See 5.2 above.

10.5.6 Requests & complaints

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.6.1 Has your country adopted laws or policies to ensure that prisoners have sufficient opportunity to make requests or complaints to the Governor of the prison or to any other competent authority? SMR 36(1) & (3), BOP 33(1), EPR 70.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	3	0	1
Total Europe - %	96	96	13	0	4
Finland	X	X			

5.6.2 Has your country adopted laws or policies establishing the right of a prisoner's legal advisor or to make a request or a complaint regarding that prisoner's treatment to the prison authorities, or other relevant authorities? BOP 33 (1) & (2), EPR 70.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	1	0	6
Total Europe - %	75	75	4	0	25
Finland	X	X			

5.6.3 Has your country adopted laws or policies requiring that all complaints be promptly investigated in accordance with law? SMR 36(4), BOP 33(4)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	2	0	7
Total Europe - %	71	67	8	0	29
Finland	X	X			

5.6.4 Has your country adopted laws or policies to ensure that where a request is denied or a complaint is rejected, the prisoner is informed promptly as to the reason(s) for such denial or rejection? SMR 36(4), BOP 33(4), EPR 70.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	2	1	7
Total Europe - %	71	63	8	4	29
Finland	X	X			

5.6.5 Has your country adopted laws or policies to ensure that prisoners are not disadvantaged for exercising their rights to make requests or complaints? BOP 33(4), EPR 70.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	3	0	13
Total Europe - %	46	42	13	0	54
Finland					X

5.6.6 Has your country adopted laws or policies requiring that complaints made by members of staff against other members of staff be properly recorded and investigated in accordance with the law? EPR 88 & 87.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	11	3	0	11
Total Europe - %	54	46	13	0	46
Finland	X	X			

Analysis

International instrument compliance

All commitments relating to requests and complaints have been incorporated.

10.6 Management & Staff

10.6.1 *Training of staff*

This section focuses on the staff training and prison management. International legal instruments place a series of obligations on States in respect of the training and management of prison staff. The questions in this section are based on these obligations.

FINLAND

6.1.1 Has your country adopted laws or policies to ensure that all prison staff receive appropriate training at regular intervals throughout their career? SMR 47(3), EPR 8, 76 & 81.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	14	7	0	5
Total Europe - %	79	58	29	0	21
Finland	X	X			

6.1.2 Has your country adopted laws or policies to ensure that members of staff who work with particular groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, receive training particular to their individual work? R(82)17: 10, R(2004)10: 12(1), EPR 81.3, ERJO 129

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	38	21	21	0	62
Finland	X		X		

Analysis

International instrument compliance

The commitment relating to specialized training is incorporated within Finnish policy.

10.7 Inspection & Monitoring

10.7.1 Governmental Inspection

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.1.1 Has your country adopted laws or policies requiring that prisons be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law? SMR 55, EPR 92, R(2004)10 36.1, ERJO 125, PPPMI 22

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	19	4	0	4
Total Europe - %	83	79	17	0	17
Finland	X		X		

Analysis

International instrument compliance

Commitment relating to governmental monitoring has been incorporated.

10.7.2 *Independent monitoring*

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.2.1 Has your country adopted laws or policies requiring that the conditions of detention and the treatment of prisoners shall be also monitored by an independent body or bodies, comprised of qualified experienced personnel, and whose findings shall be made public? OPCAT 3, 17, 18, 19, BOP 29.1, EPR 93.1, R(2004)10 36.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Finland	X	X			

7.2.2 Has your country adopted laws or policies granting such an independent body open access to places of detention, to prisoners and others whom it wishes to interview? OPCAT 19, 20, CPT 8,9 BOP 29.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	3	1	9
Total Europe - %	62	58	13	4	38
Finland					X

7.2.3 Has your country adopted laws or policies encouraging such independent bodies to cooperate with those international agencies that are legally entitled to visit prisons? CPT 2,7 EPR 93.2, ERJO 126.

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	6	1	0	17
Total Europe - %	29	25	4	0	71
Finland					X

Analysis

International instrument compliance

All commitments relating to independent monitoring have been incorporated within Finnish law.

Situation in practice

Finland has signed the signed the OP-CAT at 23 September 2003, but not ratified it. The delegation from the Committee criticised the frequency with which Finnish prisons were inspected by the Deputy Ombudsman. Sufficient resources should be available for the Ombudsman to visit (unannounced) places of detention.

10.8 Sentenced Prisoners

This section focuses on the particular provisions relating to convicted prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

8.1.1 Has your country adopted laws or policies requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan? ICCPR 10(3), SMR 80, EPR 6, 103.2 & 103.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	6	2	4
Total Europe - %	83	83	25	8	17
Finland	X	X			

8.1.2 Has your country adopted laws or policies requiring that a sentence management plan be prepared for each prisoner serving a sentence of 12 months or over as soon as practicable after their admission? It should provide for, inter alia, the welfare and health needs of the prisoner, training, employment or education needs he/she may have, and include a release plan for the prisoner. This plan shall be reviewed at regular intervals to take into account the changing circumstances of the prisoner. SMR 65, 66 & 69, R(2003)23: 3 & 9, EPR 6, 103 & 104.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	5	0	10
Total Europe - %	58	54	21	0	42
Finland	X	X			

Analysis

International instrument compliance

All commitments relating to the sentence objective have been incorporated.

Situation in practice

The legislative basis for penal detention in Finland had recently undergone a significant overhaul. The focus of the reforms was to enable prisons to focus on facilitating re-integration into society and preventing re-offending. In particular they entailed the setting up of assessment and allocation units and drawing up individualised plans for all prisoners sentenced to over six months.

In spite of these developments, the CPT delegation found the regime applicable to high security prisoners unsuitable for reducing violent behaviour, allowing safe progress towards release and preventing recidivism.

10.9 Juveniles

This section focuses on the particular provisions relating to juvenile prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

9.1.1 Has your country adopted laws or policies requiring that juveniles be detained separately from adult offenders? ICCPR 10(3), CRC 37(c), BR 26.3, RPJDL 29, EPR 11.1, ERJO 59.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	1	3
Total Europe - %	87	87	13	4	13
Finland	X	X			

9.1.2 Has your country adopted laws or policies to ensure that, subject to reasonable conditions and restrictions, a sentenced prisoner under the age of 18 shall be entitled to receive a minimum of two weekly visits? CRC 37(c), SMR 37, BOP 19, RPJDL 60, ERJO 83, 84, 85.1 & 85.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	6	3	0	15
Total Europe - %	37	25	13	0	63
Finland	X	X			

Analysis

International instrument compliance

Both commitments concerning juveniles have been incorporated.

Situation in practice

Notwithstanding the small number of juveniles that is currently detained, the CPT and the Committee on the rights of the child keep their reservations to the fact that juveniles are frequently detained together with adult prisoners.

10.10 Sentence Execution Modalities

This section of the questionnaire is designed to collate information on the differing methods by which custodial sentences and measures involving deprivation of liberty are enforced across EU Member States.

FINLAND

10.1.1. Which of the following modalities of prison sentence execution are provided for in the law of your country?

	Weekend detention	Evening detention	Daytime detention	Home detention	
				no electronic monitoring	electronic monitoring
EUROPE	9 = 38%	10 = 42%	3 = 13%	6 = 25%	14 = 58%
Finland					X

10.1.2. What is the maximum period for which home detention with electronic monitoring can be imposed?

	Under 12 months	12-24 months	25 months - 36 months	37 months - 50 months	More than 50 months
EUROPE	7 = 29%	4 = 17%	0 = 0%	1 = 4%	2 = 8%
Finland	X				

10.2.1. In which of the following locations can custodial sentences or measures involving deprivation of liberty be imposed?

	Penitentiary institution	Psychiatric institution	Detoxification institution	Educational institution	Home
EUROPE	24 = 100%	20 = 83%	10 = 42%	7 = 29%	12 = 50%
Finland	X	X			

Analysis

Sentence execution modalities

In Finland, the only additional sentence execution modality available is home detention coupled with electronic monitoring. Such electronic monitoring can be used for a period up to twelve months. Custodial sentences or measures involving deprivation of liberty can be imposed in relation to penitentiary institutions and psychiatric institutions. Finland intends to introduce a new sanction for offences, electronic monitoring. (in Finland called as "monitoring sentence".) The offender is placed under electronic monitoring and other forms of supervision outside of prison. In terms of severity, the new sanction is located between community service and unconditional imprisonment. Electronic monitoring can be imposed in place of an unconditional sentence of at most six months if the offender is deemed to be able to complete the sentence and if community service is not possible. For example earlier sentences of unconditional imprisonment, or the nature of the new offence, could be a bar to imposition of electronic monitoring. Continuous or serious violation of the conditions of electronic monitoring will lead to conversion of the sanction into unconditional imprisonment. The new sanction will be taken into use on 1st November 2011. Electronic monitoring could also be used in open prisons, which would enhance the effectiveness of supervision and security. The intention is to use an electronic bracelet or anklet also in the supervision of probationary freedom under supervision (early release).

10.11 Early release from prison, earned remission and suspension of sentence

10.11.1 Early release

Early release means the release of the offender before their prison term is finished. It is possible only while the sentence is still being served. Early release does not include the suspended enforcement of a penalty which is dealt with later in this questionnaire.

11.1.2.1. Has your country adopted laws and regulations under which prisoners are entitled to early release from prison ?

	Yes	No
EUROPE	24 = 100%	0 = 0%
Finland	X	

11.1.2.2. At what point in a prisoner's sentence do they become eligible for early release?

	One third of sentence or less	One third to one half of a sentence	One half to three quarters of a sentence	More than three quarters of a sentence	Other
EUROPE	2 = 8%	1 = 4%	7 = 29%	0 = 0%	14 = 58%
Finland					X

11.1.2.2. Does your country have different regulations for the early release of prisoners based on:

	A prisoner's nationality (non-EU citizen)	A prisoner's nationality (EU citizen)	The length of sentence imposed
EUROPE	Yes - 3 = 12% No - 21 = 88%	Yes - 3 = 12% No - 21 = 88%	Yes - 24 = 100% No - 0 = 0%
Finland	N	N	Y

11.1.2.3. Are provisions governing the early release of prisoners automatic or discretionary?

	Automatic (prisoners are automatically released at a certain point in their sentence)	Discretionary (prisoners are only released following assessment)
EUROPE	Yes - 7 = 29% No - 17 = 71%	Yes - 20 = 83% No - 4 = 17%
Finland	Y	N

FINLAND

11.1.2.4. What factors are taken into consideration when deciding whether a prisoner will be granted early release?

	The circum- stances surround- ing the crime	Prior criminal record	The offender's progress during imprisonment	Assessment as to whether the prisoner is likely to reoffend	Recom- mendation from the sentencing judge
EUROPE	Yes - 24 = 50% No - 24 = 50%	Yes - 15 = 63% No - 9 = 37%	Yes - 22 = 92% No - 2 = 8%	Yes - 19 = 79% No - 5 = 21%	Yes - 4 = 17% No - 20 = 83%
Finland	Y	Y	Y	Y	N

11.1.3.1. What forms of monitoring and conditions can be applied to prisoners' early release?

1. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
2. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
4. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
5. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
6. Electronic monitoring
7. Weekend/evening /daytime detention
8. Requirement containing limitations on leaving the country
9. Requirement to leave the country
10. Requirement to pay compensation
11. Requirement to undertake community service
12. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	Oth er
EUROPE	Y - 83 N - 17	Y - 8 N - 92	Y - 58 N - 42	Y - 62 N - 38	Y - 33 N - 77	Y - 25 N - 75	Y - 13 N - 87	Y - 42 N - 58	Y - 21 N - 79	Y - 29 N - 71	Y - 21 N - 79	9
Finland	Y	N	N	N	N	N	N	N	N	N	N	

10.11.2 Sentence reduction as a result of prison work

11.2.1.1. Can a prisoner earn remission on their sentence as a result of work carried out in prison?

	Yes	No
EUROPE	9= 38%	15 – 62%
Finland		X

10.11.3 Suspension of sentence enforcement

11.3.1. Does the national law of your country make provision for the further execution of a prison sentence to be suspended during the course of the sentence?

	Yes	No
EUROPE	10=42%	14= 58%
Finland		X

11.3.2.1. What factors are taken into consideration when deciding whether a prisoner will have the further execution of their prison sentence suspended?

1. The circumstances surrounding the crime
2. Prior criminal record
3. The offender's progress during imprisonment
4. Assessment as to whether the prisoner is likely to reoffend
5. Recommendation from the sentencing judge
6. Suitability of home circumstances
7. Information from victim(s)
8. Willingness of the prisoner to leave the country upon release
9. The prisoner will be deported upon release
10. Other – please specify

	1	2	3	4	5	6	7	8	9	Other
EUROPE	Y - 8 N - 92	Y - 13 N - 78	Y - 17 N - 83	Y - 21 N - 79	Y - 0 N - 100	Y - 4 N - 96	Y - 0 N - 100	Y - 0 N - 100	Y - 0 N - 100	21
Finland	N	N	N	N	N	N	N	N	N	

11.3.3.1. What forms of monitoring and conditions can be applied to prisoners whose further execution of a prison sentence has been suspended?

1. Unconditional supervision
2. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
4. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)

FINLAND

5. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
6. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
7. Electronic monitoring
8. Weekend/evening /daytime detention
9. Requirement containing limitations on leaving the country
10. Requirement to leave the country
11. Requirement to pay compensation
12. Requirement to undertake community service
13. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	12	Other
EUROPE	Y - 4 N - 96	Y - 38 N - 62	Y - 4 N - 96	Y - 29 N - 71	Y - 17 N - 83	Y - 17 N - 83	Y - 4 N - 96	Y - 4 N - 96	Y - 21 N - 79	Y - 0 N - 100	Y - 17 N - 83	Y - 4 N - 96	2
Finland	N	N	N	N	N	N	N	N	N	N	N	N	

Analysis

Early release from prison, earned remission and suspension of sentence

In common with all EU countries, Finland has adopted measures under which prisoners are entitled to early release from prison. The period of time after which prisoners become eligible for early release differs and is entirely based on the length of sentence imposed. The Finnish early release system is based on automatic provisions. The provisions on release on parole are written in the Penal Code, Chapter 2 c. The Penal Code stipulates that a prisoner shall be released on parole having served two thirds of the sentence. First-timers shall be released having served half the sentence. All those having committed an offence before their 21st birthday shall be released having served half the sentence. If that kind of juvenile is first-timer (= not recidivist) she or he shall be released after one third of the sentence is served. Also life prisoners have a possibility to be released on parole in Finland. The question shall as a rule be taken under consideration when a life prisoner has served twelve years of the sentence. If the crime is committed before 21 of age the question can be taken into consideration after 9 years is served. The Helsinki Court of Appeal decides on the matter. If a prisoner is not released on parole (due to the nature of the crime or dangerousness), the question of release shall be reconsidered at intervals of at least one year. The average time of life imprisonment is 14-15 year. The Penal code includes also a system of "probationary liberty under supervision". A prisoner can be released to probationary liberty under supervision at most six months before "automatic" release on parole (see above). Probationary liberty must always be based on the sentence plan. If the conditions are violated, the probationary liberty can be revoked. In that case the prisoner shall come back in the prison. Supervision is carried out with technical equipment such as gsm-telephone. The meaning is that in the future rf-based system will be used.

Decisions on a prisoner's early release are based on five of the ten criteria identified in the survey. Once a prisoner is granted early release, only one form of monitoring or condition is normally attached, namely compulsory supervision with a limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body

having responsibility for sentenced persons). No possibility exists in Finnish law for prisoners to be granted remission as a result of work carried out in prison. Neither is provision made for the further execution of a prison sentence to be suspended during the course of the sentence.

Appendix

1. Act on the Supervision of Conditional Release
2. Chapter 2c of the Penal Code
3. The Constitution of Finland, 11 June 1999
4. Imprisonment Act (767/2005)
5. Remand Imprisonment Act (768/2005)

11 France

11.1 Introduction

The questionnaire was completed by Aurelie Valente. She is an Auditrice de justice in the Ecole nationale de la magistrature.

France has been visited twice by the Committee for the Prevention of Torture in the last five years (2006 en 2010; the report of the latter visit is unpublished at moment of ending this research) and was the subject of reports from the European Commissioner for Human Rights in 2006 and 2008 and the UN Committee Against Torture in 2010. Additional information was sourced from the 2009 UNHCR Country Report on Human Rights Practices for France (drawing on source material provided by the US Department of State), the 2009, 2008 and 2007 Annual Reports for France compiled by Amnesty International and the International Centre for Prison Studies. All of these reports have been used as a basis for information on the situation in practice.

Country	FRANCE
Ministry responsible	Ministry of Justice
Prison administration	Direction de l'Administration Pénitentiaire
Contact address	DAP/SCERI 13 Place Vendome, 75042 Paris, France
Telephone/fax/website	tel: +33 1 49 96 28 15 / fax: +33 1 49 96 28 80 web: www.justice.gouv.fr/justorg/justorg10.htm
Head of prison administration (and title)	Jean-Amédée Lathoud Directeur de l'Administration Penitentiaire
Prison population total (including pre-trial detainees / remand prisoners)	66,975 at 1.1.2011 (national prison administration including French overseas departments and territories)
Prison population rate (per 100,000 of national population)	102 based on an estimated national population of 65.8 million in metropolitan France at January 2011 (from INSEE – French national statistics institute)
Pre-trial detainees / remand prisoners (percentage of prison population)	23.9% (1.1.2011)
Female prisoners (percentage of prison population)	3.4% (1.1.2011)
Juveniles / minors / young prisoners incl. definition (percentage of prison population)	1.1% (1.1.2011 - under 18)
Foreign prisoners (percentage of prison population)	19.2% (1.7.2007)
Number of establishments / institutions	191 -2010
Official capacity of prison system	56,358 (1.1.2011 - capacité operationelle, metropolitan France)
Occupancy level (based on	107.4%

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official capacity)	(1.1.2011)		
Recent prison population trend (year, prison population total, prison population rate)	1992	48,113 in metropolitan France	84
	1995	51,623 in metropolitan France	89
	1998	50,744 in metropolitan France	86
	2001	44,618 in metropolitan France	75
	2004	55,355 in metropolitan France	91
	2007	60,201 in metropolitan France	97

11.2 Overarching Principles

This section focuses on the overarching principles governing the management of prisons and the treatment of prisoners. International legal instruments place a series of obligations on States in respect of the management of prisons and the treatment of prisoners. The questions in this section are based on these obligations.

2.1.1 Has your country adopted laws or policies specifically requiring that prisoners must be treated with respect for their human rights? ICCPR 10(1), UDHR 1, BOP 1, BPTP 1, EPR 1 & 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	19	7	1	2
Total Europe – %	92	79	29	4	8
France	X	X	X		

2.1.2 Has your country adopted laws or policies specifically requiring prisons to be managed in accordance with human rights standards? EPR 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	21	18	4	3	3
Total Europe – %	88	75	16	13	12
France	X	X			

2.1.3 Has your country adopted laws or policies explicitly prohibiting practices that could constitute torture, inhumane or degrading treatment or punishment of prisoners? ICCPR 7, BOP 6, ECHR 3, *Kalashnikov v Russia* (ECtHR 2003)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	21	1	3	2
Total Europe – %	92	88	4	12	8
France	X	X			

2.1.4 Has your country adopted laws or policies specifically requiring that prisoners be provided with a range of activities during their sentence (for example - educational, recreational, work/training and welfare programmes)? SMR 77 & 78, BOP 28, BPTP 6 & 8, EPR 25

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	0	0
Total Europe - %	100	96	29	0	0
France	X	X	X		

Analysis

International instrument compliance

In common with the majority of other EU Member States, France has adopted all of the commitments above concerning the affirmation of human rights in both legally binding instruments and policies. This is in accordance with the legally binding international provisions.

11.3 Conditions Of Imprisonment

11.3.1 Admission

This section focuses on the treatment of prisoners upon their admission to prison. International legal instruments place a series of obligations on States in respect of prisoner admission. The questions in this section are based on these obligations.

3.1.1 Has your country adopted laws or policies requiring that all prisoner details are recorded at the time of committal including, inter alia, details of any visible injuries and the prisoner's personal belongings? SMR 7(1), EPR 15.1, 31.1, 31.2 & 31.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	7	1	7
Total Europe - %	71	63	29	4	29
France	X	X			

3.1.2 Has your country adopted laws or policies requiring that upon admission, each prisoner is given a booklet outlining his/her rights, duties, obligations and privileges and the rules and regulations governing the prison which apply to the individual prisoner? The booklet shall be written in a language that the prisoner understands. CERD 7, SMR 35, BOP 13, EPR 30

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	6	1	6
Total Europe - %	63	54	25	4	25
France	X	X	X		

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3.1.3 Has your country adopted laws or policies requiring that upon admission, every prisoner shall undergo a medical examination either by a nurse reporting to a doctor or by a doctor? SMR 24, BOP 24, R(98)7: 1, EPR 42.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	20	6	1	1
Total Europe - %	96	83	25	4	4
France	X	X			

3.1.4 Has your country adopted laws or policies requiring the doctor/nurse to pay particular attention to the detection of injuries, mental illnesses, of withdrawal symptoms resulting from the use of drugs, medication or alcohol, of contagious and chronic conditions, and, to assess the prisoner's suicide/self-harm risk? SMR 24, R(98)7: 1, EPR 42.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	10	8	1	9
Total Europe - %	62	42	33	4	38
France	X	X			

3.1.5 Has your country adopted laws or policies requiring injuries detected during such an examination to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner? EPR 15.1.e & 42.3.c

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	5	4	1	17
Total Europe - %	29	21	17	4	71
France					X

3.1.6 Has your country adopted laws or policies requiring upon admission that each prisoner be assessed to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves? ICCPR 6, UDHR 3, ECHR 2, R(2003)23: 12, EPR 52.1, *Keenan v The United Kingdom* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	5	1	13
Total Europe - %	46	42	21	4	54
France					X

3.1.7 Has your country adopted laws or policies requiring that such risks be managed for the duration of the prisoner's sentence? ICCPR 6, UDHR 3, ECHR 2, EPR 52.2, *Osman v The United Kingdom* (ECtHR 2000)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	3	1	12
Total Europe - %	50	50	13	4	50
France					X

Analysis

International instrument compliance

France has adopted all but two laws based on legally binding international instruments concerning admission, namely the commitment requiring upon admission that each prisoner be assessed to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves and the commitment stipulating that such risks be managed for the duration of the prisoner's sentence.

11.3.2 Allocation

This section focuses on the allocation of prisoners to a particular prison. International legal instruments place a series of obligations on States in respect of prisoner allocation. The question in this section is based on these obligations.

3.2.1 Has your country adopted laws or policies requiring prisoners to be assigned to a prison as near to their home area as possible in order to maintain relationships with families and friends, subject to the maintenance of good order and security? BOP 20, EPR 17.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	15	6	1	5
Total Europe - %	79	63	25	4	21
France	X	X			

Analysis

International instrument compliance

In accordance with the majority of the other EU Member States, France has adopted a law requiring prisoners to be assigned to a prison as near to their home area as possible in order to maintain relationships with families and friends, subject to the maintenance of good order and security.

11.3.3 Accommodation

This section focuses on the living conditions of prisoners. International legal instruments place a series of obligations on States in respect of the accommodation of prisoners. The questions in this section are based on these obligations.

3.3.1 Has your country adopted laws or policies requiring that where possible prisoners should have individual cells to sleep in? SMR 9(1), EPR 18.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	3	0	10
Total Europe - %	58	54	13	0	42
France	X	X			

FRANCE

3.3.2. Has your country adopted laws or policies stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation? ICCPR 6(1), UDHR 3, SMR 9(2), ECHR 2, EPR 18.6 & 18.7, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	4	0	14
Total Europe - %	42	29	17	0	58
France					X

3.3.3 Has your country adopted laws or policies requiring that the size of a cell must be suitable for its purpose? The suitability of the cell size should be dependent on the number of hours spent in the cell, the number of prisoners accommodated in the cell and the availability of in-cell-sanitation facilities that ensure privacy. SMR 9, 10, 11 & 12, EPR 18 & 19.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	8	2	1	15
Total Europe - %	37	33	8	4	63
France					X

3.3.4 Has your country adopted laws or policies requiring that cells should not be used to accommodate more prisoners than the intended design capacity, unless justified in exceptional circumstances? SMR 9(1) & 10, EPR 18.1, 18.3, 18.4 & 18.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
France					X

3.3.5 Has your country adopted laws or policies requiring that cells be suitable for accommodating prisoners in respect of size, lighting, heating, ventilation and fittings? SMR 9, 10, 11, 12 & 13, EPR 18

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	16	4	0	6
Total Europe - %	75	67	17	0	25
France					X

3.3.6 Has your country adopted laws or policies requiring that all prisoners have in-cell access to a working alarm bell that attracts the attention of staff at all times? ICCPR 6(1), UDHR 3, ECHR 2, EPR 18.2.c & 52.4, IPR 18(4), *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	13	2	0	4
Total Europe - %	83	54	8	0	17
France					X

Analysis

International instrument compliance

As regards to all aspects surrounding accommodation, France has only adopted a law ensuring prisoners should have individual cells to sleep in if possible. As France has not adopted any other national legal safeguards and two laws abiding to legally binding international instruments have not been adopted by France, the devastating problem of overcrowding as mentioned more elaborately when describing the situation in practice, cannot be tackled by legal means.

Situation in practice

The UNHCR reported that prison conditions generally met international standards although overcrowding continued to be a problem in some institutions. As of December 2009, the Ministry of Justice reported that 61,800 persons were incarcerated in the country's 185 prisons, exceeding prison capacity by almost 7,500 inmates. To reduce overcrowding the government opened seven new prisons and created an additional 5,000 places during 2009, with a long-term goal of gradually reaching a national capacity of 80,000 beds by 2017. That overcrowding has been a problem of long standing within the French prison system may be evidenced by reference to the European Commissioner of Human Rights' 2006 report which highlighted that the problem was particularly concentrated in mixed population short stay establishments (maisons d'arrêt) where there is no upper population limit as opposed to establishments for sentenced prisoners (établissements pour peine). In his 2009 report, the Commissioner found that the overcrowding position had in fact worsened and emphasised that as the number of staff in each prison depends on its theoretical maximum capacity, every instance of overcrowding automatically meant a shortage of warders, social workers and administrative staff. This in turn resulted in greater loss of privacy, deteriorating hygiene conditions owing to reduced shower access, longer waits for medical appointments and problems relating to the management of visiting rooms. Tensions and violence both between warders and inmates and among inmates had also become more frequent.

The International Centre for Prison Studies reported that the prison system in France was operating at 107% of design capacity as of January 2011.

In his 2009 report the European Commissioner of Human Rights described how in order to remedy the problem of overcrowding, the French authorities intend to pursue a "policy of sentence adjustment". The increase in adjusted sentences has been facilitated by the introduction of various mechanisms, including the establishment of the Regional Conference on Sentence Adjustment in June 2007. As of 1 May 2008, 5,920 prisoners were serving adjusted sentences, or 11.8% of all sentenced prisoners. Most of these prisoners were placed under electronic surveillance. The number of people eligible for semi-custodial arrangements had also increased but remains limited. The impact of both programs was impeded by the absence of social work support.

11.3.4 Hygiene & Sanitation

This section focuses on the hygiene and sanitation facilities for prisoners. International legal instruments place a series of obligations on States in respect of hygiene and sanitation. The questions in this section are based on these obligations.

FRANCE

3.4.1 Has your country adopted laws or policies to ensure that all prisoners have access to adequate and appropriate sanitary and washing facilities that respect their privacy? SMR 12 & 13, EPR 19.3, 19.4 & 19.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	2	0	10
Total Europe - %	58	58	8	0	42
France					X

3.4.2 Has your country adopted laws or policies requiring that all In-cell sanitation facilities must be adequately screened? ICCPR 10(1), SMR 12, BOP 1, BPTP 1, ECHR 3, EPR 19.3, *Peers v Greece* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	4	1	9
Total Europe - %	62	54	17	4	38
France					X

Analysis

International instrument compliance

France has not adopted any national laws or policies concerning hygiene and sanitation facilities for prisoners as opposed to more than half of the other EU Member States. It has also not abided by the legally binding international regulation on screening of in-well sanitation. Consequently the situation in practice shows various shortcomings in this area.

Situation in practice

The European Commissioner for Human Rights also highlighted significant shortcomings in relation to other aspects of material detention conditions. Unsanitary cells, toilets and washing facilities in a bad state of repair and poor-quality bed linen and blankets were found to be virtually constant features. Significantly, in March 2008 a French court found against the state in on the grounds of “degrading” detention conditions deeming the state liable for detention conditions that constituted “a breach of health and hygiene requirements” and were contrary to “respect for human dignity”. By

2008, the prison authorities acknowledged to the Commissioner that the European Prison Rules on minimum hygiene requirements were not being fully applied owing to the age and dilapidated state of some prisons and that accordingly, prisoners in multi-occupancy cells still had to use the toilet in full view of their fellow inmates.

11.3.5 Clothing & Bedding

This section focuses on clothing and bedding provisions for prisoners. International legal instruments place a series of obligations on States in respect of the provision of clothing and bedding. The questions in this section are based on these obligations.

3.5.1 Has your country adopted laws or policies to ensure that prisoners are provided with clothing that is suitable for the climate, is not degrading or humiliating and is age appropriate? SMR 17(1), EPR 20.1 & 20.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	10	0	7
Total Europe - %	71	71	42	0	29
France	X	X			

3.5.2 Has your country adopted laws or policies requiring each prisoner to be provided with a bed and appropriate bedding and to ensure that all bedding is in good condition, is changed regularly and laundered? SMR 19, EPR 21

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	2	0	6
Total Europe - %	75	71	8	0	25
France	X	X			

Analysis

International instrument compliance

In common with the majority of EU Member States, France has adopted both laws and policies designed to ensure that prisoners have the right to wear appropriate clothing and be provided with a bed and appropriate bedding.

However, with the current situation of overcrowding, major shortcomings have been noted.

Situation in practice

See 11.3.4 above.

11.3.6 Nutrition

This section focuses on the nutrition requirements of prisoners. International legal instruments place a series of obligations on States in respect of prisoner's nutrition. The questions in this section are based on these obligations.

3.6.1 Has your country adopted laws or policies to ensure that prisoners are provided with a sufficient quantity of nutritious food taking into account their health, physical condition, special dietary requirements, religion and culture? SMR 20(1), EPR 22.1 & 22.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	5	1	4
Total Europe - %	83	83	21	4	17
France	X	X			

FRANCE

3.6.2 Has your country adopted laws or policies to ensure that prisoners have access to clean drinking water? SMR 20(2), EPR 22.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	16	5	1	5
Total Europe - %	79	67	21	4	21
France	X		X		

Analysis

International instrument compliance

In common with the majority of other EU Member States, France has adopted both commitments ensuring adequate nutrition requirements for prisoners.

11.3.7 Legal advice, info & rights

This section focuses on the entitlement of prisoners to legal advice and information. International legal instruments place a series of obligations on States in respect of access to legal advice and information. The questions in this section are based on these obligations.

3.7.1 Has your country adopted laws or policies requiring that adequate time and facilities be provided to prisoners to receive professional visits from their legal advisers? BOP 18(2), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	4	1	2
Total Europe - %	92	92	17	4	8
France	X	X	X		

3.7.2 Has your country adopted laws or policies establishing the right of prisoners to communicate with their legal advisers by telephone and by letter? BOP 18(1), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	3	3	3
Total Europe - %	87	83	13	13	13
France	X	X			

3.7.3 Has your country adopted laws or policies requiring that communications between a prisoner and his/her legal adviser remain confidential and can only be restricted by law or judicial authority? ICCPR 17, BOP 18(3) & (4), ECHR 8, EPR 23.4 & 23.5, *Campbell v The United Kingdom* (ECtHR 1992)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	3	1	2
Total Europe - %	92	92	13	4	8
France	X	X			

Analysis

International instrument compliance

France has adopted all three laws or policies concerning the entitlement of prisoners to legal advice and information, including the question requiring that communications between a prisoner and his/her legal adviser remain confidential and can only be restricted by law or judicial authority, which is based on legally binding international instruments.

11.3.8 Contact with the outside world*11.3.8.1 Visits*

This section focuses on the entitlement of prisoners to maintain contacts with the outside world. International legal instruments place a series of obligations on states in respect of prisoners' on-going contact with the outside world. The questions in this section are based on these obligations.

3.8.1.1 Has your country adopted laws or policies establishing the right of prisoners to communicate with their family and friends by correspondence and by receiving visits, subject to reasonable conditions/restrictions imposed by law or another authority? ICCPR 23(1), UDHR 16(3), SMR 37, BOP 15 & 19, EPR 24.1 & 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	2	0
Total Europe - %	100	96	29	8	0
France	X	X			

3.8.1.2 Has your country adopted laws or policies requiring that visits take place in an environment that enables prisoners to maintain and develop family and other relationships in as normal a manner as is possible subject to the maintenance of good order and security in the prison? SMR 79, EPR 24.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	6	0	2
Total Europe - %	92	88	25	0	8
France	X	X	X		

11.3.8.2 Searching of visitors

3.8.2.1 Has your country adopted laws or policies requiring that searching procedures for visitors be undertaken in a manner that respects a person's dignity? SMR 27, BOP 19, EPR 54.1.c, 54.3, 54.4 & 54.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	4	0	7
Total Europe - %	71	63	17	0	29
France					X

FRANCE

3.8.2.2 Has your country adopted laws or policies requiring that prison officers only be permitted to search visitors of the same gender? EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	9	1	0	12
Total Europe - %	50	38	4	0	50
France					X

11.3.8.3 *Restrictions on visits*

3.8.3.1 Has your country adopted laws or policies requiring the authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party(ies) and to review these circumstances on a regular basis? SMR 27, 79 & 80, EPR 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	0	0	63
France					X

3.8.3.2 Has your country adopted laws or policies preventing the withdrawal of contact for female prisoners with their children as a disciplinary action except in exceptional circumstances? SMR 27, 79 & 80, EPR 24.2 & 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	2	0	12
Total Europe - %	50	50	8	0	50
France					X

11.3.8.4 *Death, illness & transfer*

3.8.4.1 Has your country adopted laws or policies requiring that prisoners be informed of the death/serious illness of a close relative/ friend without delay? SMR 44(2), EPR 24.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	2	0	13
Total Europe - %	46	42	8	0	54
France					X

3.8.4.2 Has your country adopted laws or policies allowing a prisoner to leave the prison to visit a sick relative/friend, attend a funeral or for other humanitarian reasons? SMR 44(2), EPR 24.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
France	X	X			

3.8.4.3 Has your country adopted laws or policies ensuring that prisoners are allowed to inform their families or other nominated persons without delay of their imprisonment, transfer to another institution or of any serious illness that they may suffer from? SMR 44(1) & (3), BOP 16(1), EPR 24.8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
France	X	X			

3.8.4.4 Has your country adopted laws or policies requiring the prison authorities to immediately inform the spouse or the nearest relative to the prisoner (or any other person previously nominated), if the prisoner dies in custody, is removed to a hospital or suffers a serious injury/illness? SMR 44(1), EPR 24.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	3	0	6
Total Europe - %	75	75	13	0	25
France	X	X			

11.3.8.5 Telephone and letters

3.8.5.1 Has your country adopted laws or policies preventing the monitoring or censoring of telephone calls unless the prisoner or the recipient of the call is informed of the possibility of such monitoring or, such monitoring has been agreed by any lawful authority? ICCPR 17, UDHR 12, SMR 37, BOP 19, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	3	1	5
Total Europe - %	79	79	13	4	21
France	X	X	X		

FRANCE

3.8.5.2 Has your country adopted laws or policies permitting prisoners to send a minimum of 7 letters a week free of charge and more if he/she can afford it, and to receive as many letters as are sent to him/her? SMR 37, BOP 19, EPR 24.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	11	1	0	12
Total Europe - %	50	46	4	0	50
France					X

3.8.5.3 Has your country adopted laws or policies preventing the prison authorities from opening prisoners' private correspondence subject to the maintenance of good order and safe and secure custody in the prison? ICCPR 17, UDHR 12, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	1	9
Total Europe - %	62	62	13	4	38
France	X	X	X		

11.3.8.6 *Media*

3.8.6.1 Has your country adopted laws or policies entitling prisoners to be kept informed of current affairs and other developments outside the prison by reading newspapers and periodicals and by listening to radio or television broadcasts (subject to the maintenance of good order and safe and secure custody)? SMR 39, BOP 28, EPR 24.10

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	1	1
Total Europe - %	96	92	21	4	4
France	X	X	X		

Analysis

International instrument compliance

On the issue of contact with the outside world, France has adopted laws regarding all questions based on legally binding international instruments. Nonetheless, the situation in practice calls attention to deficiencies in visiting conditions.

Situation in practice

The European Commissioner for Human Rights criticised visiting conditions in a number of the prisons visited in 2006 describing facilities that offered prisoners and their families little or no privacy. Emphasis was also placed on the high prices charged to prisoners for rental of TV's and food which were considerably higher than those in the community.

11.3.9 Work

This section focuses on work in prison. International legal instruments place a series of obligations on States in respect of work in prison. The questions in this section are based on these obligations.

3.9.1 Has your country adopted laws or policies requiring work to be incorporated as a positive aspect of prison regimes and prohibiting its use as a form of punishment? SMR 71(1), EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
France					X

3.9.2 Has your country adopted laws or policies requiring that prison work provided should prepare prisoners for worthwhile work on their release and facilitate their reintegration into the workforce? SMR 71(3) & (4), BPTP 8, EPR 26.3 & 26.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	18	7	0	4
Total Europe - %	83	75	29	0	17
France	X	X	X		

3.9.3 Has your country adopted laws or policies entitling prisoners to be remunerated in respect of prison work carried out? ICESCR 7(a), UDHR 23, SMR 76(1), BPTP 8, EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	1	1
Total Europe - %	96	92	13	4	4
France	X	X			

Analysis

International instrument compliance

France has not adopted a commitment requiring work to be incorporated as a positive aspect of prison regimes and prohibiting its use as a form of punishment in contrast to the majority of the other EU Member States. However, it has adopted laws or policies requiring that prison work provided should prepare prisoners for worthwhile work on their release and facilitate their reintegration into the workforce and an internationally legally binding regulation entitling prisoners to be remunerated in respect of prison work carried out.

11.3.10 Exercise & recreation

This section focuses on facilities for exercise and recreation in prison. International legal instruments place a series of obligations on States in respect of exercise and recreational facilities. The questions in this section are based on these obligations.

FRANCE

3.10.1 Has your country adopted laws or policies ensuring that, subject to the constraints of the particular prison and the maintenance of good order and security, prisoners shall be entitled to spend as much time out of their cells as is possible? EPR 25(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
France	X	X	X		

3.10.2 Has your country adopted laws or policies ensuring that prisoners receive at least one hours exercise each day in the open air, weather permitting? SMR 21, EPR 27.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	2	1
Total Europe - %	96	92	21	8	4
France					X

3.10.3 Has your country adopted laws or policies ensuring that prisoners shall have access to a well-stocked library at least once a week (subject to the maintenance of good order and safe and secure custody)? R(89)12: 10, EPR 28.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	13	0	0	11
Total Europe - %	54	54	0	0	46
France					X

Analysis

International instrument compliance

France has adopted laws or policies on facilities for exercise and recreation in prison. However, in contrast to the majority of the other EU Member States, it has not adopted a commitment ensuring that prisoners receive at least one hours exercise each day in the open air.

11.3.11 Education

This section focuses on facilities for education in prison. International legal instruments place a series of obligations on States in respect of prison education facilities. The questions in this section are based on these obligations.

3.11.1 Has your country adopted laws or policies requiring, as far as practicable, that prisoners have access to educational programmes that can meet their individual needs? ICESCR 13, UDHR 26, SMR 77(1), BPTP 6, R(89)12: 1, EPR 28.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	5	1	1
Total Europe - %	96	96	21	4	4
France	X	X	X		

3.11.2 Has your country adopted laws or policies requiring that education provided in prisons shall be integrated, in so far as is practicable, with national educational systems/programmes enabling prisoners to continue their education following their release? SMR 77(2), R(89)12: 16, EPR 28.7.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	5	0	3
Total Europe - %	87	75	21	0	13
France	X	X	X		

3.11.3 Has your country adopted laws or policies requiring that vocational training be available for those prisoners who are able to benefit from it, particularly young prisoners? SMR 71(5), BPTP 8, R(89)12: 9, EPR 26.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	20	5	0	2
Total Europe - %	92	83	21	0	8
France	X	X			

Analysis

International instrument compliance

In common with the majority of the other EU Member States, France has adopted all three commitments above on education in prison, including the internationally legally binding regulation requiring that prisoners have access to educational programs that can meet their individual needs.

11.3.12 Freedom of thought, conscience & religion

3.12.1 Has your country adopted laws or policies ensuring that prisoners have the opportunity to practice their religion and to follow their beliefs whilst in custody? ICCPR 18(1), CERD 5 (d) (vii), UDHR 18, SMR 42, BPTP 3, EPR 29.1 & 29.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	5	0	0
Total Europe - %	100	96	21	0	0
France	X	X	X		

FRANCE

Analysis

International instrument compliance

In common with all other EU Member States and abiding by international legally binding rules, France has adopted a law and a policy ensuring the prisoners' rights to freedom of thought, conscience and religion.

11.4 Health

11.4.1 Core principles

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.1.1 Has your country adopted laws or policies requiring that primary healthcare services to meet the needs of all prisoners be provided in each prison to a standard equivalent to that available to the community in general? ICESCR 12(1), SMR 22(1), PME 1, R(98)7: 10, 11, 12 & 19, EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	6	0	1
Total Europe - %	96	92	25	0	4
France	X	X	X		

4.1.2 Has your country adopted laws or policies to ensure that where a sick prisoner requires treatment that cannot be provided by the medical staff in the prison he/she shall be transferred to an appropriate hospital without undue delay? SMR 22(2), BPTP 9, R(98)7: 3, EPR 46.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	3	1	2
Total Europe - %	92	88	13	4	8
France	X	X			

4.1.3 Has your country adopted laws or policies requiring that medical records be created and accurately maintained on all prisoners and that such records be treated as confidential? BOP 26, R(98)7: 13, EPR 42.3.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	5	0	3
Total Europe - %	87	83	21	0	13
France					X

Analysis

International instrument compliance

France has complied to all of the commitments on general health care in prisons, including one legally binding international one, requiring that primary healthcare services to meet the needs of all prisoners be provided in each prison to a standard equivalent to that available to the community in general. However, there are shortcomings to be found according to the situation in practice. The SPOC mentions the government's plans to improve this situation during the next four years.

Situation in practice

Despite the assimilation of prison health care within the general French health care system, the European Commissioner of Human Rights highlighted that there were significant discrepancies in the standards of generic health care provided within the French prison system with some in-house facilities having sufficient resources to carry out 95% of treatments on the spot whilst others were housed in run-down and dilapidated accommodation. The routine absence of doctors and nurses during weekends was criticized and the Commissioner also emphasized that poor material conditions of detention were impacting on the health of prisoners and consequently on the level of demand for health service interventions. He also noted that prisoners' external hospital appointments took place under difficult conditions, mainly because handcuffs have to be worn, and prison staff were present for virtually the whole time.

11.4.2 Women and children

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations

4.2.1 Has your country adopted laws or policies to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor? CEDAW 12, SMR 23, BOP 5(2), R(98)7: 8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	7	3	0	17
Total Europe - %	29	29	13	0	71
France					X

4.2.2 Has your country adopted laws or policies requiring that appropriate care be afforded to all pregnant prisoners and nursing mothers? CEDAW 12(2), SMR 23, R(98)7: 8 & 69, EPR 34.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
France	X	X	X		

FRANCE

Analysis

International instrument compliance

France has not passed legislation to ensure that the necessary facilities required for women’s healthcare are available in women’s prisons and that women prisoners have access to a female doctor, although this legislation is based on legally binding international instruments. Commitments to ensure appropriate care for all pregnant en nursing prisoners have been adopted.

11.4.3 Mental health care

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.3.1 Has your country adopted laws or policies requiring that prisoners with mental health difficulties be entitled to care appropriate to their circumstances, commensurate to the type of care available for people with similar mental health difficulties in the community? SMR 22(1), PPPMI 1 & 20, R(98)7:10, 11 & 52, R(2004)10: 35(1) & (2), EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	4	0	3
Total Europe - %	87	79	17	0	13
France	X	X			

4.3.2 Has your country adopted laws or policies to ensure that prisoners who require psychiatric in-patient care are transferred to a suitable hospital facility of an appropriate security level without undue delay? SMR 22(2), PPPMI 9(1) & 20, R(98)7: 3 & 55, R(2004)10: 8, 9(1) & 35(1), EPR 12(1) & 46(1)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	3	0	6
Total Europe - %	75	71	13	0	25
France	X	X			

Analysis

International instrument compliance

Both commitments regarding mental health care in prison have been incorporated in French law.

Situation in practice

The Commissioner also commented on the high number of people in the French prison system with a psychiatric illness with 30% of inmates in some prisons visited in 2006 under somatic or psychiatric treatment. In response to these problems, the authorities have established a system of Regional Medico-Psychiatric Units (SMPRs) and specially adapted

hospital centres (UHSAs) to accommodate prisoners suffering from psychiatric disorders. The Commissioner highlighted that a number of medical practitioners rejected this solution on the grounds that it perpetuated the confusion between mental illness and criminality and, that capacity of the facilities was in any event inadequate to deal with demand.

11.4.4 Vulnerable prisoners

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.4.1 Has your country adopted laws or policies requiring that prisoners assessed as vulnerable be accommodated in areas of the prison which are most convenient and appropriate for their monitoring and treatment by the medical personnel and other relevant agencies? SMR 22(2) & 62, EPR 12.2, 39, 43.1, 46.2, 47.1 & 47.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	3	0	8
Total Europe - %	67	63	13	0	33
France	X	X			

4.4.2 Has your country adopted laws or policies requiring that prisoners assessed as being at risk of suicide/self-harm be continuously monitored by both medical and prison staff throughout the prisoner's time in custody and that records are kept of such monitoring? R(98)7: 58, EPR 47(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	5	0	14
Total Europe - %	42	29	21	0	58
France	X		X		

4.4.3 Has your country adopted laws or policies requiring that prisoners detained in a special cell be visited daily, and as frequently as is necessary by a doctor who shall, inter alia, monitor his/ her physical and mental health? SMR 25(1) & 32(3), R(98)7: 66, EPR 43.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
France					X

Analysis

International instrument compliance

Two out of three commitments concerning the needs for vulnerable patients have been complied to by France. A national law requiring that prisoners detained in a special cell be visited daily, and as frequently as is necessary by a doctor who shall, inter alia, monitor his/ her physical and mental health. The situation in practice has pointed out a high number of suicides in French prisons, the majority taking place in disciplinary cells.

FRANCE

Situation in practice

In his 2006 report, the Commissioner also highlighted concerns regarding the number of suicides in the French prison system. He found that most suicides were committed in the first six months following imprisonment and that nearly half of suicide victims were being detained pending trial. Prisoners in disciplinary cells were also more likely to take their lives. Similarly, transfers, particularly those which were not explained to prisoners and took them away from their families seemed to act as a trigger to suicides. He also highlighted that the suicide rate was slightly higher among women (26.2%) than men (23.1%). The UN Committee against Torture also expressed concern at the high number of suicides in prisons. Furthermore, according to the figures provided to the Committee, more than 15 per cent of the prisoners who took their own lives in 2009 were being held in disciplinary blocks at the time. The UNHCR reported that the Ministry of Justice had instituted an action plan in 2009 to combat suicides that included such preventative measures as increasing prison guard training, "humanizing" inmate living conditions, providing at-risk inmates with "protective kits" of tearable sheets and blankets and flame-retardant mattresses, and implementing a solidarity and alert policy among prisoners.

11.4.5 Medical & health care personnel

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.5.1 Has your country adopted laws or policies to ensure that every prisoner has access to appropriately qualified medical personnel in the prison at all times? SMR 24, BOP 24, R(98)7:1, 2 & 4, EPR 41.2 & 41.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
France	X	X			

Analysis

International instrument compliance

Commitment relating to access to appropriately qualified personnel has been incorporated into France's national law.

11.4.6 Prisoners with addiction problems

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.6.1 Has your country adopted laws or policies to ensure that prisoners with addiction problems have access to appropriate treatment and support services, including those from external agencies? SMR 62, R(98)7: 7, 43, 44, 45, 46 & 47, EPR 42.3.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	8	0	3
Total Europe - %	88	79	33	0	13
France	X	X			

Analysis

International instrument compliance

France has adopted a commitment to ensure the access to appropriate treatment of prisoners with addiction problems.

11.4.7 Hunger strikes

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.7.1 Has your country adopted laws or policies forbidding the practice of forced feeding of hunger strikers? DOMHS, R(98)7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	37	21	21	0	63
France	X	X			

Analysis

International instrument compliance

The commitment to forbid the practice of forced feeding of hunger strikers is incorporated within French law.

11.5 Good order

11.5.1 General approaches

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

FRANCE

5.1.1 Has your country adopted laws or policies requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody? R(82)17: 8, EPR 51.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	0	9
Total Europe - %	62	62	13	0	38
France					X

Analysis

International instrument compliance

In contrast with the majority of other EU Member States, France has not incorporated a commitment requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody within its national law.

11.5.2 Safety & Security

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.2.1 Has your country adopted laws or policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat? EPR 51.5, 53.1 & 53.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	63	63	17	0	37
France	X	X	X		

Analysis

International instrument compliance

France has incorporated this commitment within its national law and policy regulation.

11.5.3 Searching of prisoners

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.3.1 Has your country adopted laws or policies requiring that searches conducted on prisoners be carried out with due regard to the prisoner's dignity? ICCPR 10(1), BPTP 1, EPR 54.3 & 54.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	0	1
Total Europe - %	96	92	13	0	4
France	X	X			

5.3.2 Has your country adopted laws or policies stipulating that prisoners may only be searched by a staff member of the same gender? ICCPR 10(1), BPTP 1, EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	1	0	1
Total Europe - %	96	92	4	0	4
France	X	X	X		

5.3.3 Has your country adopted laws or policies stipulating that prisoners may only be subjected to a strip search in exceptional circumstances and for good reason and then, only in the presence of two officers in an appropriate place which ensures privacy? ICCPR 10(1), BPTP 1, EPR 54. 3, 54.4 & 54.6, *Van der Van v The Netherlands* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	3	1	13
Total Europe - %	66	54	13	4	54
France					X

Analysis

International instrument compliance

Two out of three legally binding international commitments concerning searches have been incorporated in French law. A legal commitment on strip searches has not been adopted and as the situation in practice demonstrates, serious breaches on this topic have been found.

Situation in practice

The UN Committee against Torture expressed its concern that intrusive and humiliating internal body searches were still undertaken in France. The Committee was further concerned that the procedure regulating the frequency and methods of such searches in prisons and detention centres is determined by the prison authorities themselves. The Committee was also uneasy about plans to test tasers in places of detention highlighting the risks associated with the use of such weapons and their potential to be considered a form of torture.

FRANCE

11.5.4 Criminal acts, discipline & punishment

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.4.1 Has your country adopted laws or policies stipulating that all inquiries into breach of prison discipline or rules shall be conducted in an independent and impartial manner? ICCPR 14(1), UDHR 10, ECHR 6(1), *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	2	1	8
Total Europe - %	67	63	8	4	33
France					X

5.4.2 Has your country adopted laws or policies requiring that all incidents of bullying/violence/threatening behaviour between prisoners, and any breach of discipline be reported to an officer of a higher rank, duly recorded and properly investigated? EPR 52.2 & 58

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	62	62	17	0	38
France	X	X	X		

5.4.3 Has your country adopted laws or policies stipulating that when a prisoner has been charged with a disciplinary offence he/she shall be promptly informed of the allegation made against him/her in a language that he/she understands? ICCPR 14(3)(a), CERD 5(a), SMR 30(2), ECHR 6(3)(a), EPR 59.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	3	0	7
Total Europe - %	71	71	13	0	29
France	X	X			

5.4.4 Has your country adopted laws or policies stipulating if an inquiry is being conducted into a breach of prison discipline or rules the prisoner shall have adequate time to prepare his/her defence and/or to receive legal assistance? ICCPR 14(3)(b) & (d), SMR 30(2), ECHR 6(3)(b) & (c), EPR 59.b & 59.c, *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	2	0	9
Total Europe - %	62	58	8	0	38
France	X	X			

5.4.5 Has your country adopted laws or policies stipulating that in any disciplinary proceedings prisoners must understand the proceedings and if necessary, appropriate interpretation facilities must be provided? ICCPR 14(3)(f), SMR 30(3), ECHR 6(3)(e), EPR 59.e

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
France	X	X			

5.4.6 Has your country adopted laws or policies stipulating that no prison officer shall impose a punishment/penalty/deprivation on a prisoner without due process and in accordance with law and/or relevant rules or instruments? EPR 57.2.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	2	0	4
Total Europe - %	83	83	8	0	17
France					X

5.4.7 Has your country adopted laws or policies stipulating that if a prisoner is found guilty of a disciplinary offence, he/she shall be entitled to exercise his/her right of appeal to an independent and impartial tribunal established by law? ICCPR 14(5), BOP 30(2), EPR 61

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	1	0	5
Total Europe - %	79	79	4	0	21
France					X

5.4.8 Has your country adopted laws or policies requiring that when a prisoner is detained in any type of special cell (special observation/cladded/strip) he/she shall be regularly monitored by a prison officer? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	3	0	7
Total Europe - %	71	67	13	0	29
France					X

5.4.9 Has your country adopted laws or policies requiring that a detailed record be maintained of, inter alia, the monitoring of such prisoners, their expressed requirements, actions taken in response to such requests and details of visits by officers or others to such prisoners? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	8	8	2	0	16
Total Europe - %	33	33	8	0	67
France					X

FRANCE

5.4.10 Has your country adopted laws or policies to ensure that prisoners in a special cell are able to contact a member of staff at all times, including during the night and that a staff member shall respond without delay? ICCPR 6(1), EPR 18.2.c & 52.4, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	4	0	63
France					X

Analysis

International instrument compliance

Three out of eight internationally legally binding commitments have been incorporated in French domestic law, including laws concerning the access to appropriate interpretation facilities and the right to have adequate time to prepare one's defense and/or to receive legal assistance against an allegation of a disciplinary offence. However, the majority of legal safeguards regarding discipline and punishment have not been adopted by France. Various shortcomings surrounding the disciplinary procedure have been noted in practice.

Situation in practice

In his 2006 report, the European Commissioner for Human Rights described shortcomings in the procedures by which prisoners could be placed in solitary confinement which, although the period of confinement could be extended indefinitely, were administrative in nature with no judicial oversight. Reforms to this procedure were introduced in June 2006 giving judges a greater role in proceedings, which are now adversarial, and shortening the duration of solitary confinement to two years. In addition, the prisoners in question may qualify for legal aid to cover the services of a lawyer. As a result of these reforms, the number of prisoners placed in solitary confinement dropped by a third between 2005 and 2008.

The Commissioner also recognised that the disciplinary process for prisoners had been significantly improved by the introduction of more stringent procedural guarantees and the right of prisoners to legal representation. Nonetheless, problems with the procedure remained including the composition of the disciplinary body and the inability of prisoners to call witnesses. In addition, the maximum period for which a prisoner could be kept in a disciplinary cell – 45 days – was deemed to be excessive from the point of view of proportionality of sentences. The Commissioner also noted that the French disciplinary regime was one of the strictest in Europe.

11.5.5 Use of force/weapons

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.5.1 Has your country adopted laws or policies stipulating that members of staff will use force only when absolutely necessary and that any force used shall be proportionate to the situation? SMR 54(1), CCLEO 3, BPUF 4, EPR 64 & 6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	4	1	3
Total Europe - %	87	87	17	4	13
France	X	X	X		

Analysis

International instrument compliance

The commitment has been adopted by France.

11.5.6 Requests & complaints

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.6.1 Has your country adopted laws or policies to ensure that prisoners have sufficient opportunity to make requests or complaints to the Governor of the prison or to any other competent authority? SMR 36(1) & (3), BOP 33(1), EPR 70.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	3	0	1
Total Europe - %	96	96	13	0	4
France	X	X			

5.6.2 Has your country adopted laws or policies establishing the right of a prisoner's legal advisor or to make a request or a complaint regarding that prisoner's treatment to the prison authorities, or other relevant authorities? BOP 33 (1) & (2), EPR 70.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	1	0	6
Total Europe - %	75	75	4	0	25
France					X

5.6.3 Has your country adopted laws or policies requiring that all complaints be promptly investigated in accordance with law? SMR 36(4), BOP 33(4)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	2	0	7
Total Europe - %	71	67	8	0	29
France					X

FRANCE

5.6.4 Has your country adopted laws or policies to ensure that where a request is denied or a complaint is rejected, the prisoner is informed promptly as to the reason(s) for such denial or rejection? SMR 36(4), BOP 33(4), EPR 70.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	2	1	7
Total Europe - %	71	63	8	4	29
France					X

5.6.5 Has your country adopted laws or policies to ensure that prisoners are not disadvantaged for exercising their rights to make requests or complaints? BOP 33(4), EPR 70.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	3	0	13
Total Europe - %	46	42	13	0	54
France	X	X			

5.6.6 Has your country adopted laws or policies requiring that complaints made by members of staff against other members of staff be properly recorded and investigated in accordance with the law? EPR 88 & 87.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	11	3	0	11
Total Europe - %	54	46	13	0	46
France					X

Analysis

International instrument compliance

Two out of six commitments about prison requests and complaints have been incorporated.

11.6 Management & Staff

11.6.1 Training of staff

This section focuses on the staff training and prison management. International legal instruments place a series of obligations on States in respect of the training and management of prison staff. The questions in this section are based on these obligations.

6.1.1 Has your country adopted laws or policies to ensure that all prison staff receive appropriate training at regular intervals throughout their career? SMR 47(3), EPR 8, 76 & 81.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	14	7	0	5
Total Europe - %	79	58	29	0	21
France	X	X			

6.1.2 Has your country adopted laws or policies to ensure that members of staff who work with particular groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, receive training particular to their individual work? R(82)17: 10, R(2004)10: 12(1), EPR 81.3, ERJO 129

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	38	21	21	0	62
France					X

Analysis

International instrument compliance

A commitment to ensure that all prison staff receive appropriate training at regular intervals throughout their career has been adopted. However the commitment of particular training for staff who work with particular staff has not been incorporated.

11.7 Inspection & Monitoring

11.7.1 *Governmental Inspection*

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.1.1 Has your country adopted laws or policies requiring that prisons be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law? SMR 55, EPR 92, R(2004)10 36.1, ERJO 125, PPPMI 22

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	19	4	0	4
Total Europe - %	83	79	17	0	17
France	X	X	X		

Analysis

International instrument compliance

Commitment relating to governmental monitoring has been incorporated in France.

11.7.2 *Independent monitoring*

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

FRANCE

7.2.1 Has your country adopted laws or policies requiring that the conditions of detention and the treatment of prisoners shall be also monitored by an independent body or bodies, comprised of qualified experienced personnel, and whose findings shall be made public? OPCAT 3, 17, 18, 19, BOP 29.1, EPR 93.1, R(2004)10 36.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
France	X	X			

7.2.2 Has your country adopted laws or policies granting such an independent body open access to places of detention, to prisoners and others whom it wishes to interview? OPCAT 19, 20, CPT 8,9 BOP 29.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	3	1	9
Total Europe - %	62	58	13	4	38
France	X	X			

7.2.3 Has your country adopted laws or policies encouraging such independent bodies to cooperate with those international agencies that are legally entitled to visit prisons? CPT 2,7 EPR 93.2, ERJO 126.

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	6	1	0	17
Total Europe - %	29	25	4	0	71
France					X

Analysis

International instrument compliance

All commitments relating to independent monitoring have been incorporated except that requiring national independent inspection bodies to cooperate with international prison inspection organisations.

Situation in practice

France has signed and ratified the OP-CAT. A new law was passed on 30 October 2008 creating an independent body to inspect places of detention, as required by the UN Optional Protocol to the Convention against Torture. The body can visit all places of detention on French territory, including prisons, migration detention centres, border detention facilities, and secure psychiatric hospital wards. However, the law does not grant the body power to visit places of detention under French jurisdiction that are not on French territory, and allows detention centre authorities to refuse and postpone visits on numerous grounds. France has designated the Contrôleur general des lieux de privation de liberté (General Inspector of Places of Deprivation of Liberty): the institution has been functioning since July 2008.

11.8 Sentenced Prisoners

This section focuses on the particular provisions relating to convicted prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

8.1.1 Has your country adopted laws or policies requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan? ICCPR 10(3), SMR 80, EPR 6, 103.2 & 103.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	6	2	4
Total Europe - %	83	83	25	8	17
France	X	X	X		

8.1.2 Has your country adopted laws or policies requiring that a sentence management plan be prepared for each prisoner serving a sentence of 12 months or over as soon as practicable after their admission? It should provide for, inter alia, the welfare and health needs of the prisoner, training, employment or education needs he/she may have, and include a release plan for the prisoner. This plan shall be reviewed at regular intervals to take into account the changing circumstances of the prisoner. SMR 65, 66 & 69, R(2003)23: 3 & 9, EPR 6, 103 & 104.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	5	0	10
Total Europe - %	58	54	21	0	42
France	X	X	X		

Analysis

International instrument compliance

All commitments have been incorporated.

11.9 Juveniles

This section focuses on the particular provisions relating to juvenile prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

9.1.1 Has your country adopted laws or policies requiring that juveniles be detained separately from adult offenders? ICCPR 10(3), CRC 37(c), BR 26.3, RPJDL 29, EPR 11.1, ERJO 59.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	1	3
Total Europe - %	87	87	13	4	13
France	X	X	X		

FRANCE

9.1.2 Has your country adopted laws or policies to ensure that, subject to reasonable conditions and restrictions, a sentenced prisoner under the age of 18 shall be entitled to receive a minimum of two weekly visits? CRC 37(c), SMR 37, BOP 19, RPJDL 60, ERJO 83, 84, 85.1 & 85.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	6	3	0	15
Total Europe - %	37	25	13	0	63
France					X

Analysis

International instrument compliance

The commitment ensuring that juveniles be detained separately from adult offenders has been adopted. However the commitment regarding the right to at least two weekly visits for juveniles has been omitted. Multiple problems have been pointed out through reports about the situation in practice.

Situation in practice

The European Commissioner for Human Rights visited the juvenile units within two prisons during his

2006 visit. He found that material detention conditions were in general better than those for adults with no significant problems of overcrowding. Furthermore, juveniles were able to enjoy special facilities and appropriate activities such as tuition, vocational training, sport and free television. The principle of separating remand and convicted juvenile prisoners was, not, however, being adhered to and in one institution, some female juvenile prisoners were being held in a wing together with adult offenders.

Seven dedicated juvenile prisons are now operational in France providing a total of 420 places. The opening of these prisons coincided with the closure of 20-odd juvenile units in adult prisons.

The CPT's visit to a Closed Educational Centre for Juveniles (CEF) at Mort de Marsan showed the material conditions at the centre to be more than satisfactory. However the number of tutors in the centre proved to be insufficient, since only two tutors were working with any absence or incident resulting in only one tutor in charge. Furthermore the need for a specialised training in violent incident management was apparent. In addition the presence of a nurse for at least half a day per week is required.

The disciplinary procedure was used properly, but all elements of this procedure should be recorded in a centralised 'disciplinary register' in case of an appeal.

As far as medical care is concerned, the assurance of a medical examination of every young person on the day of admission or on the day after, as well as the complete confidentiality of the medical information needs to be safeguarded. A young person's medical file should not be accessible to the Centre's management, tutors and office staff as perceived on the visit.

11.10 Sentence Execution Modalities

This section of the questionnaire is designed to collate information on the differing methods by which custodial sentences and measures involving deprivation of liberty are enforced across EU Member States.

10.1.1. Which of the following modalities of prison sentence execution are provided for in the law of your country?

	Weekend detention	Evening detention	Daytime detention	Home detention	
				no electronic monitoring	electronic monitoring
EUROPE	9 = 38%	10 = 42%	3 = 13%	6 = 25%	14 = 58%
France		X			X

10.1.2. What is the maximum period for which home detention with electronic monitoring can be imposed?

	Under 12 months	12-24 months	25 months - 36 months	37 months - 50 months	More than 50 months
EUROPE	7 = 29%	4 = 17%	0 = 0%	1 = 4%	2 = 8%
France		X			

10.2.1. In which of the following locations can custodial sentences or measures involving deprivation of liberty be imposed?

	Penitentiary institution	Psychiatric institution	Detoxification institution	Educational institution	Home
EUROPE	24 = 100%	20 = 83%	10 = 42%	7 = 29%	12 = 50%
France	X	X			X

Analysis

Sentence execution modalities

In France, the additional sentence execution modalities available are evening detention and home detention coupled with electronic monitoring. Such electronic monitoring can be used for a period from twelve up to twenty four months, depending on recidivism. Custodial sentences or measures involving deprivation of liberty can be imposed in penitentiary institutions, psychiatry institutions or at home.

FRANCE

11.11 Early release from prison, earned remission and suspension of sentence

11.11.1 Early release

Early release means the release of the offender before their prison term is finished. It is possible only while the sentence is still being served. Early release does not include the suspended enforcement of a penalty which is dealt with later in this questionnaire.

11.1.2.1. Has your country adopted laws and regulations under which prisoners are entitled to early release from prison ?

	Yes	No
EUROPE	24 = 100%	0 = 0%
France	X	

11.1.2.2. At what point in a prisoner's sentence do they become eligible for early release?

	One third of sentence or less	One third to one half of a sentence	One half to three quarters of a sentence	More than three quarters of a sentence	Other
EUROPE	2 = 8%	1 = 4%	7 = 29%	0 = 0%	14 = 58%
France					X

11.1.2.2. Does your country have different regulations for the early release of prisoners based on:

	A prisoner's nationality (non-EU citizen)	A prisoner's nationality (EU citizen)	The length of sentence imposed
EUROPE	Yes - 3 = 12% No - 21 = 88%	Yes - 3 = 12% No - 21 = 88%	Yes - 24 = 100% No - 0 = 0%
France	N	N	Y

11.1.2.3. Are provisions governing the early release of prisoners automatic or discretionary?

	Automatic (prisoners are automatically released at a certain point in their sentence)	Discretionary (prisoners are only released following assessment)
EUROPE	Yes - 7 = 29% No - 17 = 71%	Yes - 20 = 83% No - 4 = 17%
France	N	Y

11.1.2.4. What factors are taken into consideration when deciding whether a prisoner will be granted early release?

	The circum- stances surround- ing the crime	Prior criminal record	The offender's progress during imprisonment	Assessment as to whether the prisoner is likely to reoffend	Recom- mendation from the sentencing judge
EUROPE	Yes - 24 = 50% No - 24 = 50%	Yes - 15 = 63% No - 9 = 37%	Yes - 22 = 92% No - 2 = 8%	Yes - 19 = 79% No - 5 = 21%	Yes - 4 = 17% No - 20 = 83%
France	N	Y	Y	Y	N

11.1.3.1. What forms of monitoring and conditions can be applied to prisoners' early release?

1. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
2. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
4. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
5. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
6. Electronic monitoring
7. Weekend/evening /daytime detention
8. Requirement containing limitations on leaving the country
9. Requirement to leave the country
10. Requirement to pay compensation
11. Requirement to undertake community service
12. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	Oth er
EUROPE	Y - 83 N - 17	Y - 8 N - 92	Y - 58 N - 42	Y - 62 N - 38	Y - 33 N - 77	Y - 25 N - 75	Y - 13 N - 87	Y - 42 N - 58	Y - 21 N - 79	Y - 29 N - 71	Y - 21 N - 79	9
France	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N	

FRANCE

11.11.2 Sentence reduction as a result of prison work

11.2.1.1. Can a prisoner earn remission on their sentence as a result of work carried out in prison?

	Yes	No
EUROPE	9= 38%	15 – 62%
France	X	

11.11.3 Suspension of sentence enforcement

11.3.1. Does the national law of your country make provision for the further execution of a prison sentence to be suspended during the course of the sentence?

	Yes	No
EUROPE	10=42%	14= 58%
France	X	

11.3.2.1. What factors are taken into consideration when deciding whether a prisoner will have the further execution of their prison sentence suspended?

1. The circumstances surrounding the crime
2. Prior criminal record
3. The offender's progress during imprisonment
4. Assessment as to whether the prisoner is likely to reoffend
5. Recommendation from the sentencing judge
6. Suitability of home circumstances
7. Information from victim(s)
8. Willingness of the prisoner to leave the country upon release
9. The prisoner will be deported upon release
10. Other – please specify

	1	2	3	4	5	6	7	8	9	Other
EUROPE	Y - 8 N - 92	Y - 13 N - 78	Y - 17 N - 83	Y - 21 N - 79	Y - 0 N - 100	Y - 4 N - 96	Y - 0 N - 100	Y - 0 N - 100	Y - 0 N - 100	21
France	N	N	N	Y	N	N	N	N	N	X

11.3.3.1. What forms of monitoring and conditions can be applied to prisoners whose further execution of a prison sentence has been suspended?

1. Unconditional supervision
2. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
4. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)

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5. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
6. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
7. Electronic monitoring
8. Weekend/evening /daytime detention
9. Requirement containing limitations on leaving the country
10. Requirement to leave the country
11. Requirement to pay compensation
12. Requirement to undertake community service
13. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	12	Other
EUROPE	Y - 4 N - 96	Y - 38 N - 62	Y - 4 N - 96	Y - 29 N - 71	Y - 17 N - 83	Y - 17 N - 83	Y - 4 N - 96	Y - 4 N - 96	Y - 21 N - 79	Y - 0 N - 100	Y - 17 N - 83	Y - 4 N - 96	2
France	N	Y	N	Y	Y	Y	N	N	Y	N	Y	N	

Analysis

Early release from prison, earned remission and suspension of sentence

In common with all EU countries, France has adopted measures under which prisoners are entitled to early release from prison. Prisoners become eligible after a period of less than two years for a first time offender depending on the length of sentence imposed. The French early release system is based on discretionary provisions. Decisions on a prisoner's early release are based on three of the ten criteria identified. Once a prisoner is granted early release, nine of the twelve forms of monitoring or conditions identified, can be attached. There is a possibility in French law for prisoners to be granted remission as a result of work carried out in prison. Provisions are also made for the further execution of a prison sentence to be suspended during the course of the sentence. An assessment as to whether the prisoner is likely to reoffend and factors relating to health, family, work and social problems are taken into consideration to decide upon suspension of the further execution of a prisoner's sentence. In case of suspension, six out of thirteen forms of monitoring and conditions can be applied.

Appendix

1. Extraits du Code Pénal, Partie Législative
2. Guide méthodologique: Les Points d'Accès au Droit dans les établissements pénitentiaires
3. Extraits du Code de Procédure Pénale, Partie Législative
4. Extraits du Code de Procédure Pénale, Partie Décrets en Conseil d'Etat
5. Extraits du Code de Procédure Pénale, Partie Décrets
6. Actions socio-culturelles
7. Circulaire 05/10/2000 Organisation de l'enseignement
8. Circulaire 10/06/1998 Enseignement
9. Circulaire Téléphone
10. Le contrôle des établissements pénitentiaires

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11. Convention relative à l'enseignement en milieu pénitentiaire
12. Convention entre le centre nationale d'enseignement de distance et la direction de l'administration pénitentiaire
13. La correspondance
14. Les cultes
15. Décret n° 2008-246 du 12 mars 2008 relatif au Contrôleur général des lieux de privation de liberté
16. Droits et devoirs de la personne détenue
17. Les femmes détenues
18. La formation professionnelle et enseignement
19. Circulaire JUSE0340036C (2003-07-02): Conception, conduite et suivi des dispositifs de formation professionnelle des Personnes Placées Sous Main de Justice
20. Guide détenu arrivant
21. L'information
22. L'isolement administrative
23. Loi pénitentiaire n° 2009-1436 du 24 novembre 2009
24. Loi n°2000-321 du 12 avril 2000 relative aux droits des citoyens dans leurs relations avec les administrations
25. Loi n°2007-1545 du 30 octobre 2007 instituant un Contrôleur général des lieux de privation de liberté
26. Loi n° 2009-1436 du 24 novembre 2009 pénitentiaire
27. Les mineurs et jeunes détenus
28. Circulaire santé justice NOR JUSE 02 500 75 C du 26 avril 2002: Prévention de suicide
29. L'orientation et l'affectation des condamnés
30. La prevention des suicides dans les établissements pénitentiaires/ JUSE9840034C
31. La prevention des suicides dans les établissements pénitentiaires /JUSE 02 500 75 C
32. La procedure disciplinaire à l'encontre des détenus
33. Questionnaire sur suicide
34. Plan d'actions stratégiques 2010 – 2014
35. La sécurité interieure
36. Les soins et la santé
37. Code de procedure pénale: articles relatifs à l'enseignement
38. Le travail pénitentiaire
39. L'usage de la force et des armes dans les établissements pénitentiaires
40. Circulaire relative aux unités de vie familiale/JUSK0940004C
41. Les visites

12 Germany

12.1 Introduction

The questionnaire was completed by Dr. Christoph Burchard, Kathrin Groß, Friedrich Kern and Professor Dr. Joachim Vogel. from the law faculty of the University of Tübingen. The authors would also like to thank all legal practitioners who offered insights from legal practice.

The Federal German parliament decided in 2006 to reorganize relations between the Federal government and the constituent German Länder. In this context prison legislation was assigned to the individual Länder. The answers to this questionnaire are based on the prison law of one Land, that of Baden-Württemberg, with reference also to the aspects of Federal Law which are relevant to material detention conditions and the legal position of prisoners.

The CPT visited Germany during 2005 and 2010 (the report relating to the latter visit is as yet unpublished). The European Commissioner for Human Rights visited Germany in 2007. Evidence for the situation in practice is primarily based on the CPT report from 2005 and the Commissioner's report. Additional evidence has been sourced from the International Centre for Prison Studies.

Country	GERMANY
Ministry responsible	State (Land) Ministries of Justice
Prison administration	Prison administrations of the 16 states (Laender)
Prison population total (including pre-trial detainees / remand prisoners)	69,385 at 30.11.2010 (Federal Statistical Office)
Prison population rate (per 100,000 of national population)	85 based on an estimated national population of 81.62 million at end of November 2010 (from Eurostat figures)
Pre-trial detainees / remand prisoners (percentage of prison population)	15.5% (30.11.2010)
Female prisoners (percentage of prison population)	5.4% (30.11.2010)
Juveniles / minors / young prisoners incl. definition (percentage of prison population)	3.5% (of pre-trial prisoners only, 30.11.2010 - under 18)
Foreign prisoners (percentage of prison population)	26.3% (31.3.2008 - Council of Europe Annual Penal Statistics)

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Number of establishments / institutions	185 -2010		
Official capacity of prison system	77,944 (30.11.2010)		
Occupancy level (based on official capacity)	89.0% (30.11.2010)		
Recent prison population trend (year, prison population total, prison population rate)	1992	57,448	71
	1995	66,146	81
	1998	78,592	96
	2001	80,333	98
	2004	81,166	98
	2007	75,719	92

12.2 Overarching Principles

This section focuses on the overarching principles governing the management of prisons and the treatment of prisoners. International legal instruments place a series of obligations on States in respect of the management of prisons and the treatment of prisoners. The questions in this section are based on these obligations.

2.1.1 Has your country adopted laws or policies specifically requiring that prisoners must be treated with respect for their human rights? ICCPR 10(1), UDHR 1, BOP 1, BPTP 1, EPR 1 & 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	19	7	1	2
Total Europe - %	92	79	29	4	8
Germany	X	X		X	

2.1.2 Has your country adopted laws or policies specifically requiring prisons to be managed in accordance with human rights standards? EPR 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	4	3	3
Total Europe - %	88	75	16	13	12
Germany	X	X		X	

2.1.3 Has your country adopted laws or policies explicitly prohibiting practices that could constitute torture, inhumane or degrading treatment or punishment of prisoners? ICCPR 7, BOP 6, ECHR 3, *Kalashnikov v Russia* (ECtHR 2003)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	1	3	2
Total Europe - %	92	88	4	12	8
Germany	X	X		X	

2.1.4 Has your country adopted laws or policies specifically requiring that prisoners be provided with a range of activities during their sentence (for example - educational, recreational, work/training and welfare programmes)? SMR 77 & 78, BOP 28, BPTP 6 & 8, EPR 25

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	0	0
Total Europe - %	100	96	29	0	0
Germany	X	X			

Analysis

International instrument compliance

In common with the majority of EU member states, Germany (Baden-Württemberg) has passed legislation designed to protect the human rights of its prisoners and provide them with a meaningful regime during their time in custody. This legislation includes all of the commitments arising from legally binding international legal instruments. Human rights protection for prisoners has also been reinforced by jurisprudence from the German constitutional court

12.3 Conditions Of Imprisonment

12.3.1 Admission

This section focuses on the treatment of prisoners upon their admission to prison. International legal instruments place a series of obligations on States in respect of prisoner admission. The questions in this section are based on these obligations.

3.1.1 Has your country adopted laws or policies requiring that all prisoner details are recorded at the time of committal including, inter alia, details of any visible injuries and the prisoner's personal belongings? SMR 7(1), EPR 15.1, 31.1, 31.2 & 31.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	7	1	7
Total Europe - %	71	63	29	4	29
Germany	X	X		X	

GERMANY

3.1.2 Has your country adopted laws or policies requiring that upon admission, each prisoner is given a booklet outlining his/her rights, duties, obligations and privileges and the rules and regulations governing the prison which apply to the individual prisoner? The booklet shall be written in a language that the prisoner understands. CERD 7, SMR 35, BOP 13, EPR 30

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	6	1	6
Total Europe - %	63	54	25	4	25
Germany	X			X	

3.1.3 Has your country adopted laws or policies requiring that upon admission, every prisoner shall undergo a medical examination either by a nurse reporting to a doctor or by a doctor? SMR 24, BOP 24, R(98)7: 1, EPR 42.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	20	6	1	1
Total Europe - %	96	83	25	4	4
Germany	X	X			

3.1.4 Has your country adopted laws or policies requiring the doctor/nurse to pay particular attention to the detection of injuries, mental illnesses, of withdrawal symptoms resulting from the use of drugs, medication or alcohol, of contagious and chronic conditions, and, to assess the prisoner's suicide/self-harm risk? SMR 24, R(98)7: 1, EPR 42.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	10	8	1	9
Total Europe - %	62	42	33	4	38
Germany	X	X			X

3.1.5 Has your country adopted laws or policies requiring injuries detected during such an examination to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner? EPR 15.1.e & 42.3.c

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	5	4	1	17
Total Europe - %	29	21	17	4	71
Germany					X

3.1.6 Has your country adopted laws or policies requiring upon admission that each prisoner be assessed to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves? ICCPR 6, UDHR 3, ECHR 2, R(2003)23: 12, EPR 52.1, *Keenan v The United Kingdom* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	5	1	13
Total Europe - %	46	42	21	4	54
Germany	X	X			

3.1.7 Has your country adopted laws or policies requiring that such risks be managed for the duration of the prisoner's sentence? ICCPR 6, UDHR 3, ECHR 2, EPR 52.2, *Osman v The United Kingdom* (ECtHR 2000)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	3	1	12
Total Europe - %	50	50	13	4	50
Germany					X

Analysis

International instrument compliance

Germany (Baden-Württemberg) has incorporated five of the seven commitments relating to the admission of prisoners into its national law. These include the legally binding commitments requiring prisoners to be given information in a booklet concerning their rights and the rules of the institution in which they are housed and, the requirement that prisoners be assessed to ascertain whether they pose a risk to themselves or other. The legally binding commitment requiring risks identified to be managed throughout a prisoners sentence has not, however, been incorporated. Another omission relates to the non-adoption of law or policies requiring injuries detected during such a prisoner's medical examination upon admission to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner

Situation in practice

See comments from SPOC above in relation to how commitments 3.1.2 and 3.1.4 are discharged in practice

12.3.2 Allocation

This section focuses on the allocation of prisoners to a particular prison. International legal instruments place a series of obligations on States in respect of prisoner allocation. The question in this section is based on these obligations.

3.2.1 Has your country adopted laws or policies requiring prisoners to be assigned to a prison as near to their home area as possible in order to maintain relationships with families and friends, subject to the maintenance of good order and security? BOP 20, EPR 17.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	15	6	1	5
Total Europe - %	79	63	25	4	21
Germany	X			X	

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Analysis

International instrument compliance

The commitment requiring prisoners to be allocated to a prison as near as possible to their home has been incorporated by way of jurisprudence

12.3.3 Accommodation

This section focuses on the living conditions of prisoners. International legal instruments place a series of obligations on States in respect of the accommodation of prisoners. The questions in this section are based on these obligations.

3.3.1 Has your country adopted laws or policies requiring that where possible prisoners should have individual cells to sleep in? SMR 9(1), EPR 18.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	3	0	10
Total Europe - %	58	54	13	0	42
Germany	X	X			

3.3.2. Has your country adopted laws or policies stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation? ICCPR 6(1), UDHR 3, SMR 9(2), ECHR 2, EPR 18.6 & 18.7, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	4	0	14
Total Europe - %	42	29	17	0	58
Germany					X

3.3.3 Has your country adopted laws or policies requiring that the size of a cell must be suitable for its purpose? The suitability of the cell size should be dependent on the number of hours spent in the cell, the number of prisoners accommodated in the cell and the availability of in-cell-sanitation facilities that ensure privacy. SMR 9, 10, 11 & 12, EPR 18 & 19.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	8	2	1	15
Total Europe - %	37	33	8	4	63
Germany	X	X		X	

3.3.4 Has your country adopted laws or policies requiring that cells should not be used to accommodate more prisoners than the intended design capacity, unless justified in exceptional circumstances? SMR 9(1) & 10, EPR 18.1, 18.3, 18.4 & 18.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	54	50	13	0	46
Germany	X	X			

3.3.5 Has your country adopted laws or policies requiring that cells be suitable for accommodating prisoners in respect of size, lighting, heating, ventilation and fittings? SMR 9, 10, 11, 12 & 13, EPR 18

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	16	4	0	6
Total Europe - %	75	67	17	0	25
Germany	X	X			

3.3.6 Has your country adopted laws or policies requiring that all prisoners have in-cell access to a working alarm bell that attracts the attention of staff at all times? ICCPR 6(1), UDHR 3, ECHR 2, EPR 18.2.c & 52.4, IPR 18(4), *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	13	2	0	4
Total Europe - %	83	54	8	0	17
Germany	X	X			

Analysis

International instrument compliance

Germany (Baden-Württemberg) has adopted five out of the six commitments relating to the accommodation of prisoners including the legally binding commitment requiring all cells to have working alarm bells. All adopted commitments have a basis in law backed up in three instances by jurisprudence. The law also requires that prisoners be accommodated in individual cells wherever possible. Furthermore the provisions of international instruments requiring that cells should be fit for purpose based on the criteria of the number of hours spent in a cell, the number of prisoners accommodated and the availability of in-cell sanitation have also been incorporated. A less restrictive criteria stipulating that cells should not be used to accommodate more prisoners than their design capacity has also been adopted. The legally binding commitment requiring prisoners to be assessed as suitable for sharing accommodation has not been adopted however.

Situation in practice

See comments from SPOC above which indicates that it is not possible to confirm whether the stipulations relating to cell size are being followed in the building of new prisons

According to the ICPS, as of 30 November 2010 the prison population stood at approximately 69,000 (89% of official system capacity). The prison population rate (per 100,000 inhabitants) is 85. 15% of the total prison population is in pre-trial detention. According to data of the Council of Europe (SPACE I; Survey 2007), 26.3% of the prison population consists of foreigners.

Following its 2005 visit, the CPT recommended that steps should be taken at Hameln and Weimar/Ichtershausen Juvenile Prisons to ensure that: all cells have adequate access to daylight and good ventilation and that any devices affixed to cell windows should allow for the adequate

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passage of natural light and fresh air. With regards to the latter institution, the Committee also highlighted that measuring less than 8m2 (excluding the toilet area) should not accommodate no more than one prisoner

12.3.4 Hygiene & Sanitation

This section focuses on the hygiene and sanitation facilities for prisoners. International legal instruments place a series of obligations on States in respect of hygiene and sanitation. The questions in this section are based on these obligations.

3.4.1 Has your country adopted laws or policies to ensure that all prisoners have access to adequate and appropriate sanitary and washing facilities that respect their privacy? SMR 12 & 13, EPR 19.3, 19.4 & 19.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	2	0	10
Total Europe - %	58	58	8	0	42
Germany	X	X			

3.4.2 Has your country adopted laws or policies requiring that all In-cell sanitation facilities must be adequately screened? ICCPR 10(1), SMR 12, BOP 1, BPTP 1, ECHR 3, EPR 19.3, *Peers v Greece* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	4	1	9
Total Europe - %	62	54	17	4	38
Germany	X	X		X	

Analysis

International instrument compliance

Both of the commitments relating to prisoners’ hygiene and sanitation have been incorporated into the law in Germany (Baden-Württemberg). The legally binding commitment relating to the screening of in-cell sanitation facilities has also been the subject of jurisprudence

Situation in practice

Comments from the SPOC indicate that it is not possible to ascertain whether these stipulations are complied with in the building of prisons as regulations governing this are not in the public domain.

Following its 2005 visit, the CPT recommended that steps should be taken at Hameln and Weimar/Lichtershausen Juvenile Prisons to ensure that general hygiene was kept at a consistently acceptable level. The Committee also noted that sanitary facilities in cells accommodating more than one prisoner should be fully partitioned at Hameln Juvenile Prison

12.3.5 Clothing & Bedding

This section focuses on clothing and bedding provisions for prisoners. International legal instruments place a series of obligations on States in respect of the provision of clothing and bedding. The questions in this section are based on these obligations.

3.5.1 Has your country adopted laws or policies to ensure that prisoners are provided with clothing that is suitable for the climate, is not degrading or humiliating and is age appropriate? SMR 17(1), EPR 20.1 & 20.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	10	0	7
Total Europe - %	71	71	42	0	29
Germany	X	X			

3.5.2 Has your country adopted laws or policies requiring each prisoner to be provided with a bed and appropriate bedding and to ensure that all bedding is in good condition, is changed regularly and laundered? SMR 19, EPR 21

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	2	0	6
Total Europe - %	75	71	8	0	25
Germany	X	X			

Analysis

International instrument compliance

Both of the commitments relating to prisoners' clothing and bedding have been adopted in law by Germany (Baden-Württemberg)

Situation in practice

Comments from the SPOC indicate that it is not possible to ascertain whether the stipulations on the provision for a bed are complied with in the building of prisons as regulations governing this are not in the public domain

12.3.6 Nutrition

This section focuses on the nutrition requirements of prisoners. International legal instruments place a series of obligations on States in respect of prisoner's nutrition. The questions in this section are based on these obligations.

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3.6.1 Has your country adopted laws or policies to ensure that prisoners are provided with a sufficient quantity of nutritious food taking into account their health, physical condition, special dietary requirements, religion and culture? SMR 20(1), EPR 22.1 & 22.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	5	1	4
Total Europe - %	83	83	21	4	17
Germany	X	X		X	

3.6.2 Has your country adopted laws or policies to ensure that prisoners have access to clean drinking water? SMR 20(2), EPR 22.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	16	5	1	5
Total Europe - %	79	67	21	4	21
Germany	X	X		X	

Analysis

International instrument compliance

Both commitments relating to prisoners' nutrition have incorporated into the law Germany (Baden-Württemberg) and have also been the subject of jurisprudence

12.3.7 Legal advice, info & rights

This section focuses on the entitlement of prisoners to legal advice and information. International legal instruments place a series of obligations on States in respect of access to legal advice and information. The questions in this section are based on these obligations.

3.7.1 Has your country adopted laws or policies requiring that adequate time and facilities be provided to prisoners to receive professional visits from their legal advisers? BOP 18(2), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	4	1	2
Total Europe - %	92	92	17	4	8
Germany	X	X		X	

3.7.2 Has your country adopted laws or policies establishing the right of prisoners to communicate with their legal advisers by telephone and by letter? BOP 18(1), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	3	3	3
Total Europe - %	87	83	13	13	13
Germany	X	X		X	

3.7.3 Has your country adopted laws or policies requiring that communications between a prisoner and his/her legal adviser remain confidential and can only be restricted by law or judicial authority? ICCPR 17, BOP 18(3) & (4), ECHR 8, EPR 23.4 & 23.5, *Campbell v The United Kingdom* (ECtHR 1992)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	3	1	2
Total Europe - %	92	92	13	4	8
Germany	X	X		X	

Analysis

International instrument compliance

All three commitments relating to a prisoner's access to information and legal advice have been adopted by Germany (Baden-Württemberg) including legally binding commitment protecting the confidentiality of a prisoner's correspondence with their legal advisor. Each of the commitments has also been the subject of jurisprudence

12.3.8 *Contact with the outside world*

12.3.8.1 *Visits*

This section focuses on the entitlement of prisoners to maintain contacts with the outside world. International legal instruments place a series of obligations on states in respect of prisoners' on-going contact with the outside world. The questions in this section are based on these obligations.

3.8.1.1 Has your country adopted laws or policies establishing the right of prisoners to communicate with their family and friends by correspondence and by receiving visits, subject to reasonable conditions/restrictions imposed by law or another authority? ICCPR 23(1), UDHR 16(3), SMR 37, BOP 15 & 19, EPR 24.1 & 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	2	0
Total Europe - %	100	96	29	8	0
Germany	X	X		X	

3.8.1.2 Has your country adopted laws or policies requiring that visits take place in an environment that enables prisoners to maintain and develop family and other relationships in as normal a manner as is possible subject to the maintenance of good order and security in the prison? SMR 79, EPR 24.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	6	0	2
Total Europe - %	92	88	25	0	8
Germany	X	X			

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12.3.8.2 *Searching of visitors*

3.8.2.1 Has your country adopted laws or policies requiring that searching procedures for visitors be undertaken in a manner that respects a person's dignity? SMR 27, BOP 19, EPR 54.1.c, 54.3, 54.4 & 54.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	4	0	7
Total Europe - %	71	63	17	0	29
Germany	X	X			

3.8.2.2 Has your country adopted laws or policies requiring that prison officers only be permitted to search visitors of the same gender? EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	9	1	0	12
Total Europe - %	50	38	4	0	50
Germany					X

12.3.8.3 *Restrictions on visits*

3.8.3.1 Has your country adopted laws or policies requiring the authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party(ies) and to review these circumstances on a regular basis? SMR 27, 79 & 80, EPR 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	0	0	63
Germany	X	X			

3.8.3.2 Has your country adopted laws or policies preventing the withdrawal of contact for female prisoners with their children as a disciplinary action except in exceptional circumstances? SMR 27, 79 & 80, EPR 24.2 & 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	2	0	12
Total Europe - %	50	50	8	0	50
Germany	X	X			

12.3.8.4 *Death, illness & transfer*

3.8.4.1 Has your country adopted laws or policies requiring that prisoners be informed of the death/serious illness of a close relative/ friend without delay? SMR 44(2), EPR 24.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	2	0	13
Total Europe - %	46	42	8	0	54
Germany					X

3.8.4.2 Has your country adopted laws or policies allowing a prisoner to leave the prison to visit a sick relative/friend, attend a funeral or for other humanitarian reasons? SMR 44(2), EPR 24.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Germany	X	X			

3.8.4.3 Has your country adopted laws or policies ensuring that prisoners are allowed to inform their families or other nominated persons without delay of their imprisonment, transfer to another institution or of any serious illness that they may suffer from? SMR 44(1) & (3), BOP 16(1), EPR 24.8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Germany					X

3.8.4.4 Has your country adopted laws or policies requiring the prison authorities to immediately inform the spouse or the nearest relative to the prisoner (or any other person previously nominated), if the prisoner dies in custody, is removed to a hospital or suffers a serious injury/illness? SMR 44(1), EPR 24.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	3	0	6
Total Europe - %	75	75	13	0	25
Germany	X	X			

12.3.8.5 Telephone and letters

3.8.5.1 Has your country adopted laws or policies preventing the monitoring or censoring of telephone calls unless the prisoner or the recipient of the call is informed of the possibility of such monitoring or, such monitoring has been agreed by any lawful authority? ICCPR 17, UDHR 12, SMR 37, BOP 19, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	3	1	5
Total Europe - %	79	79	13	4	21
Germany	X	X		X	

3.8.5.2 Has your country adopted laws or policies permitting prisoners to send a minimum of 7 letters a week free of charge and more if he/she can afford it, and to receive as many letters as are sent to him/her? SMR 37, BOP 19, EPR 24.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	11	1	0	12

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	50	46	4	0	50
Germany	X	X			

3.8.5.3 Has your country adopted laws or policies preventing the prison authorities from opening prisoners' private correspondence subject to the maintenance of good order and safe and secure custody in the prison? ICCPR 17, UDHR 12, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	1	9
Total Europe - %	62	62	13	4	38
Germany	X	X		X	

12.3.8.6 *Media*

3.8.6.1 Has your country adopted laws or policies entitling prisoners to be kept informed of current affairs and other developments outside the prison by reading newspapers and periodicals and by listening to radio or television broadcasts (subject to the maintenance of good order and safe and secure custody)? SMR 39, BOP 28, EPR 24.10

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	1	1
Total Europe - %	96	92	21	4	4
Germany	X	X			

Analysis

International instrument compliance

Germany (Baden-Württemberg) has incorporated eleven of the fourteen commitments relating to prisoners' contact with the outside world into its national law. Legally binding commitments establishing the right of prisoners to communicate with and receive visits from friends and relatives, defining the circumstances in which the prison authorities may monitor a prisoner's telephone calls and open a prisoner's mail have all been incorporated.

Situation in practice

Although no specific provision is made within the law for the regulation of visiting facilities, in practice attention is paid to ensuring that appropriate facilities are made available. This position has a legal underpinning in the constitutional right of prisoners to rehabilitation. Equally, provisions forbidding the searching of visitors by prison staff from the opposite gender have not been adopted: in reality, such practices do not take place. German law also stipulates that decisions restricting the visiting rights of prisoners must be explained in the decision was issued in electronic or written form. Verbal decisions must also be explained if the prisoner requests it. The Detention Code of Baden -Württemberg does not prohibit the withdrawal of contact rights between a female prisoner and her children as a disciplinary measure but also does not list this as a measure which can be used as a disciplinary sanction. Finally, regarding a prisoner's right to receive and impart information surrounding illness, death etc. (commitments 3.8.4.1, 3.8.4.3 and 3.8.4.4), all provisions have been incorporated save for that relating to a

prisoner's right to inform their families or other nominated persons without delay of their transfer to another institution.

With regard the detention conditions of remand prisoners the work which has already been done in the framework of the EU-study on pre-trial detention is worthy of reference.

"The only statutory law governing the execution of pre-trial detention up to now is § 119 CCP. This was widely and for a long time criticised by scholars and practitioners, although a more comprehensive regulation in the form of an administrative ordinance ("Untersuchungshaftvollzugsordnung") exists that is uniformly used by all Federal States.

§ 119 CCP contains the principle of segregation of remand and sentenced prisoners (as far as possible) and a provision stating that the detainee may only be subject to such restrictions that are required by the objective of pre-trial detention and the maintenance of the order of the institution. Far-reaching restrictions such as captivation must be ordered by a judge.

In September 2006, it was decided on the political level that the execution of all forms of detention – be it pre-trial detention, be it imprisonment – should fall in the competence of the sixteen "Länder" (which is the case since 2008). This is why several Prison Acts and Pre-trial Detention Execution Acts were drafted recently, although the fragmentation of parts of the legislation of criminal procedure is widely criticised and the problem becomes obvious when we look at pre-trial detention. During its execution, both Federal (criminal procedure) and "Länder" (prisons) competences are concerned; these may collide, in particular with regard to restrictions that are justified by the objective of detention (namely censoring of letters, restricted rights to receive visits etc.) or with respect to legal remedies – both these areas are more closely related to the criminal procedure than to the administration of prisons, so they have remained in the competence of the Federal State.

Although § 119 (3) CCP stipulates that the suspect may only be subject to those restrictions that are necessary to comply with the objective of detention or that are necessary to maintain the order of the prison, in practice, this general provision is interpreted by the ordinance mentioned above in a way that leads to many constraints. For instance, the detainee is not obliged to work (No.42 UVollzO), but he only has to have one hour of outdoor exercise per day (No.55 UvollzO) – both facts often lead to the situation that the detainee has no meaningful activities at all. According to No.24, 25 UvollzO, detainees are usually only entitled to one 30-minute visit every second week; these visits are usually supervised (No.27 UVollzO). Written contacts are usually also monitored (No.30 UVollzO) and the right to make telephone calls is often not easy to obtain.

Relatively recent case-law of the FCC highlights some of the problems. The FCC did not accept a constitutional complaint where the complainant had argued that the unequal payment of sentenced and pre-trial prisoners was discriminatory. The FCC argued this was acceptable because sentenced prisoners are obliged to work and pre-trial prisoners are not; the difference in payment was within the feasible discretion of the legislator. This difference in payment is foreseen in § 177 Prison Act and also in the new Detention Execution Act of Niedersachsen, but obviously at least some of the legislation that follows the 12-States draft will provide for equal payment for sentenced and pre-trial prisoners. Interesting in that regard is also that at least some of the drafts foresee the granting of a small allowance for those who are in need but cannot be provided with work or cannot work for other reasons.

The second aspect relates to the right to receive visits. In theory, this right has to be granted in accordance with the general rule of § 119 (3) CCP; in practice, however, it is often limited very much for organisational reasons within the prisons. Usually, hardly more than the 30 minutes every second week mentioned above are granted. With regard to visits by family members, the FCC made clear that this is also protected by Art. 6 of the Constitution, which protects family life. In the concrete case, a pre-trial detainee was only allowed to be visited by his girlfriend (to whom he was not married) and his baby child within the normal limits; he was not granted the extra time usually given to married couples with children. In its decision, stating that it was unconstitutional not to extend the visits in this case, the FCC strengthened the importance of this

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right and made clear that organisational issues (the prison argued that it was impossible to grant more visits because of the overcrowding) cannot be a reason to deny such a right

12.3.9 Work

This section focuses on work in prison. International legal instruments place a series of obligations on States in respect of work in prison. The questions in this section are based on these obligations.

3.9.1 Has your country adopted laws or policies requiring work to be incorporated as a positive aspect of prison regimes and prohibiting its use as a form of punishment? SMR 71(1), EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Germany	X	X			

3.9.2 Has your country adopted laws or policies requiring that prison work provided should prepare prisoners for worthwhile work on their release and facilitate their reintegration into the workforce? SMR 71(3) & (4), BPTP 8, EPR 26.3 & 26.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	18	7	0	4
Total Europe - %	83	75	29	0	17
Germany	X	X			

3.9.3 Has your country adopted laws or policies entitling prisoners to be remunerated in respect of prison work carried out? ICESCR 7(a), UDHR 23, SMR 76(1), BPTP 8, EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	1	1
Total Europe - %	96	92	13	4	4
Germany	X	X		X	

Analysis

International instrument compliance

Germany (Baden-Württemberg) has adopted all commitments relating to work including the legally binding obligation requiring the authorities to remunerate prisoners for work undertaken in prison

Situation in practice

Following its 2005 visit, the CPT asked the authorities at Thüringen youth detention facility to take immediate steps to increase the programme of activities available for inmates, including

greater opportunities for work, education and vocational training, as well as for sports and other recreational activities.

12.3.10 *Exercise & recreation*

This section focuses on facilities for exercise and recreation in prison. International legal instruments place a series of obligations on States in respect of exercise and recreational facilities. The questions in this section are based on these obligations.

3.10.1 Has your country adopted laws or policies ensuring that, subject to the constraints of the particular prison and the maintenance of good order and security, prisoners shall be entitled to spend as much time out of their cells as is possible? EPR 25(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Germany					X

3.10.2 Has your country adopted laws or policies ensuring that prisoners receive at least one hours exercise each day in the open air, weather permitting? SMR 21, EPR 27.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	2	1
Total Europe - %	96	92	21	8	4
Germany	X	X		X	

3.10.3 Has your country adopted laws or policies ensuring that prisoners shall have access to a well-stocked library at least once a week (subject to the maintenance of good order and safe and secure custody)? R(89)12: 10, EPR 28.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	13	0	0	11
Total Europe - %	54	54	0	0	46
Germany					X

Analysis

International instrument compliance

Germany (Baden-Württemberg) has adopted one of the three commitments relating to prisoners' exercise and recreation.

Situation in practice

See also comments at 3.8 and 3.9 above relating to the exercise and recreation facilities afforded to remand prisoners and those in youth detention facilities. Following its 2005 visit, the CPT was also critical of the exercise regime available to prisoners within the Berlin Tegel Prison

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special security unit highlighting that urgent steps should be taken to make sure that outdoor activity was available for the prisoners housed there.

12.3.11 Education

This section focuses on facilities for education in prison. International legal instruments place a series of obligations on States in respect of prison education facilities. The questions in this section are based on these obligations.

3.11.1 Has your country adopted laws or policies requiring, as far as practicable, that prisoners have access to educational programmes that can meet their individual needs? ICESCR 13, UDHR 26, SMR 77(1), BPTP 6, R(89)12: 1, EPR 28.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	5	1	1
Total Europe - %	96	96	21	4	4
Germany	X	X		X	

3.11.2 Has your country adopted laws or policies requiring that education provided in prisons shall be integrated, in so far as is practicable, with national educational systems/programmes enabling prisoners to continue their education following their release? SMR 77(2), R(89)12: 16, EPR 28.7.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	5	0	3
Total Europe - %	87	75	21	0	13
Germany	X	X			

3.11.3 Has your country adopted laws or policies requiring that vocational training be available for those prisoners who are able to benefit from it, particularly young prisoners? SMR 71(5), BPTP 8, R(89)12: 9, EPR 26.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	20	5	0	2
Total Europe - %	92	83	21	0	8
Germany	X	X			

Analysis

International instrument compliance

All commitments relating to education have been adopted by law in Germany (Baden-Württemberg) including the legally binding commitment requiring the authorities to provide access for prisoners to educational programmes which meet their individual needs.

Situation in practice

See comments at 3.9 above concerning the availability of education for prisoners in youth detention facilities.

12.3.12 Freedom of thought, conscience & religion

3.12.1 Has your country adopted laws or policies ensuring that prisoners have the opportunity to practice their religion and to follow their beliefs whilst in custody? ICCPR 18(1), CERD 5 (d) (vii), UDHR 18, SMR 42, BPTP 3, EPR 29.1 & 29.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	5	0	0
Total Europe - %	100	96	21	0	0
Germany	X	X			

*Analysis**International instrument compliance*

The legally binding commitment providing prisoners with the right to practice their religion whilst in custody has been incorporated into the law of Germany (Baden-Württemberg).

12.4 Health**12.4.1 Core principles**

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.1.1 Has your country adopted laws or policies requiring that primary healthcare services to meet the needs of all prisoners be provided in each prison to a standard equivalent to that available to the community in general? ICESCR 12(1), SMR 22(1), PME 1, R(98)7: 10, 11, 12 & 19, EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	6	0	1
Total Europe - %	96	92	25	0	4
Germany	X	X			

GERMANY

4.1.2 Has your country adopted laws or policies to ensure that where a sick prisoner requires treatment that cannot be provided by the medical staff in the prison he/she shall be transferred to an appropriate hospital without undue delay? SMR 22(2), BPTP 9, R(98)7: 3, EPR 46.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	3	1	2
Total Europe - %	92	88	13	4	8
Germany	X	X		X	

4.1.3 Has your country adopted laws or policies requiring that medical records be created and accurately maintained on all prisoners and that such records be treated as confidential? BOP 26, R(98)7: 13, EPR 42.3.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	5	0	3
Total Europe - %	87	83	21	0	13
Germany	X	X			

Analysis

International instrument compliance

All commitments relating to the core principles of prison health care have been incorporated by Germany (Baden-Württemberg) into law including the legally binding commitment requiring the authorities to provide primary healthcare services to a standard equivalent to that available in the community at large.

12.4.2 Women and children

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations

4.2.1 Has your country adopted laws or policies to ensure that the necessary facilities and services required for women’s healthcare are available in women’s prisons and that women prisoners have access to a female doctor? CEDAW 12, SMR 23, BOP 5(2), R(98)7: 8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	7	3	0	17
Total Europe - %	29	29	13	0	71
Germany					X

4.2.2 Has your country adopted laws or policies requiring that appropriate care be afforded to all pregnant prisoners and nursing mothers? CEDAW 12(2), SMR 23, R(98)7: 8 & 69, EPR 34.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	87	87	13	0	13
Germany	X	X			

Analysis

International instrument compliance

Germany (Baden-Württemberg) has adopted one of the two commitments relating to the provision of prison health care to women. The legally binding commitment requiring states to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor has not, however, been incorporated into law or policy.

12.4.3 *Mental health care*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.3.1 Has your country adopted laws or policies requiring that prisoners with mental health difficulties be entitled to care appropriate to their circumstances, commensurate to the type of care available for people with similar mental health difficulties in the community? SMR 22(1), PPPMI 1 & 20, R(98)7:10, 11 & 52, R(2004)10: 35(1) & (2), EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	4	0	3
Total Europe - %	87	79	17	0	13
Germany	X	X			

4.3.2 Has your country adopted laws or policies to ensure that prisoners who require psychiatric in-patient care are transferred to a suitable hospital facility of an appropriate security level without undue delay? SMR 22(2), PPPMI 9(1) & 20, R(98)7: 3 & 55, R(2004)10: 8, 9(1) & 35(1), EPR 12(1) & 46(1)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	3	0	6
Total Europe - %	75	71	13	0	25
Germany	X	X			

Analysis

International instrument compliance

Both commitments relating to the mental health care of prisoners have been adopted by Germany (Baden-Württemberg). Comments from the SPOC indicate that the same legal framework applies to both physical and mental illness.

GERMANY

Situation in practice

With regard to the Unit for Secure Placement, the CPT recommended following its visit to Germany in 2005 that immediate steps to be taken to improve the psychological care and support for inmates subject to Sicherungsverwahrung (preventative detention) at Tegel Prison.

12.4.4 Vulnerable prisoners

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.4.1 Has your country adopted laws or policies requiring that prisoners assessed as vulnerable be accommodated in areas of the prison which are most convenient and appropriate for their monitoring and treatment by the medical personnel and other relevant agencies? SMR 22(2) & 62, EPR 12.2, 39, 43.1, 46.2, 47.1 & 47.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	3	0	8
Total Europe - %	67	63	13	0	33
Germany	X	X			

4.4.2 Has your country adopted laws or policies requiring that prisoners assessed as being at risk of suicide/self-harm be continuously monitored by both medical and prison staff throughout the prisoner’s time in custody and that records are kept of such monitoring? R(98)7: 58, EPR 47(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	5	0	14
Total Europe - %	42	29	21	0	58
Germany					X

4.4.3 Has your country adopted laws or policies requiring that prisoners detained in a special cell be visited daily, and as frequently as is necessary by a doctor who shall, inter alia, monitor his/ her physical and mental health? SMR 25(1) & 32(3), R(98)7: 66, EPR 43.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Germany	X	X			

Analysis

International instrument compliance

Two of the three commitments relating to vulnerable prisoners have been adopted by Germany (Baden-Württemberg).

12.4.5 *Medical & health care personnel*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.5.1 Has your country adopted laws or policies to ensure that every prisoner has access to appropriately qualified medical personnel in the prison at all times? SMR 24, BOP 24, R(98)7:1, 2 & 4, EPR 41.2 & 41.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Germany	X	X			

Analysis

International instrument compliance

The commitment requiring the authorities to ensure that prisoners have access to appropriately qualified medical personnel at all times has been adopted by Germany (Baden-Württemberg).

Situation in practice

The CPT observed that in some of the institutions visited in 2005, there was a lack of sufficient medical staff resulting in problems for prisoners in getting access to medical care.

12.4.6 *Prisoners with addiction problems*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.6.1 Has your country adopted laws or policies to ensure that prisoners with addiction problems have access to appropriate treatment and support services, including those from external agencies? SMR 62, R(98)7: 7, 43, 44, 45, 46 & 47, EPR 42.3.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	8	0	3
Total Europe - %	88	79	33	0	13
Germany	X	X			

Analysis

International instrument compliance

The commitment regarding prisoners with addiction problems has been adopted by Germany (Baden-Württemberg).

GERMANY

12.4.7 *Hunger strikes*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.7.1 Has your country adopted laws or policies forbidding the practice of forced feeding of hunger strikers? DOMHS, R(98)7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	37	21	21	0	63
Germany					X

Analysis

International instrument compliance

No provision is made in the law or policy of Germany (Baden-Württemberg) preventing the forced feeding of hunger strikers.

12.5 **Good order**

12.5.1 *General approaches*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.1.1 Has your country adopted laws or policies requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody? R(82)17: 8, EPR 51.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	0	9
Total Europe - %	62	62	13	0	38
Germany	X	X			

Analysis

International instrument compliance

Germany (Baden-Württemberg) has made provision for regular reviews of the security required for each prisoner throughout their time in custody within its law.

12.5.2 Safety & Security

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.2.1 Has your country adopted laws or policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat? EPR 51.5, 53.1 & 53.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	63	63	17	0	37
Germany	X	X			

Analysis

International instrument compliance

Germany (Baden-Württemberg) has made provision in its law requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat.

12.5.3 Searching of prisoners

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.3.1 Has your country adopted laws or policies requiring that searches conducted on prisoners be carried out with due regard to the prisoner's dignity? ICCPR 10(1), BPTP 1, EPR 54.3 & 54.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	0	1
Total Europe - %	96	92	13	0	4
Germany	X	X			

5.3.2 Has your country adopted laws or policies stipulating that prisoners may only be searched by a staff member of the same gender? ICCPR 10(1), BPTP 1, EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	1	0	1
Total Europe - %	96	92	4	0	4
Germany	X	X			

GERMANY

5.3.3 Has your country adopted laws or policies stipulating that prisoners may only be subjected to a strip search in exceptional circumstances and for good reason and then, only in the presence of two officers in an appropriate place which ensures privacy? ICCPR 10(1), BPTP 1, EPR 54. 3, 54.4 & 54.6, *Van der Van v The Netherlands* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	3	1	13
Total Europe - %	66	54	13	4	54
Germany					X

Analysis

International instrument compliance

Germany (Baden-Württemberg) has fully incorporated two of the three legally provisions relating to the searching of prisoners into its law. Comments from the SPOC above indicate that the law does not stipulate that strip searching can only take place in the presence of two prison officers however.

12.5.4 Criminal acts, discipline & punishment

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.4.1 Has your country adopted laws or policies stipulating that all inquiries into breach of prison discipline or rules shall be conducted in an independent and impartial manner? ICCPR 14(1), UDHR 10, ECHR 6(1), *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	2	1	8
Total Europe - %	67	63	8	4	33
Germany	X	X			

5.4.2 Has your country adopted laws or policies requiring that all incidents of bullying/violence/threatening behaviour between prisoners, and any breach of discipline be reported to an officer of a higher rank, duly recorded and properly investigated? EPR 52.2 & 58

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	62	62	17	0	38
Germany	X	X			

5.4.3 Has your country adopted laws or policies stipulating that when a prisoner has been charged with a disciplinary offence he/she shall be promptly informed of the allegation made against him/her in a language that he/she understands? ICCPR 14(3)(a), CERD 5(a), SMR 30(2), ECHR 6(3)(a), EPR 59.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	3	0	7
Total Europe - %	71	71	13	0	29
Germany	X	X			

5.4.4 Has your country adopted laws or policies stipulating if an inquiry is being conducted into a breach of prison discipline or rules the prisoner shall have adequate time to prepare his/her defence and/or to receive legal assistance? ICCPR 14(3)(b) & (d), SMR 30(2), ECHR 6(3)(b) & (c), EPR 59.b & 59.c, *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	2	0	9
Total Europe - %	62	58	8	0	38
Germany	X	X			

5.4.5 Has your country adopted laws or policies stipulating that in any disciplinary proceedings prisoners must understand the proceedings and if necessary, appropriate interpretation facilities must be provided? ICCPR 14(3)(f), SMR 30(3), ECHR 6(3)(e), EPR 59.e

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Germany	X	X			

5.4.6 Has your country adopted laws or policies stipulating that no prison officer shall impose a punishment/penalty/deprivation on a prisoner without due process and in accordance with law and/or relevant rules or instruments? EPR 57.2.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	2	0	4
Total Europe - %	83	83	8	0	17
Germany	X	X			

5.4.7 Has your country adopted laws or policies stipulating that if a prisoner is found guilty of a disciplinary offence, he/she shall be entitled to exercise his/her right of appeal to an independent and impartial tribunal established by law? ICCPR 14(5), BOP 30(2), EPR 61

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	1	0	5
Total Europe - %	79	79	4	0	21
Germany	X	X			

GERMANY

5.4.8 Has your country adopted laws or policies requiring that when a prisoner is detained in any type of special cell (special observation/cladded/strip) he/she shall be regularly monitored by a prison officer? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	3	0	7
Total Europe - %	71	67	13	0	29
Germany	X	X			

5.4.9 Has your country adopted laws or policies requiring that a detailed record be maintained of, inter alia, the monitoring of such prisoners, their expressed requirements, actions taken in response to such requests and details of visits by officers or others to such prisoners? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	8	8	2	0	16
Total Europe - %	33	33	8	0	67
Germany					X

5.4.10 Has your country adopted laws or policies to ensure that prisoners in a special cell are able to contact a member of staff at all times, including during the night and that a staff member shall respond without delay? ICCPR 6(1), EPR 18.2.c & 52.4, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	4	0	63
Germany	X	X			

Analysis

International instrument compliance

Germany (Baden-Württemberg) has adopted nine of the ten commitments relating to criminal acts, discipline and punishment: this includes the legally binding commitments relating to the impartial investigation of breaches of prison discipline, ensuring that prisoners alleged to have breached the disciplinary code are given information about their charges in a language they can understand (see comments from SPOC above), that prisoners have adequate time to prepare their defence and can access legal advice, can access interpretation facilities during a hearing if required and can appeal to an independent and impartial tribunal. Furthermore, the requirements stipulating that prisoners placed in special cells must be monitored by prison staff and can contact the same at all times have also been incorporated. The commitment requiring the authorities to record information relating to the monitoring of and contact with prisoners in special cells has not, however, been incorporated.

Situation in practice

Following its visit to Germany in 2005, the CPT recommended that with regard to the educational measure of lock-up (Einschluss) at Hameln Juvenile Prison, steps needed to be taken to ensure that the prisoners concerned could be heard in person concerning the application of the measure, receive a copy of the decision and be informed in writing of the modalities for appeals against that decision. Inmates concerned should also be able to benefit from individual custody plans indicating clearly how they may progress out of the regime. More generally, the Committee found that the application of the educational measure of lock-up should be subject to frequent and regular review and that the process should be carefully overseen by senior managers to protect against the risk of arbitrariness and/or an excessive duration of the measure. The CPT also highlighted shortages of custodial staff in several of the institutions it visited and criticized the use of restraints on prisoners and methods of keeping order that were deemed to be inappropriate (deprivation of outdoor exercise, deprivation of contact with the outside world, deprivation of reading materials).

12.5.5 Use of force/weapons

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.5.1 Has your country adopted laws or policies stipulating that members of staff will use force only when absolutely necessary and that any force used shall be proportionate to the situation? SMR 54(1), CCLEO 3, BPUF 4, EPR 64 & 6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	4	1	3
Total Europe - %	87	87	17	4	13
Germany	X	X			

Analysis

International instrument compliance

The commitment stipulating that members of staff will use force only when absolutely necessary and that any force used shall be proportionate to the situation has been incorporated in the law of Germany (Baden-Württemberg).

12.5.6 Requests & complaints

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

GERMANY

5.6.1 Has your country adopted laws or policies to ensure that prisoners have sufficient opportunity to make requests or complaints to the Governor of the prison or to any other competent authority? SMR 36(1) & (3), BOP 33(1), EPR 70.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	3	0	1
Total Europe - %	96	96	13	0	4
Germany	X	X			

5.6.2 Has your country adopted laws or policies establishing the right of a prisoner's legal advisor or to make a request or a complaint regarding that prisoner's treatment to the prison authorities, or other relevant authorities? BOP 33 (1) & (2), EPR 70.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	1	0	6
Total Europe - %	75	75	4	0	25
Germany	X	X			

5.6.3 Has your country adopted laws or policies requiring that all complaints be promptly investigated in accordance with law? SMR 36(4), BOP 33(4)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	2	0	7
Total Europe - %	71	67	8	0	29
Germany	X	X			

5.6.4 Has your country adopted laws or policies to ensure that where a request is denied or a complaint is rejected, the prisoner is informed promptly as to the reason(s) for such denial or rejection? SMR 36(4), BOP 33(4), EPR 70.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	2	1	7
Total Europe - %	71	63	8	4	29
Germany	X	X			

5.6.5 Has your country adopted laws or policies to ensure that prisoners are not disadvantaged for exercising their rights to make requests or complaints? BOP 33(4), EPR 70.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	3	0	13
Total Europe - %	46	42	13	0	54
Germany	X	X			

5.6.6 Has your country adopted laws or policies requiring that complaints made by members of staff against other members of staff be properly recorded and investigated in accordance with the law? EPR 88 & 87.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	11	3	0	11
Total Europe - %	54	46	13	0	46
Germany	X	X			

Analysis

International instrument compliance

All commitments relating to prison requests and complaints procedures have been adopted Germany (Baden- Württemberg). See comments from SPOC above regarding the legal basis of these commitments in German federal and state law.

12.6 Management & Staff

12.6.1 Training of staff

This section focuses on the staff training and prison management. International legal instruments place a series of obligations on States in respect of the training and management of prison staff. The questions in this section are based on these obligations.

6.1.1 Has your country adopted laws or policies to ensure that all prison staff receive appropriate training at regular intervals throughout their career? SMR 47(3), EPR 8, 76 & 81.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	14	7	0	5
Total Europe - %	79	58	29	0	21
Germany	X	X			

6.1.2 Has your country adopted laws or policies to ensure that members of staff who work with particular groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, receive training particular to their individual work? R(82)17: 10, R(2004)10: 12(1), EPR 81.3, ERJO 129

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	38	21	21	0	62
Germany	X	X			

GERMANY

Analysis

International instrument compliance

Germany (Baden-Württemberg) has adopted measures into its law setting out obligations for the initial and on-going training of prison staff including specialist training for those engaged in working with specific target groups

12.7 Inspection & Monitoring

12.7.1 Governmental Inspection

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.1.1 Has your country adopted laws or policies requiring that prisons be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law? SMR 55, EPR 92, R(2004)10 36.1, ERJO 125, PPPMI 22

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	19	4	0	4
Total Europe - %	83	79	17	0	17
Germany	X	X			

Analysis

International instrument compliance

The commitment relating to governmental inspections of prisons has been adopted into the law of Germany (Baden-Württemberg).

12.7.2 Independent monitoring

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.2.1 Has your country adopted laws or policies requiring that the conditions of detention and the treatment of prisoners shall be also monitored by an independent body or bodies, comprised of qualified experienced personnel, and whose findings shall be made public? OPCAT 3, 17, 18, 19, BOP 29.1, EPR 93.1, R(2004)10 36.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Germany					X

7.2.2 Has your country adopted laws or policies granting such an independent body open access to places of detention, to prisoners and others whom it wishes to interview? OPCAT 19, 20, CPT 8,9 BOP 29.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	3	1	9
Total Europe - %	62	58	13	4	38
Germany	X	X		X	

7.2.3 Has your country adopted laws or policies encouraging such independent bodies to cooperate with those international agencies that are legally entitled to visit prisons? CPT 2,7 EPR 93.2, ERJO 126.

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	6	1	0	17
Total Europe - %	29	25	4	0	71
Germany					X

Analysis

International instrument compliance

Germany (Baden-Württemberg) has not fully incorporated all aspects of the commitments relating to independent monitoring of prisons although a fully functioning inspection mechanism exists. See comments from SPOC above describing the current framework for independent inspection mechanisms

Situation in practice

Germany ratified the OPCAT in December 2008 and, as the SPOC reports above, designated the Federal Agency for the Prevention of Torture and the National Commissions of the Länder as NPMs.

12.8 Sentenced Prisoners

This section focuses on the particular provisions relating to convicted prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

GERMANY

8.1.1 Has your country adopted laws or policies requiring that a prisoner’s release and re-integration back into society should constitute a central part of the sentence management plan? ICCPR 10(3), SMR 80, EPR 6, 103.2 & 103.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	6	2	4
Total Europe - %	83	83	25	8	17
Germany	X	X		X	

8.1.2 Has your country adopted laws or policies requiring that a sentence management plan be prepared for each prisoner serving a sentence of 12 months or over as soon as practicable after their admission? It should provide for, inter alia, the welfare and health needs of the prisoner, training, employment or education needs he/she may have, and include a release plan for the prisoner. This plan shall be reviewed at regular intervals to take into account the changing circumstances of the prisoner. SMR 65, 66 & 69, R(2003)23: 3 & 9, EPR 6, 103 & 104.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	5	0	10
Total Europe - %	58	54	21	0	42
Germany	X	X	X		

Analysis

International instrument compliance

Both commitments relating to sentenced prisoners have been adopted by Germany (Baden-Württemberg) including the legally binding commitment requiring that a prisoner’s release and re-integration back into society should constitute a central part of the sentence management plan.

12.9 Juveniles

This section focuses on the particular provisions relating to juvenile prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

9.1.1 Has your country adopted laws or policies requiring that juveniles be detained separately from adult offenders? ICCPR 10(3), CRC 37(c), BR 26.3, RPJDL 29, EPR 11.1, ERJO 59.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	1	3
Total Europe - %	87	87	13	4	13
Germany	X	X		X	

9.1.2 Has your country adopted laws or policies to ensure that, subject to reasonable conditions and restrictions, a sentenced prisoner under the age of 18 shall be entitled to receive a minimum of two weekly visits? CRC 37(c), SMR 37, BOP 19, RPJDL 60, ERJO 83, 84, 85.1 & 85.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	6	3	0	15
Total Europe - %	37	25	13	0	63
Germany					X

Analysis

International instrument compliance

Germany (Baden-Württemberg) has adopted one of the two legally binding commitments relating to juveniles. Comments from SPOC indicate that the law stipulates the amount of visiting hour which a juvenile prisoner is entitled to rather than the number of visits.

Situation in practice

Following its 2005 visit, the CPT recommended that steps should be taken at Hameln and Weimar/Ichtershausen Juvenile Prisons to ensure that: all cells have adequate access to daylight and good ventilation and that any devices affixed to cell windows should allow for the adequate passage of natural light and fresh air. With regards to the latter institution, the Committee also highlighted that measuring less than 8m² (excluding the toilet area) should not accommodate no more than one prisoner.

12.10 Sentence Execution Modalities

This section of the questionnaire is designed to collate information on the differing methods by which custodial sentences and measures involving deprivation of liberty are enforced across EU Member States.

10.1.1. Which of the following modalities of prison sentence execution are provided for in the law of your country?

	Weekend detention	Evening detention	Daytime detention	Home detention	
				no electronic monitoring	electronic monitoring
EUROPE	9 = 38%	10 = 42%	3 = 13%	6 = 25%	14 = 58%
Germany		X			

10.1.2. What is the maximum period for which home detention with electronic monitoring can be imposed?

	Under 12 months	12-24 months	25 months - 36 months	37 months - 50 months	More than 50 months
EUROPE	7 = 29%	4 = 17%	0 = 0%	1 = 4%	2 = 8%
Germany					

10.2.1. In which of the following locations can custodial sentences or measures involving deprivation of liberty be imposed?

GERMANY

	Penitentiary institution	Psychiatric institution	Detoxification institution	Educational institution	Home
EUROPE	24 = 100%	20 = 83%	10 = 42%	7 = 29%	12 = 50%
Germany	X	X	X		

Analysis

Sentence execution modalities

The law in Germany (Germany (Baden-Württemberg) provides for one additional sentence execution modality that of evening detention. A pilot project is underway to test the feasibility of introducing home detention with electronic monitoring of up to twelve months in duration. Custodial sentences or measures involving deprivation of liberty can be imposed in relation to penitentiary, psychiatric and detoxification institutions in Germany (Baden-Württemberg).

Early release from prison, earned remission and suspension of sentence

In common with all EU countries, Germany (Baden-Württemberg) has adopted measures under which prisoners are entitled to early release from prison. Adult prisoners normally become eligible for early release two thirds of the way through their sentence. The competent court will hold a hearing. The prisoner is heard and the prison authorities and the prosecution also give a written opinion on the issue. The court will release the prisoner if the safety of the general public does not require further imprisonment. Release is also possible after 50% of the sentence (halbe straffe). Prisoners can become eligible for halbe straffe if it is their first prison sentence and the sentence imposed is of less than two years duration. (sect. 57 § 2 no. 1 StGB). In theory, prisoners serving longer sentences can also be released at the half-time point but this requires exceptional circumstances and is consequently very rare. Juveniles can become eligible for early release after serving one third of their sentence. The early release system is based around discretionary provisions. Decisions on a prisoner's early release are based on five of the ten criteria identified. Four forms of monitoring and conditions can be applied to a prisoner granted early release. Prisoners in Germany (Baden-Württemberg) are also able to earn remission from their sentence as a result of work undertaken in prison. No provision is made, however, for the further execution of a prison sentence to be suspended during the course of the sentence

12.11 Early release from prison, earned remission and suspension of sentence

12.11.1 Early release

Early release means the release of the offender before their prison term is finished. It is possible only while the sentence is still being served. Early release does not include the suspended enforcement of a penalty which is dealt with later in this questionnaire.

11.1.2.1. Has your country adopted laws and regulations under which prisoners are entitled to early release from prison ?

	Yes	No
EUROPE	24 = 100%	0 = 0%
Germany	X	

11.1.2.2. At what point in a prisoner's sentence do they become eligible for early release?

	One third of sentence or less	One third to one half of a sentence	One half to three quarters of a sentence	More than three quarters of a sentence	Other
EUROPE	2 = 8%	1 = 4%	7 = 29%	0 = 0%	14 = 58%
Germany					X

11.1.2.2. Does your country have different regulations for the early release of prisoners based on:

	A prisoner's nationality (non-EU citizen)	A prisoner's nationality (EU citizen)	The length of sentence imposed
EUROPE	Yes - 3 = 12% No - 21 = 88%	Yes - 3 = 12% No - 21 = 88%	Yes - 24 = 100% No - 0 = 0%
Germany	N	N	Y

11.1.2.3. Are provisions governing the early release of prisoners automatic or discretionary?

	Automatic (prisoners are automatically released at a certain point in their sentence)	Discretionary (prisoners are only released following assessment)
EUROPE	Yes - 7 = 29% No - 17 = 71%	Yes - 20 = 83% No - 4 = 17%
Germany	N	Y

11.1.2.4. What factors are taken into consideration when deciding whether a prisoner will be granted early release?

	The circumstances surrounding the crime	Prior criminal record	The offender's progress during imprisonment	Assessment as to whether the prisoner is likely to reoffend	Recommendation from the sentencing judge
EUROPE	Yes - 24 = 50% No - 24 = 50%	Yes - 15 = 63% No - 9 = 37%	Yes - 22 = 92% No - 2 = 8%	Yes - 19 = 79% No - 5 = 21%	Yes - 4 = 17% No - 20 = 83%
Germany	Y	Y	Y	Y	N

GERMANY

11.1.3.1. What forms of monitoring and conditions can be applied to prisoners' early release?

1. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
2. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
4. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
5. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
6. Electronic monitoring
7. Weekend/evening /daytime detention
8. Requirement containing limitations on leaving the country
9. Requirement to leave the country
10. Requirement to pay compensation
11. Requirement to undertake community service
12. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	Other
EUROPE	Y - 83	Y - 8	Y - 58	Y - 62	Y - 33	Y - 25	Y - 13	Y - 42	Y - 21	Y - 29	Y - 21	
	N - 17	N - 92	N - 42	N - 38	N - 77	N - 75	N - 87	N - 58	N - 79	N - 71	N - 79	9
Germany	Y	N	Y	Y	Y	N	N	N	N	N	N	

12.11.2 *Sentence reduction as a result of prison work*

11.2.1.1. Can a prisoner earn remission on their sentence as a result of work carried out in prison?

	Yes	No
EUROPE	9= 38%	15 – 62%
Germany	X	

12.11.3 *Suspension of sentence enforcement*

11.3.1. Does the national law of your country make provision for the further execution of a prison sentence to be suspended during the course of the sentence?

	Yes	No
EUROPE	10=42%	14= 58%
Germany		X

11.3.2.1. What factors are taken into consideration when deciding whether a prisoner will have the further execution of their prison sentence suspended?

1. The circumstances surrounding the crime
2. Prior criminal record
3. The offender's progress during imprisonment
4. Assessment as to whether the prisoner is likely to reoffend
5. Recommendation from the sentencing judge
6. Suitability of home circumstances
7. Information from victim(s)
8. Willingness of the prisoner to leave the country upon release
9. The prisoner will be deported upon release
10. Other – please specify

	1	2	3	4	5	6	7	8	9	Other
EUROPE	Y - 8 N - 92	Y - 13 N - 78	Y - 17 N - 83	Y - 21 N - 79	Y - 0 N - 100	Y - 4 N - 96	Y - 0 N - 100	Y - 0 N - 100	Y - 0 N - 100	21
Germany	N	N	N	N	N	N	N	N	N	

11.3.3.1. What forms of monitoring and conditions can be applied to prisoners whose further execution of a prison sentence has been suspended?

1. Unconditional supervision
2. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
4. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
5. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
6. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
7. Electronic monitoring
8. Weekend/evening /daytime detention
9. Requirement containing limitations on leaving the country
10. Requirement to leave the country
11. Requirement to pay compensation
12. Requirement to undertake community service
13. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	12	Other
EUROPE	Y - 4 N - 96	Y - 38 N - 62	Y - 4 N - 96	Y - 29 N - 71	Y - 17 N - 83	Y - 17 N - 83	Y - 4 N - 96	Y - 4 N - 96	Y - 21 N - 79	Y - 0 N - 100	Y - 17 N - 83	Y - 4 N - 96	2
Germany	N	N	N	N	N	N	N	N	N	N	N	N	

Analysis

Sentence execution modalities

The law in Germany (Germany (Baden-Württemberg) provides for one additional sentence execution modality that of evening detention. A pilot project is underway to test the feasibility of introducing home detention with electronic monitoring of up to twelve months in duration. Custodial sentences or measures involving deprivation of liberty can be imposed in relation to penitentiary, psychiatric and detoxification institutions in Germany (Baden-Württemberg).

Early release from prison, earned remission and suspension of sentence

In common with all EU countries, Germany (Baden-Württemberg) has adopted measures under which prisoners are entitled to early release from prison. Adult prisoners normally become eligible for early release two thirds of the way through their sentence. The competent court will hold a hearing. The prisoner is heard and the prison authorities and the prosecution also give a written opinion on the issue. The court will release the prisoner if the safety of the general public does not require further imprisonment. Release is also possible after 50% of the sentence (halbe straffe). Prisoners can become eligible for halbe straffe if it is their first prison sentence and the sentence imposed is of less than two years duration. (sect. 57 § 2 no. 1 StGB). In theory, prisoners serving longer sentences can also be released at the half-time point but this requires exceptional circumstances and is consequently very rare. Juveniles can become eligible for early release after serving one third of their sentence. The early release system is based around discretionary provisions. Decisions on a prisoner's early release are based on five of the ten criteria identified. Four forms of monitoring and conditions can be applied to a prisoner granted early release. Prisoners in Germany (Baden-Württemberg) are also able to earn remission from their sentence as a result of work undertaken in prison. No provision is made, however, for the further execution of a prison sentence to be suspended during the course of the sentence.

Appendix

1. Einschränkungen der Grundrechte des Strafgefangenen
2. Unzulässige Überbelegung eines Haftraumes
4. Anwesenheit von Mitgefangenen bei Aufnahme in die JVA
5. Aushändigung des Strafvollzugsgesetzes
6. Belehrung über Anfechtbarkeit von Vollzugsmaßnahmen
7. Wohnort als Anknüpfungspunkt für die örtliche Vollzugszuständigkeit
8. Unzulässige Gemeinschaftsunterbringung während der Ruhezeiten
9. Anspruch auf Einzelunterbringung in „neuen“ umgebauten Hafthäusern einer vor dem 1. 1. 1977 errichteten „alten“ Haftanstalt
10. Beschluss vom 27.02.2002 - 2 BvR 553/01
11. Beschluss vom 25.03.2009 - 11 W 106/08
12. Doppelbelegung einer Einzelzelle
13. Haftraumgröße und Menschenwürde
14. Strafvollzug in doppelbelegter Einzelzelle mit offener Toilette
15. Anspruch eines muslimischen Strafgefangenen auf Beachtung islamischer Speisevorschriften
16. Unbedenklichkeit von Nahrungsmitteln im Vollzug
17. Betreten von Hafträumen durch Bedienstete ohne zuvoriges Anklopfen

18. Halbstrafausssetzung
19. Zur Beiordnung eines Pflichtverteidigers im Strafvollstreckungsverfahren wegen Unfähigkeit zur Selbstverteidigung
20. Briefpakete als Verteidigerpost
21. Unkontrollierter Verteidigerverkehr in Strafvollzugssachen
22. Überwachung des Besuchs von Strafgefangenen mittels Trennscheiben
23. Ferngespräche in der JVA – Einwilligung in Abhörmaßnahmen
24. Arbeitsentgelt für Strafgefangene
25. Mindestaufenthaltsdauer im Freien
26. Herausnahme aus dem Hauptschulkurs
27. Anspruch eines Strafgefangenen auf Verlegung in ein Krankenhaus des Vollzuges/Hinzuziehung externer Fachärzte
28. Disziplinarverfahren - Recht auf Verteidiger
29. Zufuhr von Frischluft in Zelle
30. Delegation der Sprechstunde des Anstaltsleiters
31. Befugnisse einzelner Beiratsmitglieder
32. Stattgebender Kammerbeschluss: Verletzung des von Art 2 Abs 1 GG iVm Art 1 Abs 1 GG geschützten Resozialisierungsinteresses eines lebenslänglich Inhaftierten durch Verweigerung von Vollzugslockerungen bei unzureichender Ermessensausübung - Entscheidung über Vollzugslockerung bereits vor Festlegung der Mindestverbüßungsdauer möglich
33. Stattgebender Kammerbeschluss: grundrechtliche Anforderungen an die Vollzugsplanung eines Strafgefangenen im Hinblick auf den in GG Art 2 Abs 1 iVm Art 1 Abs 1 verankerten Resozialisierungsanspruch des Strafgefangenen sowie die Rechtsschutzgarantie aus GG Art 19 Abs 4)
34. Anforderungen an die inhaltliche Begründung eines Vollzugsplans oder dessen Fortschreibung
35. Verfassungsrechtliche Notwendigkeit einer gesetzlichen Regelung für in Grundrechte des Gefangenen eingreifende Maßnahmen im Jugendstrafvollzug: Fortbestand des Rechtsschutzinteresses auch nach Erledigung des ursprünglichen Rechtsschutzziels, grundsätzliche Bedeutung der Rechtsfrage - Besonderheiten des Jugendstrafvollzugs, mit Erwachsenenstrafvollzug nicht vergleichbar - Übergangsfristbis zum Inkrafttreten der erforderlichen gesetzlichen Regelungen
37. Gesetzbuch über den Justizvollzug in Baden-Württemberg (Justizvollzugsgesetzbuch - JVollzGB)
38. Verwaltungsvorschrift des Justizministeriums zur Bekleidungsordnung für Gefangene in den Justizvollzugsanstalten des Landes Baden-Württemberg
38. Gesundheitswesen im Justizvollzug
39. Verwaltungsvorschrift des Justizministeriums über die Verwahrung der Habe der Gefangenen
40. Zum Ersten Buch Justizvollzugsgesetzbuch: Gemeinsame Regelungen und Organisation
41. Convention for the Protection of Human Rights and Fundamental Freedoms as amended by Protocols No. 11 and No. 14
42. German Federal Constitution
43. Youth Courts Law
44. German Criminal Code

13 Greece

13.1 Introduction

The questionnaire was completed by Professor Dr. Angelika Pitsela, Associate Professor of Criminology & Penology/Lawyer at Aristotle University of Thessaloniki and by Dr. Athanasia Antononopoulou from the Law Department at the University of Thessaloniki.

Greece has been visited by the Committee for the Prevention of Torture five times in the last five years (2005, 2007, 2008, 2009 & 2011) and was the subject of a report by the European Commissioner for Human Rights in 2006. The CPT also took the unusual step of publishing a public statement concerning Greece in March 2011 such was its concern at the lack of progress made by the Greek authorities in response to issues arising from its previous inspection visits. The public statement was issued too late to be included in the body of this report. Nonetheless, it is of sufficient gravity to be quoted at length below. The public statement highlighted that the CPT has observed a steady deterioration in the living conditions and treatment of prisoners over the past decade. The Committee identified a number of fundamental structural issues which serve to undermine attempts to remedy this state of affairs. They include the lack of a strategic plan to manage prisons, which are complex institutions, the absence of an effective system of reporting and supervision, and inadequate management of staff. The CPT highlighted in its reports the unsuitable material conditions, the absence of an appropriate regime and the poor provision of health care. It has found that due to the totally inadequate staffing levels, effective control within the accommodation areas of some of the prisons visited has progressively been ceded to groups of strong prisoners. All these issues are compounded by the severe overcrowding within most Greek prisons. The CPT emphasised that the Greek authorities have yet to recognise that the prison system as it is currently operating is not able to provide safe and secure custody for inmates. It highlighted that discussions with the prison administration in Athens indicated a lack of appreciation on their part of the actual situation in the country's prison establishments. The findings of the 2011 visit confirmed that a regulated prison system, as aspired to in law, had given way to the practice of warehousing prisoners. No action had been taken to implement the CPT's repeated recommendations to improve the situation in establishments visited as regards living conditions, staffing levels, purposeful activities and aspects of health care, not to mention inter-prisoner violence.

Additional information has also been sourced from Amnesty International's 2009 country report on Greece, the 2009 UNHCR Country Report on Human Rights Practices for Greece (drawing on source material provided by the US Department of State) and the International Centre for Prison Studies. These reports have been used as a basis for information on the situation in practice.

Country	GREECE
Ministry responsible	Ministry of Justice
Prison administration	Penitentiary Policy General Directorate
Contact address	96 Avenue Messogion, GR-11527 ATHENS, Greece
Telephone/fax/website	tel: +30 1 77 96 452 fax: +30 1 77 17 182 web: www.ministryofjustice.gr
Head of prison administration (and title)	(Mme.) Sevasti Anastassakou - Papamitropoulou General Director of Penitentiary Policy

GREECE

Prison population total (including pre-trial detainees / remand prisoners)	11,547 at 1.12.2009 (national prison administration)		
Prison population rate (per 100,000 of national population)	102 based on an estimated national population of 11.3 million at beginning of December 2009 (from Eurostat figures)		
Pre-trial detainees / remand prisoners (percentage of prison population)	27.4% (1.1.2009)		
Female prisoners (percentage of prison population)	5.9% (1.1.2009)		
Juveniles / minors / young prisoners incl. definition (percentage of prison population)	4.4% (1.1.2009 - under 18)		
Foreign prisoners (percentage of prison population)	43.9% (30.6.2007)		
Number of establishments / institutions	33 (2009 - 16 judicial prisons, 8 closed prisons, 3 therapeutic establishments, 3 special juvenile establishments, 3 rural prisons)		
Official capacity of prison system	9,103 (1.9.2008)		
Occupancy level (based on official capacity)	129.6% (1.9.2008)		
Recent prison population trend (year, prison population total, prison population rate)	1992	6,524	63
	1995	,5891	55
	1998	6,150	57
	2001	8,295	76
	2004	8,726	79
	2007	10,370	93

13.2 Overarching Principles

This section focuses on the overarching principles governing the management of prisons and the treatment of prisoners. International legal instruments place a series of obligations on States in respect of the management of prisons and the treatment of prisoners. The questions in this section are based on these obligations.

2.1.1 Has your country adopted laws or policies specifically requiring that prisoners must be treated with respect for their human rights? ICCPR 10(1), UDHR 1, BOP 1, BPTP 1, EPR 1 & 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	19	7	1	2
Total Europe - %	92	79	29	4	8
Greece	X	X	X		

2.1.2 Has your country adopted laws or policies specifically requiring prisons to be managed in accordance with human rights standards? EPR 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	4	3	3
Total Europe - %	88	75	16	13	12
Greece	X	X			

2.1.3 Has your country adopted laws or policies explicitly prohibiting practices that could constitute torture, inhumane or degrading treatment or punishment of prisoners? ICCPR 7, BOP 6, ECHR 3, *Kalashnikov v Russia* (ECtHR 2003)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	1	3	2
Total Europe - %	92	88	4	12	8
Greece	X	X			

2.1.4 Has your country adopted laws or policies specifically requiring that prisoners be provided with a range of activities during their sentence (for example - educational, recreational, work/training and welfare programmes)? SMR 77 & 78, BOP 28, BPTP 6 & 8, EPR 25

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	0	0
Total Europe - %	100	96	29	0	0
Greece	X	X	X		

Analysis

International instrument compliance

In common with the majority of the other EU Member States, Greece has adopted all commitments to protect the human rights of its prisoners. All these commitments arise from legally binding international legal instruments.

Situation in practice

Isolated incidents of ill-treatment of prisoners by staff reported to the CPT during its 2005 visit. In one such incident a prisoner was stripped, handcuffed and beaten. In addition there were complaints from prisoners that they could be subjected to arbitrary detention in a segregation unit without the punishment ever being recorded

13.3 Conditions Of Imprisonment

13.3.1 Admission

This section focuses on the treatment of prisoners upon their admission to prison. International legal instruments place a series of obligations on States in respect of prisoner admission. The questions in this section are based on these obligations.

3.1.1 Has your country adopted laws or policies requiring that all prisoner details are recorded at the time of committal including, inter alia, details of any visible injuries and the prisoner's personal belongings? SMR 7(1), EPR 15.1, 31.1, 31.2 & 31.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	7	1	7
Total Europe - %	71	63	29	4	29
Greece	X	X	X		

3.1.2 Has your country adopted laws or policies requiring that upon admission, each prisoner is given a booklet outlining his/her rights, duties, obligations and privileges and the rules and regulations governing the prison which apply to the individual prisoner? The booklet shall be written in a language that the prisoner understands. CERD 7, SMR 35, BOP 13, EPR 30

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	6	1	6
Total Europe - %	63	54	25	4	25
Greece	X	X	X		

3.1.3 Has your country adopted laws or policies requiring that upon admission, every prisoner shall undergo a medical examination either by a nurse reporting to a doctor or by a doctor? SMR 24, BOP 24, R(98)7: 1, EPR 42.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	20	6	1	1
Total Europe - %	96	83	25	4	4
Greece	X	X			

3.1.4 Has your country adopted laws or policies requiring the doctor/nurse to pay particular attention to the detection of injuries, mental illnesses, of withdrawal symptoms resulting from the use of drugs, medication or alcohol, of contagious and chronic conditions, and, to assess the prisoner's suicide/self-harm risk? SMR 24, R(98)7: 1, EPR 42.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	10	8	1	9
Total Europe - %	62	42	33	4	38
Greece					X

3.1.5 Has your country adopted laws or policies requiring injuries detected during such an examination to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner? EPR 15.1.e & 42.3.c

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	5	4	1	17
Total Europe - %	29	21	17	4	71
Greece					X

3.1.6 Has your country adopted laws or policies requiring upon admission that each prisoner be assessed to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves? ICCPR 6, UDHR 3, ECHR 2, R(2003)23: 12, EPR 52.1, *Keenan v The United Kingdom* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	5	1	13
Total Europe - %	46	42	21	4	54
Greece					X

3.1.7 Has your country adopted laws or policies requiring that such risks be managed for the duration of the prisoner's sentence? ICCPR 6, UDHR 3, ECHR 2, EPR 52.2, *Osman v The United Kingdom* (ECtHR 2000)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	3	1	12
Total Europe - %	50	50	13	4	50
Greece					X

Analysis

International instrument compliance

Three out of seven commitments regarding procedures for admission in prison have been adopted. This includes the legally binding commitment requiring that upon admission, each prisoner is given a booklet outlining his/her rights and obligations. Commitments that have not been adopted relate to the assessment of each prisoner to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves and this for the duration of their sentence.

Situation in practice

In all the prisons visited by the CPT in 2009, inmates complained that they had not received any information about the regulations governing the day-to-day activities and procedures in the prison. Instead, they had to rely on other prisoners to tell them about the regime and the rules, which placed certain prisoners in a superior position. Further, for foreign national prisoners who did not speak Greek the lack of information in a language they could not understand placed them in a particularly vulnerable position.

GREECE

13.3.2 Allocation

This section focuses on the allocation of prisoners to a particular prison. International legal instruments place a series of obligations on States in respect of prisoner allocation. The question in this section is based on these obligations.

3.2.1 Has your country adopted laws or policies requiring prisoners to be assigned to a prison as near to their home area as possible in order to maintain relationships with families and friends, subject to the maintenance of good order and security? BOP 20, EPR 17.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	15	6	1	5
Total Europe - %	79	63	25	4	21
Greece	X	X			

Analysis

International instrument compliance

The commitment relating to the assignment of prisoners to a prison as near to their home as possible, has been incorporated in Greek law.

13.3.3 Accommodation

This section focuses on the living conditions of prisoners. International legal instruments place a series of obligations on States in respect of the accommodation of prisoners. The questions in this section are based on these obligations.

3.3.1 Has your country adopted laws or policies requiring that where possible prisoners should have individual cells to sleep in? SMR 9(1), EPR 18.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	3	0	10
Total Europe - %	58	54	13	0	42
Greece	X	X			

3.3.2. Has your country adopted laws or policies stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation? ICCPR 6(1), UDHR 3, SMR 9(2), ECHR 2, EPR 18.6 & 18.7, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	4	0	14
Total Europe - %	42	29	17	0	58
Greece	X		X		

3.3.3 Has your country adopted laws or policies requiring that the size of a cell must be suitable for its purpose? The suitability of the cell size should be dependent on the number of

hours spent in the cell, the number of prisoners accommodated in the cell and the availability of in-cell-sanitation facilities that ensure privacy. SMR 9, 10, 11 & 12, EPR 18 & 19.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	8	2	1	15
Total Europe - %	37	33	8	4	63
Greece					X

3.3.4 Has your country adopted laws or policies requiring that cells should not be used to accommodate more prisoners than the intended design capacity, unless justified in exceptional circumstances? SMR 9(1) & 10, EPR 18.1, 18.3, 18.4 & 18.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Greece	X	X			

3.3.5 Has your country adopted laws or policies requiring that cells be suitable for accommodating prisoners in respect of size, lighting, heating, ventilation and fittings? SMR 9, 10, 11, 12 & 13, EPR 18

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	16	4	0	6
Total Europe - %	75	67	17	0	25
Greece	X	X			

3.3.6 Has your country adopted laws or policies requiring that all prisoners have in-cell access to a working alarm bell that attracts the attention of staff at all times? ICCPR 6(1), UDHR 3, ECHR 2, EPR 18.2.c & 52.4, IPR 18(4), *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	13	2	0	4
Total Europe - %	83	54	8	0	17
Greece					X

Analysis

International instrument compliance

Greece has complied by four out of six commitments relating to the accommodation and material conditions in prisons. This includes the legally binding commitment stipulating that inmates who are required to share a cell are adequately selected and assessed. However the legally binding commitment to ensure the access to an in-cell alarm bell has not been adopted. Evidence from the situation in practice shows us that overcrowding remains a serious problem in Greece. Moreover the selection of prisoners having to share a cell also shows shortcomings.

Situation in practice

The UNHCR asserted that conditions in prisons and detention facilities did not meet international standards stating that facilities were seriously overcrowded, degrading, inhumane, and unsanitary. Poor prison conditions led to multiple prison protests during 2009. Amnesty International also reported that prisoners throughout the country had held protests against conditions in prisons: these protests included large-scale hunger strikes. After a previous hunger strike in November 2008, the Ministry of Justice announced the early release of up to 5,500 prisoners alongside new measures for improving prison conditions. The early release programme began in December 2008 but had only resulted in some 1,500 prisoners being released as of July 2009 and were considered insufficient by the CPT to address the structural deficiencies contributing to prison overcrowding in the country.

Greece's prison estate continues to suffer from chronic overcrowding. The Greek Ministry of Justice, Transparency, and Human Rights reported that, as of June 2009, the total prison population was 11,328 (a decrease of 470 from September 2008), while the official capacity of the prison system was 7,543. The Greek prison system was thus operating at 150% of its official capacity.

Problems of overcrowding and poor material detention conditions are apparently of a long-standing nature and were also highlighted by the European Commissioner for Human Rights in his 2006 report. Similarly during the CPT's 2005 inspection visit to Greece, the Committee reported that conditions in some establishments were tantamount to inhumane and degrading treatment. They cited the example of Korydallos Men's Prison, where cells originally designed for single occupancy for the most part held three or four inmates; on 16 August 2005 the Men's Prison held 2,102 persons for a prison with a design capacity of 640. This position had barely altered by the time of the CPT's follow up visit in 2007 when the prisoner complement was 2,043 for the same design capacity.

The prison on the Isle of Chios was also the subject of particular criticism by the CPT during its 2005 inspection. The Committee found that up to five prisoners per dorm could find themselves without a bed, sleeping only on a mattress which was removed during the day to allow movement. This left the prisoner with no personal space during the day. Hygienic conditions were appalling with seepage from the toilets leaking into the room below. The bedding was washed and fumigated infrequently leaving many prisoners with rashes and skin ailments from parasite bites. By the time of the CPT's 2009 visit, a number of new establishments had been opened thereby increasing the capacity of the prison estate from 5,500 to 7,500: three further prisons were under construction which when complete will provide an additional 2,500 places. The CPT noted, however, that the program of prison building had not kept up with the increase in prison population which stood at 10,950 at the time of the 2009 visit (146% of nominal capacity). The effects of overcrowding were evident in most of the prisons visited by the CPT's delegation. At Korydallos Men's Prison, the situation remained dire with three or four inmates sharing cells originally designed for single-occupancy. The occupancy rate at Korydallos was 300% above the official capacity. In other prisons, such as Amfissa and Chios, inmates had to share beds or resort to sleeping on a table or on the floor. The occupancy rate at Amfissa was 171% above official capacity and that of Chios 142%). The situation in these prisons was considered to be extreme but the deleterious effects of overcrowding were apparent in other prisons visited by the delegation. The Committee observed that the provisions in the 1999 Prison Law, which set down the standards of accommodation and the norms for a safe environment, including health and hygiene to be provided to each prisoner, were still not being complied with and considered that material conditions of detention in some prisons could thus again be described as amounting to inhuman and degrading treatment.

The International Centre for Prison Studies reported that the prison system in Greece was operating at 130% of design capacity as of September 2008.

A further area of concern highlighted by the CPT in 2009 related to the absence of any rigorous admission procedures whereby all new prisoners should undergo a cell-share risk assessment before being allocated to a cell. Rather, the Committee found that inmates were effectively placed wherever there was a spare bed or divided according to broad categories such as Greek/foreign national prisoners or workers. Procedures for investigating deaths in custody were also deemed to be law with no requirement for a formal inquiry being required

13.3.4 Hygiene & Sanitation

This section focuses on the hygiene and sanitation facilities for prisoners. International legal instruments place a series of obligations on States in respect of hygiene and sanitation. The questions in this section are based on these obligations.

3.4.1 Has your country adopted laws or policies to ensure that all prisoners have access to adequate and appropriate sanitary and washing facilities that respect their privacy? SMR 12 & 13, EPR 19.3, 19.4 & 19.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	2	0	10
Total Europe - %	58	58	8	0	42
Greece	X	X	X		

3.4.2 Has your country adopted laws or policies requiring that all In-cell sanitation facilities must be adequately screened? ICCPR 10(1), SMR 12, BOP 1, BPTP 1, ECHR 3, EPR 19.3, *Peers v Greece* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	4	1	9
Total Europe - %	62	54	17	4	38
Greece	X	X			

Analysis

International instrument compliance

Greece has adopted both commitments relating to hygiene and sanitation facilities. Due to the ongoing overcrowding however, serious shortcomings have been indicated.

Situation in practice

The prison on the Isle of Chios was also the subject of particular criticism by the CPT during its 2005 inspection. The Committee found that up to five prisoners per dorm could find themselves without a bed, sleeping only on a mattress which was removed during the day to allow movement. This left the prisoner with no personal space during the day. Hygienic conditions were appalling with seepage from the toilets leaking into the room below. The bedding was washed and fumigated infrequently leaving many prisoners with rashes and skin ailments from parasite bites

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13.3.5 Clothing & Bedding

This section focuses on clothing and bedding provisions for prisoners. International legal instruments place a series of obligations on States in respect of the provision of clothing and bedding. The questions in this section are based on these obligations.

3.5.1 Has your country adopted laws or policies to ensure that prisoners are provided with clothing that is suitable for the climate, is not degrading or humiliating and is age appropriate? SMR 17(1), EPR 20.1 & 20.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	10	0	7
Total Europe - %	71	71	42	0	29
Greece	X	X			

3.5.2 Has your country adopted laws or policies requiring each prisoner to be provided with a bed and appropriate bedding and to ensure that all bedding is in good condition, is changed regularly and laundered? SMR 19, EPR 21

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	2	0	6
Total Europe - %	75	71	8	0	25
Greece					X

Analysis

International instrument compliance

Greece has incorporated one of the two commitments concerning prisoners clothing and bedding into its national law. The SPOC points out that prisoners can have their own bedding and bedding is provided for those who cannot afford it.

Situation in practice

See 3.3 and 3.4 above

13.3.6 Nutrition

This section focuses on the nutrition requirements of prisoners. International legal instruments place a series of obligations on States in respect of prisoner's nutrition. The questions in this section are based on these obligations.

3.6.1 Has your country adopted laws or policies to ensure that prisoners are provided with a sufficient quantity of nutritious food taking into account their health, physical condition, special dietary requirements, religion and culture? SMR 20(1), EPR 22.1 & 22.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	5	1	4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	83	83	21	4	17
Greece	X	X	X		

3.6.2 Has your country adopted laws or policies to ensure that prisoners have access to clean drinking water? SMR 20(2), EPR 22.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	16	5	1	5
Total Europe - %	79	67	21	4	21
Greece					X

Analysis

International instrument compliance

One out of two commitments relating to nutrition has been incorporated. In contrast with the majority of EU Member States, Greece has not adopted the commitment regarding ensuring access to clean drinking water.

13.3.7 *Legal advice, info & rights*

This section focuses on the entitlement of prisoners to legal advice and information. International legal instruments place a series of obligations on States in respect of access to legal advice and information. The questions in this section are based on these obligations.

3.7.1 Has your country adopted laws or policies requiring that adequate time and facilities be provided to prisoners to receive professional visits from their legal advisers? BOP 18(2), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	4	1	2
Total Europe - %	92	92	17	4	8
Greece	X	X			

3.7.2 Has your country adopted laws or policies establishing the right of prisoners to communicate with their legal advisers by telephone and by letter? BOP 18(1), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	3	3	3
Total Europe - %	87	83	13	13	13
Greece	X	X			

3.7.3 Has your country adopted laws or policies requiring that communications between a prisoner and his/her legal adviser remain confidential and can only be restricted by law or judicial authority? ICCPR 17, BOP 18(3) & (4), ECHR 8, EPR 23.4 & 23.5, *Campbell v The United Kingdom* (ECtHR 1992)

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	3	1	2
Total Europe - %	92	92	13	4	8
Greece	X	X			

Analysis

International instrument compliance

All commitments concerning the entitlement of prisoners to legal advice have been adopted by Greece.

13.3.8 Contact with the outside world

13.3.8.1 Visits

This section focuses on the entitlement of prisoners to maintain contacts with the outside world. International legal instruments place a series of obligations on states in respect of prisoners' on-going contact with the outside world. The questions in this section are based on these obligations.

3.8.1.1 Has your country adopted laws or policies establishing the right of prisoners to communicate with their family and friends by correspondence and by receiving visits, subject to reasonable conditions/restrictions imposed by law or another authority? ICCPR 23(1), UDHR 16(3), SMR 37, BOP 15 & 19, EPR 24.1 & 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	2	0
Total Europe - %	100	96	29	8	0
Greece	X	X	X		

3.8.1.2 Has your country adopted laws or policies requiring that visits take place in an environment that enables prisoners to maintain and develop family and other relationships in as normal a manner as is possible subject to the maintenance of good order and security in the prison? SMR 79, EPR 24.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	6	0	2
Total Europe - %	92	88	25	0	8
Greece	X	X	X		

13.3.8.2 *Searching of visitors*

3.8.2.1 Has your country adopted laws or policies requiring that searching procedures for visitors be undertaken in a manner that respects a person's dignity? SMR 27, BOP 19, EPR 54.1.c, 54.3, 54.4 & 54.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	4	0	7
Total Europe - %	71	63	17	0	29
Greece					X

3.8.2.2 Has your country adopted laws or policies requiring that prison officers only be permitted to search visitors of the same gender? EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	9	1	0	12
Total Europe - %	50	38	4	0	50
Greece					X

13.3.8.3 *Restrictions on visits*

3.8.3.1 Has your country adopted laws or policies requiring the authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party(ies) and to review these circumstances on a regular basis? SMR 27, 79 & 80, EPR 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	0	0	63
Greece					X

3.8.3.2 Has your country adopted laws or policies preventing the withdrawal of contact for female prisoners with their children as a disciplinary action except in exceptional circumstances? SMR 27, 79 & 80, EPR 24.2 & 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	2	0	12
Total Europe - %	50	50	8	0	50
Greece	X	X			

13.3.8.4 *Death, illness & transfer*

3.8.4.1 Has your country adopted laws or policies requiring that prisoners be informed of the death/serious illness of a close relative/ friend without delay? SMR 44(2), EPR 24.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	2	0	13
Total Europe - %	46	42	8	0	54
Greece					X

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3.8.4.2 Has your country adopted laws or policies allowing a prisoner to leave the prison to visit a sick relative/friend, attend a funeral or for other humanitarian reasons? SMR 44(2), EPR 24.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Greece	X	X			

3.8.4.3 Has your country adopted laws or policies ensuring that prisoners are allowed to inform their families or other nominated persons without delay of their imprisonment, transfer to another institution or of any serious illness that they may suffer from? SMR 44(1) & (3), BOP 16(1), EPR 24.8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Greece					X

3.8.4.4 Has your country adopted laws or policies requiring the prison authorities to immediately inform the spouse or the nearest relative to the prisoner (or any other person previously nominated), if the prisoner dies in custody, is removed to a hospital or suffers a serious injury/illness? SMR 44(1), EPR 24.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	3	0	6
Total Europe - %	75	75	13	0	25
Greece	X	X			

13.3.8.5 Telephone and letters

3.8.5.1 Has your country adopted laws or policies preventing the monitoring or censoring of telephone calls unless the prisoner or the recipient of the call is informed of the possibility of such monitoring or, such monitoring has been agreed by any lawful authority? ICCPR 17, UDHR 12, SMR 37, BOP 19, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	3	1	5
Total Europe - %	79	79	13	4	21
Greece	X	X			

3.8.5.2 Has your country adopted laws or policies permitting prisoners to send a minimum of 7 letters a week free of charge and more if he/she can afford it, and to receive as many letters as are sent to him/her? SMR 37, BOP 19, EPR 24.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	11	1	0	12

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	50	46	4	0	50
Greece	X	X			

3.8.5.3 Has your country adopted laws or policies preventing the prison authorities from opening prisoners' private correspondence subject to the maintenance of good order and safe and secure custody in the prison? ICCPR 17, UDHR 12, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	1	9
Total Europe - %	62	62	13	4	38
Greece	X	X			

13.3.8.6 Media

3.8.6.1 Has your country adopted laws or policies entitling prisoners to be kept informed of current affairs and other developments outside the prison by reading newspapers and periodicals and by listening to radio or television broadcasts (subject to the maintenance of good order and safe and secure custody)? SMR 39, BOP 28, EPR 24.10

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	1	1
Total Europe - %	96	92	21	4	4
Greece	X	X	X		

Analysis

International instrument compliance

Nine out of fourteen commitments relating to prisoner's contact with the outside world have been adopted by Greece. These include the legally binding commitments relating to prisoners' rights to maintain contact with family and friends by means of visits or letters and the circumstances in which prisoners' telephone and written correspondence can be legitimately monitored. Provisions relating to the searching of prisoners have not, however, been incorporated.

Situation in practice

Visiting conditions in the Greek prison system were described as stringent by the CPT, with only half an hour per week being made available to each prisoner for contact with visitors under closed conditions in rooms which were for the most part deemed unsuitable for this purpose. In addition, the CPT highlighted that prisoners on the Isle of Chios rarely received visitors of any sort given the remoteness of the island. It was perceived by the prisoners there that they had been allocated to the prison to deliberately deny them contact with their families as an additional means of punishment.

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13.3.9 Work

This section focuses on work in prison. International legal instruments place a series of obligations on States in respect of work in prison. The questions in this section are based on these obligations.

3.9.1 Has your country adopted laws or policies requiring work to be incorporated as a positive aspect of prison regimes and prohibiting its use as a form of punishment? SMR 71(1), EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Greece	X	X			

3.9.2 Has your country adopted laws or policies requiring that prison work provided should prepare prisoners for worthwhile work on their release and facilitate their reintegration into the workforce? SMR 71(3) & (4), BPTP 8, EPR 26.3 & 26.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	18	7	0	4
Total Europe - %	83	75	29	0	17
Greece					X

3.9.3 Has your country adopted laws or policies entitling prisoners to be remunerated in respect of prison work carried out? ICESCR 7(a), UDHR 23, SMR 76(1), BPTP 8, EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	1	1
Total Europe - %	96	92	13	4	4
Greece	X	X			

Analysis

International instrument compliance

Greece has complied to two out of three commitments relating to prison work including the legally binding commitment ensuring prisoners be remunerated for their work. In reality, shortcomings have been found.

Situation in practice

The CPT highlighted that prisoners in Greece were able to spend large amounts of time out of their cells during the day. While it was theoretically possible to take part in a wide range of activities, in practice there was a “total dearth” of purposeful activities and received many complaints from prisoners on this issue. The 2009 CPT report painted a broadly similar picture noting that in none of the prisons visited was it possible to talk of a meaningful regime with purposeful activities for the majority of prisoners. By way of example, in Patras prison there were only 296 jobs for 700 prisoners whilst in Amifassa prison less than half the inmates

had been assigned work. This position was particularly serious because work undertaken in prison enabled prisoners to a period of remission from their sentence. Similarly, the CPT observed that for the vast majority of prisoners, there was nothing to occupy their day apart from watching television in the absence of organised sports or education facilities.

13.3.10 Exercise & recreation

This section focuses on facilities for exercise and recreation in prison. International legal instruments place a series of obligations on States in respect of exercise and recreational facilities. The questions in this section are based on these obligations.

3.10.1 Has your country adopted laws or policies ensuring that, subject to the constraints of the particular prison and the maintenance of good order and security, prisoners shall be entitled to spend as much time out of their cells as is possible? EPR 25(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Greece					X

3.10.2 Has your country adopted laws or policies ensuring that prisoners receive at least one hours exercise each day in the open air, weather permitting? SMR 21, EPR 27.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	2	1
Total Europe - %	96	92	21	8	4
Greece	X	X	X		

3.10.3 Has your country adopted laws or policies ensuring that prisoners shall have access to a well-stocked library at least once a week (subject to the maintenance of good order and safe and secure custody)? R(89)12: 10, EPR 28.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	13	0	0	11
Total Europe - %	54	54	0	0	46
Greece					X

Analysis

International instrument compliance

The commitment entitling all prisoners at least one hour of exercise outside per day has been incorporated into Greek law. However, the two other commitments regarding the regular access to a library and the prisoner's entitlement to spend as much time outside their cells as possible, have not been adopted.

GREECE

Situation in practice

See 3.9 above

13.3.11 Education

This section focuses on facilities for education in prison. International legal instruments place a series of obligations on States in respect of prison education facilities. The questions in this section are based on these obligations.

3.11.1 Has your country adopted laws or policies requiring, as far as practicable, that prisoners have access to educational programmes that can meet their individual needs? ICESCR 13, UDHR 26, SMR 77(1), BPTP 6, R(89)12: 1, EPR 28.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	5	1	1
Total Europe - %	96	96	21	4	4
Greece	X	X	X		

3.11.2 Has your country adopted laws or policies requiring that education provided in prisons shall be integrated, in so far as is practicable, with national educational systems/programmes enabling prisoners to continue their education following their release? SMR 77(2), R(89)12: 16, EPR 28.7.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	5	0	3
Total Europe - %	87	75	21	0	13
Greece	X	X			

3.11.3 Has your country adopted laws or policies requiring that vocational training be available for those prisoners who are able to benefit from it, particularly young prisoners? SMR 71(5), BPTP 8, R(89)12: 9, EPR 26.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	20	5	0	2
Total Europe - %	92	83	21	0	8
Greece	X	X			

Analysis

International instrument compliance

All commitments relating to education have been incorporated into Greek law including the legally binding commitment regarding access to education as set out in question 3.11.1.

Situation in practice

See 3.9 above.

13.3.12 Freedom of thought, conscience & religion

3.12.1 Has your country adopted laws or policies ensuring that prisoners have the opportunity to practice their religion and to follow their beliefs whilst in custody? ICCPR 18(1), CERD 5 (d) (vii), UDHR 18, SMR 42, BPTP 3, EPR 29.1 & 29.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	5	0	0
Total Europe - %	100	96	21	0	0
Greece	X	X	X		

*Analysis**International instrument compliance*

In accordance with all the other EU Member States, Greece has incorporated the commitment regarding freedom of thought, conscience and religion.

13.4 Health**13.4.1 Core principles**

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.1.1 Has your country adopted laws or policies requiring that primary healthcare services to meet the needs of all prisoners be provided in each prison to a standard equivalent to that available to the community in general? ICESCR 12(1), SMR 22(1), PME 1, R(98)7: 10, 11, 12 & 19, EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	6	0	1
Total Europe - %	96	92	25	0	4
Greece	X	X	X		

4.1.2 Has your country adopted laws or policies to ensure that where a sick prisoner requires treatment that cannot be provided by the medical staff in the prison he/she shall be transferred to an appropriate hospital without undue delay? SMR 22(2), BPTP 9, R(98)7: 3, EPR 46.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	3	1	2
Total Europe - %	92	88	13	4	8

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Greece	X	X			

4.1.3 Has your country adopted laws or policies requiring that medical records be created and accurately maintained on all prisoners and that such records be treated as confidential? BOP 26, R(98)7: 13, EPR 42.3.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	5	0	3
Total Europe - %	87	83	21	0	13
Greece	X	X	X		

Analysis

International instrument compliance

Greece has adopted all commitments relating to the core principles of healthcare in prison. Notwithstanding, the situation in practice indicates serious shortcomings when it comes to health care in Greek prisons.

Situation in practice

The CPT found that the health care available in prisons was of an unacceptable standard. Most prison health services in Greece suffered from chronic understaffing. In all the prisons visited in 2009 inmates complained to the delegation about problems of access to the health care service, and a lack of care by the medical staff. In addition medical screening for transmittable diseases and injuries upon arrival was generally late or never occurred. There were, furthermore, shortcomings in both the quality of medical records which were often noted in a daily register as opposed to individual patient records. The Committee also highlighted that insufficient respect was paid to patient confidentiality. During its 2009 visit, the Committee found that there were there no clearly defined criteria for assessing the quality of care provided (such as waiting times to see a doctor, dentist or psychiatrist; availability of required medication; confidentiality of medical consultations and records; etc.). In the course of the visit, several cases of alleged negligence or delay in the treatment of prisoners were brought to the attention of the delegation. The Committee also commented on the absence of interdisciplinary consultation between the different health professionals working in individual prisons and criticised the practice of using untrained prison officers to carry out health triage functions

13.4.2 Women and children

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations

4.2.1 Has your country adopted laws or policies to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor? CEDAW 12, SMR 23, BOP 5(2), R(98)7: 8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	7	3	0	17
Total Europe - %	29	29	13	0	71
Greece	X	X			

4.2.2 Has your country adopted laws or policies requiring that appropriate care be afforded to all pregnant prisoners and nursing mothers? CEDAW 12(2), SMR 23, R(98)7: 8 & 69, EPR 34.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Greece	X	X			

Analysis

International instrument compliance

Greece has adopted both commitments relating to women and children in prison, which are both based on legally binding international legal instruments.

13.4.3 Mental health care

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.3.1 Has your country adopted laws or policies requiring that prisoners with mental health difficulties be entitled to care appropriate to their circumstances, commensurate to the type of care available for people with similar mental health difficulties in the community? SMR 22(1), PPPMI 1 & 20, R(98)7:10, 11 & 52, R(2004)10: 35(1) & (2), EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	4	0	3
Total Europe - %	87	79	17	0	13
Greece	X	X			

GREECE

4.3.2 Has your country adopted laws or policies to ensure that prisoners who require psychiatric in-patient care are transferred to a suitable hospital facility of an appropriate security level without undue delay? SMR 22(2), PPPMI 9(1) & 20, R(98)7: 3 & 55, R(2004)10: 8, 9(1) & 35(1), EPR 12(1) & 46(1)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	3	0	6
Total Europe - %	75	71	13	0	25
Greece	X	X			

Analysis

International instrument compliance

All commitments regarding mental health care have been incorporated.

13.4.4 Vulnerable prisoners

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.4.1 Has your country adopted laws or policies requiring that prisoners assessed as vulnerable be accommodated in areas of the prison which are most convenient and appropriate for their monitoring and treatment by the medical personnel and other relevant agencies? SMR 22(2) & 62, EPR 12.2, 39, 43.1, 46.2, 47.1 & 47.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	3	0	8
Total Europe - %	67	63	13	0	33
Greece					X

4.4.2 Has your country adopted laws or policies requiring that prisoners assessed as being at risk of suicide/self-harm be continuously monitored by both medical and prison staff throughout the prisoner's time in custody and that records are kept of such monitoring? R(98)7: 58, EPR 47(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	5	0	14
Total Europe - %	42	29	21	0	58
Greece	X	X	X		

4.4.3 Has your country adopted laws or policies requiring that prisoners detained in a special cell be visited daily, and as frequently as is necessary by a doctor who shall, inter alia, monitor his/ her physical and mental health? SMR 25(1) & 32(3), R(98)7: 66, EPR 43.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	54	50	13	0	46
Greece					X

Analysis

International instrument compliance

Two out of three commitments relating to vulnerable inmates have been adopted.

13.4.5 Medical & health care personnel

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.5.1 Has your country adopted laws or policies to ensure that every prisoner has access to appropriately qualified medical personnel in the prison at all times? SMR 24, BOP 24, R(98)7:1, 2 & 4, EPR 41.2 & 41.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Greece	X	X			

Analysis

International instrument compliance

Greece has adopted the commitment to ensure that every prisoner has access to appropriately qualified personnel. Nevertheless serious staff shortages have been noted.

Situation in practice

See 4.1 above.

13.4.6 Prisoners with addiction problems

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

GREECE

4.6.1 Has your country adopted laws or policies to ensure that prisoners with addiction problems have access to appropriate treatment and support services, including those from external agencies? SMR 62, R(98)7: 7, 43, 44, 45, 46 & 47, EPR 42.3.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	8	0	3
Total Europe - %	88	79	33	0	13
Greece	X	X	X		

Analysis

International instrument compliance

Greece has incorporated the commitment relating to prisoners with addiction problems. The situation in practice shows otherwise.

Situation in practice

The Committee reported finding “no trace” of a drug prevention and treatment policy, other than enhanced security measures. The position had not improved by 2009 with the CPT delegation noting that the prisons visited had no opiate substitute programs in place nor were any counselling programs in evidence, or any other incentives for prisoners to stop using drugs

13.4.7 Hunger strikes

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.7.1 Has your country adopted laws or policies forbidding the practice of forced feeding of hunger strikers? DOMHS, R(98)7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	37	21	21	0	63
Greece					X

Analysis

International instrument compliance

The commitment forbidding forced feeding of hunger strikers has not been incorporated.

13.5 Good order

13.5.1 General approaches

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.1.1 Has your country adopted laws or policies requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody? R(82)17: 8, EPR 51.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	0	9
Total Europe - %	62	62	13	0	38
Greece					X

Analysis

International instrument compliance

This commitment has not been incorporated.

13.5.2 Safety & Security

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.2.1 Has your country adopted laws or policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat? EPR 51.5, 53.1 & 53.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	63	63	17	0	37
Greece					X

Analysis

International instrument compliance

The commitment relating to safety and security within prison has not been incorporated into Greek law.

GREECE

13.5.3 Searching of prisoners

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.3.1 Has your country adopted laws or policies requiring that searches conducted on prisoners be carried out with due regard to the prisoner's dignity? ICCPR 10(1), BPTP 1, EPR 54.3 & 54.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	0	1
Total Europe - %	96	92	13	0	4
Greece	X	X			

5.3.2 Has your country adopted laws or policies stipulating that prisoners may only be searched by a staff member of the same gender? ICCPR 10(1), BPTP 1, EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	1	0	1
Total Europe - %	96	92	4	0	4
Greece	X	X			

5.3.3 Has your country adopted laws or policies stipulating that prisoners may only be subjected to a strip search in exceptional circumstances and for good reason and then, only in the presence of two officers in an appropriate place which ensures privacy? ICCPR 10(1), BPTP 1, EPR 54. 3, 54.4 & 54.6, *Van der Van v The Netherlands* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	3	1	13
Total Europe - %	66	54	13	4	54
Greece	X	X			

Analysis

International instrument compliance

All three legally binding commitments concerning the searching of prisoners have been adopted. Searches of women prisoners have proved to be disproportionately harsh.

Situation in practice

The Committee deemed the system for prisoner searches in place at women's prisons to be disproportionately harsh. All prisoners leaving or entering the establishment for any purpose were systematically subjected to a full orifice examination with two guards present. The Committee considered that if such examinations were necessary, they should be carried out on the basis of risk assessment and by a qualified medical practitioner in private. Additionally all new arrivals to prison were given laxatives and placed in a cell where there toilet activities could

be monitored by video for five days. In spite of these recommendations, the CPT found that these practices were largely intact upon its return visit in 2009

13.5.4 Criminal acts, discipline & punishment

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.4.1 Has your country adopted laws or policies stipulating that all inquiries into breach of prison discipline or rules shall be conducted in an independent and impartial manner? ICCPR 14(1), UDHR 10, ECHR 6(1), *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	2	1	8
Total Europe - %	67	63	8	4	33
Greece					X

5.4.2 Has your country adopted laws or policies requiring that all incidents of bullying/violence/threatening behaviour between prisoners, and any breach of discipline be reported to an officer of a higher rank, duly recorded and properly investigated? EPR 52.2 & 58

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	62	62	17	0	38
Greece					X

5.4.3 Has your country adopted laws or policies stipulating that when a prisoner has been charged with a disciplinary offence he/she shall be promptly informed of the allegation made against him/her in a language that he/she understands? ICCPR 14(3)(a), CERD 5(a), SMR 30(2), ECHR 6(3)(a), EPR 59.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	3	0	7
Total Europe - %	71	71	13	0	29
Greece	X	X			

5.4.4 Has your country adopted laws or policies stipulating if an inquiry is being conducted into a breach of prison discipline or rules the prisoner shall have adequate time to prepare his/her defence and/or to receive legal assistance? ICCPR 14(3)(b) & (d), SMR 30(2), ECHR 6(3)(b) & (c), EPR 59.b & 59.c, *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	2	0	9
Total Europe - %	62	58	8	0	38
Greece					X

GREECE

5.4.5 Has your country adopted laws or policies stipulating that in any disciplinary proceedings prisoners must understand the proceedings and if necessary, appropriate interpretation facilities must be provided? ICCPR 14(3)(f), SMR 30(3), ECHR 6(3)(e), EPR 59.e

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Greece	X	X			

5.4.6 Has your country adopted laws or policies stipulating that no prison officer shall impose a punishment/penalty/deprivation on a prisoner without due process and in accordance with law and/or relevant rules or instruments? EPR 57.2.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	2	0	4
Total Europe - %	83	83	8	0	17
Greece	X	X			

5.4.7 Has your country adopted laws or policies stipulating that if a prisoner is found guilty of a disciplinary offence, he/she shall be entitled to exercise his/her right of appeal to an independent and impartial tribunal established by law? ICCPR 14(5), BOP 30(2), EPR 61

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	1	0	5
Total Europe - %	79	79	4	0	21
Greece	X	X			

5.4.8 Has your country adopted laws or policies requiring that when a prisoner is detained in any type of special cell (special observation/cladded/strip) he/she shall be regularly monitored by a prison officer? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	3	0	7
Total Europe - %	71	67	13	0	29
Greece					X

5.4.9 Has your country adopted laws or policies requiring that a detailed record be maintained of, inter alia, the monitoring of such prisoners, their expressed requirements, actions taken in response to such requests and details of visits by officers or others to such prisoners? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	8	8	2	0	16
Total Europe - %	33	33	8	0	67
Greece					X

5.4.10 Has your country adopted laws or policies to ensure that prisoners in a special cell are able to contact a member of staff at all times, including during the night and that a staff member shall respond without delay? ICCPR 6(1), EPR 18.2.c & 52.4, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	4	0	63
Greece					X

Analysis

International instrument compliance

Four out of ten commitments have been adopted. This includes the legally binding commitments relating to the interpretation facilities and legal advice in disciplinary procedures. None of the three legally binding commitments relating to the monitoring of prisoners in special cells have however, been incorporated.

Situation in practice

When the prisoners were placed in segregation cells they were denied any exercise, reading materials and showers for the duration of the time they were in isolation. This punishment could last anything up to 10 days.

The Committee's delegation also observed that inter-prisoner intimidation/violence was a significant phenomenon in the various prison establishments visited in both 2005 and 2009. Due to totally inadequate staffing levels, effective control within the accommodation areas of some establishments had been ceded to prisoners in return for maintaining a degree of order. They found evidence that stronger groups of inmates were able to impose their will upon other prisoners. Prisoners noted the absence of prison officers in the wings, observed the actions of the stronger groups of prisoners, and concluded that the prison management was not in a position to offer any effective protection

13.5.5 *Use of force/weapons*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.5.1 Has your country adopted laws or policies stipulating that members of staff will use force only when absolutely necessary and that any force used shall be proportionate to the situation? SMR 54(1), CCLEO 3, BPUF 4, EPR 64 & 6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	4	1	3
Total Europe - %	87	87	17	4	13
Greece	X	X			

GREECE

Analysis

International instrument compliance

The commitment relating to the use of force and violence has been incorporated.

13.5.6 Requests & complaints

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.6.1 Has your country adopted laws or policies to ensure that prisoners have sufficient opportunity to make requests or complaints to the Governor of the prison or to any other competent authority? SMR 36(1) & (3), BOP 33(1), EPR 70.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	3	0	1
Total Europe - %	96	96	13	0	4
Greece	X	X			

5.6.2 Has your country adopted laws or policies establishing the right of a prisoner’s legal advisor or to make a request or a complaint regarding that prisoner’s treatment to the prison authorities, or other relevant authorities? BOP 33 (1) & (2), EPR 70.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	1	0	6
Total Europe - %	75	75	4	0	25
Greece	X	X			

5.6.3 Has your country adopted laws or policies requiring that all complaints be promptly investigated in accordance with law? SMR 36(4), BOP 33(4)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	2	0	7
Total Europe - %	71	67	8	0	29
Greece					X

5.6.4 Has your country adopted laws or policies to ensure that where a request is denied or a complaint is rejected, the prisoner is informed promptly as to the reason(s) for such denial or rejection? SMR 36(4), BOP 33(4), EPR 70.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	2	1	7
Total Europe - %	71	63	8	4	29
Greece					X

5.6.5 Has your country adopted laws or policies to ensure that prisoners are not disadvantaged for exercising their rights to make requests or complaints? BOP 33(4), EPR 70.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	3	0	13
Total Europe - %	46	42	13	0	54
Greece					X

5.6.6 Has your country adopted laws or policies requiring that complaints made by members of staff against other members of staff be properly recorded and investigated in accordance with the law? EPR 88 & 87.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	11	3	0	11
Total Europe - %	54	46	13	0	46
Greece					X

Analysis

International instrument compliance

Two out of six commitments concerning requests and complaints within prison have been adopted by Greece

13.6 Management & Staff

13.6.1 *Training of staff*

This section focuses on the staff training and prison management. International legal instruments place a series of obligations on States in respect of the training and management of prison staff. The questions in this section are based on these obligations.

6.1.1 Has your country adopted laws or policies to ensure that all prison staff receive appropriate training at regular intervals throughout their career? SMR 47(3), EPR 8, 76 & 81.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	14	7	0	5
Total Europe - %	79	58	29	0	21
Greece	X	X			

GREECE

6.1.2 Has your country adopted laws or policies to ensure that members of staff who work with particular groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, receive training particular to their individual work? R(82)17: 10, R(2004)10: 12(1), EPR 81.3, ERJO 129

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	38	21	21	0	62
Greece					X

Analysis

International instrument compliance

The commitment regarding specialist training for staff has not been incorporated

Situation in practice

In all the prisons visited by the CPT during 2005, there were insufficient numbers of staff in detention areas. The Committee stressed that an inadequate staff/prisoner ratio not only rendered the provision of an acceptable regime well-nigh impossible, but also generated an insecure environment for both staff and prisoners. In spite of the recruitment of additional prison officers during the interim period, the Committee found that staffing levels remained inadequate when it returned to Greece in 2007. The situation had further deteriorated by the time of the CPT's return visit in 2009 with, in some instances, three prison officers being responsible for 400 prisoners at Kordyallos prison and a daily staff complement of 18 prison officers being responsible for 700 prisoners at Patras prison.

The CPT was also critical of staff training provision following its 2009 visit noting that initial training was minimal and on-going training virtually non-existent. The role of prison officers was focused in the main on the opening and closing of gates with limited attention paid towards such issues as dynamic security, rehabilitation of prisoners and personal development of prison officers. Such an approach was considered by the CPT to be incompatible with the purpose of prison as set down in the Prison Law of 1999.

In its 2009 report, the CPT also highlighted the lack of any strategic plan to manage the Greek prison system alongside the absence of an effective system of reporting and supervision and inadequate management of staff

13.7 Inspection & Monitoring

13.7.1 Governmental Inspection

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.1.1 Has your country adopted laws or policies requiring that prisons be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law? SMR 55, EPR 92, R(2004)10 36.1, ERJO 125, PPPMI 22

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	19	4	0	4
Total Europe - %	83	79	17	0	17
Greece	X	X			

Analysis

International instrument compliance

The commitment relating to governmental inspection has been adopted.

13.7.2 *Independent monitoring*

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.2.1 Has your country adopted laws or policies requiring that the conditions of detention and the treatment of prisoners shall be also monitored by an independent body or bodies, comprised of qualified experienced personnel, and whose findings shall be made public? OPCAT 3, 17, 18, 19, BOP 29.1, EPR 93.1, R(2004)10 36.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Greece					X

7.2.2 Has your country adopted laws or policies granting such an independent body open access to places of detention, to prisoners and others whom it wishes to interview? OPCAT 19, 20, CPT 8,9 BOP 29.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	3	1	9
Total Europe - %	62	58	13	4	38
Greece					X

GREECE

7.2.3 Has your country adopted laws or policies encouraging such independent bodies to cooperate with those international agencies that are legally entitled to visit prisons? CPT 2,7 EPR 93.2, ERJO 126.

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	6	1	0	17
Total Europe - %	29	25	4	0	71
Greece					X

Analysis

International instrument compliance

Greece has not passed any legislation on independent monitoring

Situation in practice

Greece has signed the OP-CAT at 3 March 2011, but not ratified it. The CPT noted during its 2005 and 2007 inspections that the only body empowered with supervisory powers was the Monitoring and Control Body (internal prison inspectorate) which reports directly to the Secretary General of the Ministry of Justice. The Committee strongly recommended that at least one independent body should be created or empowered to carry out inspections in Greece. During 2009, the government passed a law allowing the ombudsman to conduct inspections at short notice of all prisons in the country. Prison visits by officials of the ombudsman's office began in September 2009.

13.8 Sentenced Prisoners

This section focuses on the particular provisions relating to convicted prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

8.1.1 Has your country adopted laws or policies requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan? ICCPR 10(3), SMR 80, EPR 6, 103.2 & 103.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	6	2	4
Total Europe - %	83	83	25	8	17
Greece	X	X			

8.1.2 Has your country adopted laws or policies requiring that a sentence management plan be prepared for each prisoner serving a sentence of 12 months or over as soon as practicable after their admission? It should provide for, inter alia, the welfare and health needs of the prisoner, training, employment or education needs he/she may have, and include a release plan for the prisoner. This plan shall be reviewed at regular intervals to take into account the changing circumstances of the prisoner. SMR 65, 66 & 69, R(2003)23: 3 & 9, EPR 6, 103 & 104.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	5	0	10
Total Europe - %	58	54	21	0	42
Greece					X

Analysis

International instrument compliance

One out of two commitments has been incorporated.

Situation in practice

The CPT highlighted that no individualised assessment and classification system existed for inmates. As such, no mechanism exists to assess each prisoner's needs for care and resettlement, security and supervision and personal development.

The Greek Prison Law affords the possibility for prisoners to be granted home leave after serving one-fifth of their sentence with provision being granted following an assessment of the prisoner's personality and behaviour in prison as well as his family and social status and whether the home leave might be beneficial for his reintegration into society. The CPT found that in all the prisons visited in 2009, inmates were vociferous in their complaints about the system primarily because it seemed to lack transparency with the absence of staff inhibiting any attempt to undertake realistic assessments as required. Foreign prisoners also complained that they were excluded from the scheme even if their families had been resident in Greece for many years.

13.9 Juveniles

This section focuses on the particular provisions relating to juvenile prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

9.1.1 Has your country adopted laws or policies requiring that juveniles be detained separately from adult offenders? ICCPR 10(3), CRC 37(c), BR 26.3, RPJDL 29, EPR 11.1, ERJO 59.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	1	3
Total Europe - %	87	87	13	4	13
Greece	X	X	X		

9.1.2 Has your country adopted laws or policies to ensure that, subject to reasonable conditions and restrictions, a sentenced prisoner under the age of 18 shall be entitled to receive a minimum of two weekly visits? CRC 37(c), SMR 37, BOP 19, RPJDL 60, ERJO 83, 84, 85.1 & 85.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	6	3	0	15
Total Europe - %	37	25	13	0	63
Greece					X

GREECE

Analysis

International instrument compliance

The commitment ensuring juvenile prisoners shall be entitled to receive a minimum of two weekly visits has not been adopted.

Situation in practice

Whilst highlighting that material detention conditions in the Female Juvenile Unit at Thiva prison were generally satisfactory, the CPT drew attention in its 2009 report to the absence of any formal system by which inmates could be informed of the rules and regulations within the prison and their rights therein. The lack of regime differentiation between adult and juvenile inmates was also deemed inappropriate by the Committee.

13.10 Sentence Execution Modalities

This section of the questionnaire is designed to collate information on the differing methods by which custodial sentences and measures involving deprivation of liberty are enforced across EU Member States.

10.1.1. Which of the following modalities of prison sentence execution are provided for in the law of your country?

	Weekend detention	Evening detention	Daytime detention	Home detention	
				no electronic monitoring	electronic monitoring
EUROPE	9 = 38%	10 = 42%	3 = 13%	6 = 25%	14 = 58%
Greece	X	X		X	

10.1.2. What is the maximum period for which home detention with electronic monitoring can be imposed?

	Under 12 months	12-24 months	25 months - 36 months	37 months - 50 months	More than 50 months
EUROPE	7 = 29%	4 = 17%	0 = 0%	1 = 4%	2 = 8 %
Greece					

10.2.1. In which of the following locations can custodial sentences or measures involving deprivation of liberty be imposed?

	Penitentiary institution	Psychiatric institution	Detoxification institution	Educational institution	Home
EUROPE	24 = 100%	20 = 83%	10 = 42%	7 = 29%	12 = 50%
Greece	X	X	X	X	X

Analysis

Sentence execution modalities

In Greece, weekend detention, evening detention and home detention without electronic monitoring are the additional sentence execution modalities available. Custodial sentences or measures involving deprivation of liberty can be imposed in penitentiary institutions, psychiatric and educational institutions or at home.

Early release from prison, earned remission and suspension of sentence

In common with all EU countries, Greece has adopted measures under which prisoners are entitled to early release from prison. The system of early release depends on the length of sentence imposed with misdemeanours being eligible after two fifths of imprisonment, felonies after three fifths and juvenile prisoners eligible after one half of their sentence. Art. 105 of Penal Code was recently changed in some of its points with the amendments enforced by art. 4 of law 3904/2010 (Gov. Gazette A 218/23-12-2010). According to these amendments when a prison time for a misdemeanor reaches the 1/5 of the prison sentence, the Court can convert the other 1/5 of the sentence that remains to a fine in order to reach the 2/5 ceiling for early release so that the prisoner can be released earlier.

Additionally, the prison time is calculated favorably (one day in prison as two) for prisoners who suffer from specific serious diseases as well as for women prisoners with children for as long as they have their children with them in prisons

The Greek early release system is based on automatic provisions. Decisions on a prisoner's early release are based on the assessment as to whether a prisoner is likely to reoffend. Once a prisoner is granted early release, five of the twelve forms of monitoring or conditions identified, can be attached. There is a possibility in Greek law for prisoners to be granted remission as a result of work carried out in prison. No provisions are made for the further execution of a prison sentence to be suspended during the course of the sentence

13.11 Early release from prison, earned remission and suspension of sentence

13.11.1 Early release

Early release means the release of the offender before their prison term is finished. It is possible only while the sentence is still being served. Early release does not include the suspended enforcement of a penalty which is dealt with later in this questionnaire.

11.1.2.1. Has your country adopted laws and regulations under which prisoners are entitled to early release from prison ?

	Yes	No
EUROPE	24 = 100%	0 = 0%
Greece	X	

GREECE

11.1.2.2. At what point in a prisoner's sentence do they become eligible for early release?

	One third of sentence or less	One third to one half of a sentence	One half to three quarters of a sentence	More than three quarters of a sentence	Other
EUROPE	2 = 8%	1 = 4%	7 = 29%	0 = 0%	14 = 58%
Greece					X

11.1.2.2. Does your country have different regulations for the early release of prisoners based on:

	A prisoner's nationality (non-EU citizen)	A prisoner's nationality (EU citizen)	The length of sentence imposed
EUROPE	Yes - 3 = 12% No - 21 = 88%	Yes - 3 = 12% No - 21 = 88%	Yes - 24 = 100% No - 0 = 0%
Greece	N	N	Y

11.1.2.3. Are provisions governing the early release of prisoners automatic or discretionary?

	Automatic (prisoners are automatically released at a certain point in their sentence)	Discretionary (prisoners are only released following assessment)
EUROPE	Yes - 7 = 29% No - 17 = 71%	Yes - 20 = 83% No - 4 = 17%
Greece	Y	N

11.1.2.4. What factors are taken into consideration when deciding whether a prisoner will be granted early release?

	The circumstances surrounding the crime	Prior criminal record	The offender's progress during imprisonment	Assessment as to whether the prisoner is likely to reoffend	Recommendation from the sentencing judge
EUROPE	Yes - 24 = 50% No - 24 = 50%	Yes - 15 = 63% No - 9 = 37%	Yes - 22 = 92% No - 2 = 8%	Yes - 19 = 79% No - 5 = 21%	Yes - 4 = 17% No - 20 = 83%
Greece	N	N	N	Y	N

11.1.3.1. What forms of monitoring and conditions can be applied to prisoners' early release?

1. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
2. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)

4. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
5. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
6. Electronic monitoring
7. Weekend/evening /daytime detention
8. Requirement containing limitations on leaving the country
9. Requirement to leave the country
10. Requirement to pay compensation
11. Requirement to undertake community service
12. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	Other
EUROPE	Y - 83 N - 17	Y - 8 N - 92	Y - 58 N - 42	Y - 62 N - 38	Y - 33 N - 77	Y - 25 N - 75	Y - 13 N - 87	Y - 42 N - 58	Y - 21 N - 79	Y - 29 N - 71	Y - 21 N - 79	9
Greece	Y	N	Y	Y	Y	N	N	Y	N	N	N	

13.11.2 Sentence reduction as a result of prison work

11.2.1.1. Can a prisoner earn remission on their sentence as a result of work carried out in prison?

	Yes	No
EUROPE	9= 38%	15 = 62%
Greece	X	

13.11.3 Suspension of sentence enforcement

11.3.1. Does the national law of your country make provision for the further execution of a prison sentence to be suspended during the course of the sentence?

	Yes	No
EUROPE	10=42%	14= 58%
Greece		X

11.3.2.1. What factors are taken into consideration when deciding whether a prisoner will have the further execution of their prison sentence suspended?

1. The circumstances surrounding the crime
2. Prior criminal record
3. The offender's progress during imprisonment
4. Assessment as to whether the prisoner is likely to reoffend
5. Recommendation from the sentencing judge
6. Suitability of home circumstances
7. Information from victim(s)
8. Willingness of the prisoner to leave the country upon release
9. The prisoner will be deported upon release

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10. Other – please specify

	1	2	3	4	5	6	7	8	9	Other
EUROPE	Y - 8 N - 92	Y - 13 N - 78	Y - 17 N - 83	Y - 21 N - 79	Y - 0 N - 100	Y - 4 N - 96	Y - 0 N - 100	Y - 0 N - 100	Y - 0 N - 100	21
Greece	N	N	N	N	N	N	N	N	N	

11.3.3.1. What forms of monitoring and conditions can be applied to prisoners whose further execution of a prison sentence has been suspended?

1. Unconditional supervision
2. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
4. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
5. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
6. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
7. Electronic monitoring
8. Weekend/evening /daytime detention
9. Requirement containing limitations on leaving the country
10. Requirement to leave the country
11. Requirement to pay compensation
12. Requirement to undertake community service
13. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	12	Other
EUROPE	Y - 4 N - 96	Y - 38 N - 62	Y - 4 N - 96	Y - 29 N - 71	Y - 17 N - 83	Y - 17 N - 83	Y - 4 N - 96	Y - 4 N - 96	Y - 21 N - 79	Y - 0 N - 100	Y - 17 N - 83	Y - 4 N - 96	2
Greece	N	N	N	N	N	N	N	N	N	N	N	N	

Analysis

Sentence execution modalities

In Greece, weekend detention, evening detention and home detention without electronic monitoring are the additional sentence execution modalities available. Custodial sentences or measures involving deprivation of liberty can be imposed in penitentiary institutions, psychiatric and educational institutions or at home

Early release from prison, earned remission and suspension of sentence

In common with all EU countries, Greece has adopted measures under which prisoners are entitled to early release from prison. The system of early release depends on the length of sentence imposed with misdemeanours being eligible after two fifths of imprisonment, felonies after three fifths and juvenile prisoners eligible after one half of their sentence. Art. 105 of Penal Code was recently changed in some of its points with the amendments enforced by art. 4 of law 3904/2010 (Gov. Gazette A 218/23-12-2010). According to these amendments when a prison time for a misdemeanor reaches the 1/5 of the prison sentence, the Court can convert the other 1/5 of the sentence that remains to a fine in order to reach the 2/5 ceiling for early release so that the prisoner can be released earlier.

Additionally, the prison time is calculated favorably (one day in prison as two) for prisoners who suffer from specific serious diseases as well as for women prisoners with children for as long as they have their children with them in prisons.

The Greek early release system is based on automatic provisions. Decisions on a prisoner's early release are based on the assessment as to whether a prisoner is likely to reoffend. Once a prisoner is granted early release, five of the twelve forms of monitoring or conditions identified, can be attached. There is a possibility in Greek law for prisoners to be granted remission as a result of work carried out in prison. No provisions are made for the further execution of a prison sentence to be suspended during the course of the sentence.

Appendix

1. Art. 7 of the Greek Constitution
2. Internal regulations of prisons
3. L.D. 494.1970 (CERD)
4. Law 2462.1997 (ICCPR)
5. Penal Code (selected articles)
6. Penitentiary Code
7. Article 105 penal Code (amended 23-12-2010)

14 Hungary

14.1 Introduction

The questionnaire was completed by Professor Dr. László Huszár, Head of Strategic Planning and Assessment of the Hungarian Prison Service.

Hungary has been visited thrice by the Committee for the Prevention of Torture in the past five years (2005, 2007, 2009) and in addition was the subject of reports by the European Commissioner for Human Rights (published in 2006) and the United Nations Committee Against Torture in 2007. These reports have been used as a basis for the information on the situation in practice. Additional information has also been sourced from the 2009 UNHCR Country Report on Human Rights Practices for Hungary (drawing on source material provided by the US Department of State) and the International Centre for Prison Studies.

Country	Hungary
Ministry responsible	Ministry of Justice & Law Enforcement
Prison administration	Prison administration Hungarian Prison Service
Contact address	Steindl Imre utca 8, H-1054 BUDAPEST, Hungary
Telephone/fax/website	tel: +36 1 301 8221 fax: +36 1 311 9878 Web: www.bvop.hu
Head of prison administration (and title)	Dr. Antal Kokenyesi , Director General
Prison population total (including pre-trial detainees / remand prisoners)	16,537 at 31.12.2010 (national prison administration)
Prison population rate (per 100,000 of national population)	165 based on an estimated national population of 10.00 million at end of 2010 (from Eurostat figures)
Pre-trial detainees / remand prisoners (percentage of prison population)	29.2% (31.12.2010)
Female prisoners (percentage of prison population)	6.6% (31.12.2010)
Juveniles / minors / young prisoners incl. definition (percentage of prison population)	3.5% (31.12.2010 - under 18)
Foreign prisoners (percentage of prison population)	3.7% (31.12.2010)
Number of establishments / institutions	33 (2010 - 31 prisons and 2 hospitals)
Official capacity of prison system	12,353 (31.12.2010)
Occupancy level (based on	134.1% (2010)

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official capacity)	
Recent prison population trend (year, prison population total, prison population rate)	1992 15,913 (153) 1995 12,455 (121) 1998 14,366 (140) 2001 17,275 (170) 2004 16,543 (164) 2007 14,353 (143)

14.2 Overarching Principles

This section focuses on the overarching principles governing the management of prisons and the treatment of prisoners. International legal instruments place a series of obligations on States in respect of the management of prisons and the treatment of prisoners. The questions in this section are based on these obligations.

2.1.1 Has your country adopted laws or policies specifically requiring that prisoners must be treated with respect for their human rights? ICCPR 10(1), UDHR 1, BOP 1, BPTP 1, EPR 1 & 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	19	7	1	2
Total Europe – %	92	79	29	4	8
Hungary	X	X	X		

2.1.2 Has your country adopted laws or policies specifically requiring prisons to be managed in accordance with human rights standards? EPR 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	21	18	4	3	3
Total Europe – %	88	75	16	13	12
Hungary	X	X	X		

2.1.3 Has your country adopted laws or policies explicitly prohibiting practices that could constitute torture, inhumane or degrading treatment or punishment of prisoners? ICCPR 7, BOP 6, ECHR 3, *Kalashnikov v Russia* (ECtHR 2003)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	21	1	3	2
Total Europe – %	92	88	4	12	8
Hungary	X	X	X		

2.1.4 Has your country adopted laws or policies specifically requiring that prisoners be provided with a range of activities during their sentence (for example - educational, recreational, work/training and welfare programmes)? SMR 77 & 78, BOP 28, BPTP 6 & 8, EPR 25

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	24	23	7	0	0
Total Europe – %	100	96	29	0	0
Hungary	X	X	X		

Analysis

International instrument compliance

In common with the majority of the other EU Member States, Hungary has passed legislation designed to protect prisoner's human rights. This legislation includes all of the commitments arising from legally binding international legal instruments.

Situation in practice

Notwithstanding the legal framework highlighted above, the CPT received several complaints of ill-treatment in Hungarian prisons. The complaints generally alleged punching, kicking and slapping. Additionally several prisoners claimed that they had been ill-treated with the use of restraints (largely handcuffs). This took the form of being placed in a hypertension position or having the cuffed hands lifted behind the prisoners back in order to cause pain. In general the Committee criticised the excessive use of restraints particularly body belts which were used routinely. This use was especially prevalent for KBK prisoners.

14.3 Conditions Of Imprisonment

14.3.1 Admission

This section focuses on the treatment of prisoners upon their admission to prison. International legal instruments place a series of obligations on States in respect of prisoner admission. The questions in this section are based on these obligations.

3.1.1 Has your country adopted laws or policies requiring that all prisoner details are recorded at the time of committal including, inter alia, details of any visible injuries and the prisoner's personal belongings? SMR 7(1), EPR 15.1, 31.1, 31.2 & 31.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	7	1	7
Total Europe - %	71	63	29	4	29
Hungary	X	X	X		

3.1.2 Has your country adopted laws or policies requiring that upon admission, each prisoner is given a booklet outlining his/her rights, duties, obligations and privileges and the rules and regulations governing the prison which apply to the individual prisoner? The booklet shall be written in a language that the prisoner understands. CERD 7, SMR 35, BOP 13, EPR 30

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	6	1	6
Total Europe - %	63	54	25	4	25
Hungary	X	X	X		

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3.1.3 Has your country adopted laws or policies requiring that upon admission, every prisoner shall undergo a medical examination either by a nurse reporting to a doctor or by a doctor? SMR 24, BOP 24, R(98)7: 1, EPR 42.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	20	6	1	1
Total Europe - %	96	83	25	4	4
Hungary	X	X	X		

3.1.4 Has your country adopted laws or policies requiring the doctor/nurse to pay particular attention to the detection of injuries, mental illnesses, of withdrawal symptoms resulting from the use of drugs, medication or alcohol, of contagious and chronic conditions, and, to assess the prisoner's suicide/self-harm risk? SMR 24, R(98)7: 1, EPR 42.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	10	8	1	9
Total Europe - %	62	42	33	4	38
Hungary	X	X	X		

3.1.5 Has your country adopted laws or policies requiring injuries detected during such an examination to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner? EPR 15.1.e & 42.3.c

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	5	4	1	17
Total Europe - %	29	21	17	4	71
Hungary	X	X	X		

3.1.6 Has your country adopted laws or policies requiring upon admission that each prisoner be assessed to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves? ICCPR 6, UDHR 3, ECHR 2, R(2003)23: 12, EPR 52.1, *Keenan v The United Kingdom* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	5	1	13
Total Europe - %	46	42	21	4	54
Hungary	X	X	X		

3.1.7 Has your country adopted laws or policies requiring that such risks be managed for the duration of the prisoner's sentence? ICCPR 6, UDHR 3, ECHR 2, EPR 52.2, *Osman v The United Kingdom* (ECtHR 2000)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	3	1	12
Total Europe - %	50	50	13	4	50
Hungary	X	X	X		

Analysis

International instrument compliance

All commitments relating to procedures of admission in prison have been incorporated in Hungarian law.

14.3.2 Allocation

This section focuses on the allocation of prisoners to a particular prison. International legal instruments place a series of obligations on States in respect of prisoner allocation. The question in this section is based on these obligations.

3.2.1 Has your country adopted laws or policies requiring prisoners to be assigned to a prison as near to their home area as possible in order to maintain relationships with families and friends, subject to the maintenance of good order and security? BOP 20, EPR 17.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	15	6	1	5
Total Europe - %	79	63	25	4	21
Hungary	X	X	X		

Analysis

International instrument compliance

In common with the majority of the EU Member States, the commitment regarding allocation has been adopted by Hungary.

14.3.3 Accommodation

This section focuses on the living conditions of prisoners. International legal instruments place a series of obligations on States in respect of the accommodation of prisoners. The questions in this section are based on these obligations.

3.3.1 Has your country adopted laws or policies requiring that where possible prisoners should have individual cells to sleep in? SMR 9(1), EPR 18.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	3	0	10
Total Europe - %	58	54	13	0	42
Hungary	X	X	X		

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3.3.2. Has your country adopted laws or policies stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation? ICCPR 6(1), UDHR 3, SMR 9(2), ECHR 2, EPR 18.6 & 18.7, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	4	0	14
Total Europe - %	42	29	17	0	58
Hungary	X	X	X		

3.3.3 Has your country adopted laws or policies requiring that the size of a cell must be suitable for its purpose? The suitability of the cell size should be dependent on the number of hours spent in the cell, the number of prisoners accommodated in the cell and the availability of in-cell-sanitation facilities that ensure privacy. SMR 9, 10, 11 & 12, EPR 18 & 19.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	8	2	1	15
Total Europe - %	37	33	8	4	63
Hungary	X	X	X		

3.3.4 Has your country adopted laws or policies requiring that cells should not be used to accommodate more prisoners than the intended design capacity, unless justified in exceptional circumstances? SMR 9(1) & 10, EPR 18.1, 18.3, 18.4 & 18.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Hungary	X	X	X		

3.3.5 Has your country adopted laws or policies requiring that cells be suitable for accommodating prisoners in respect of size, lighting, heating, ventilation and fittings? SMR 9, 10, 11, 12 & 13, EPR 18

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	16	4	0	6
Total Europe - %	75	67	17	0	25
Hungary	X	X	X		

3.3.6 Has your country adopted laws or policies requiring that all prisoners have in-cell access to a working alarm bell that attracts the attention of staff at all times? ICCPR 6(1), UDHR 3, ECHR 2, EPR 18.2.c & 52.4, IPR 18(4), *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	13	2	0	4
Total Europe - %	83	54	8	0	17
Hungary					X

Analysis

International instrument compliance

Hungary has complied by five out of six commitments designed to ensure an adequate accommodation for its prisoners. This includes the legally binding commitment stipulating the need for a careful selection and assessment of inmates who should share a cell. The legally binding commitment requiring the access of each prisoners to an in-well alarm bell has, however not been adopted. As we can see from the situation in practice, Hungary has copes with a serious problem of overcrowding.

Situation in practice

The UNHCR reported that prison conditions were generally in compliance with international standards although the prison estate continued to be characterised by overcrowding. The European Commissioner for Human Rights noted in his 2006 report that the occupancy rate for Hungarian prisons was 144% in March 2005, with a rate of 220% at one prison. He added that such overcrowding inevitably results in violence between prisoners and creates difficulties for the prison personnel. Prison overcrowding was also recognised as an issue by the UN Committee Against Torture.

In recent years, overcrowding has been considerably reduced in Hungarian prisons but the problem nevertheless remains significant. At the outset of the CPT's 2009 visit, the delegation was informed that prison overcrowding had been on the decrease for the last four years. There were 15,367 prisoners in mid-March 2009 as compared with some 16,100 four years previously. The overpopulation rate stood at 22 %, as compared with 41 % in 2005 visit. This positive development was said to be largely due to the increase in the overall capacity of the prison estate (from 11,406 to 12,566 places), following the opening of two new prisons in the course of 2008. At the same time, efforts were being pursued to make wider use of alternatives to imprisonment.

The International Centre for Prison Studies reported that the prison system in Hungary was operating at 128% of design capacity as of December 2009.

The CPT found that the material conditions in new prisons constructed to alleviate the problem of overcrowding were reported to be of a high standard with amply sized cells. However, in older establishments the Committee found the cells to be overcrowded and dilapidated. In-cell sanitation was frequently unscreened whilst natural light and ventilation were both limited as a consequence of shutters being used to prevent communication with the outside world. Additionally the quality of food was criticised by many prisoners for the lack of vegetables.

14.3.4 Hygiene & Sanitation

This section focuses on the hygiene and sanitation facilities for prisoners. International legal instruments place a series of obligations on States in respect of hygiene and sanitation. The questions in this section are based on these obligations.

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3.4.1 Has your country adopted laws or policies to ensure that all prisoners have access to adequate and appropriate sanitary and washing facilities that respect their privacy? SMR 12 & 13, EPR 19.3, 19.4 & 19.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	2	0	10
Total Europe - %	58	58	8	0	42
Hungary	X	X	X		

3.4.2 Has your country adopted laws or policies requiring that all In-cell sanitation facilities must be adequately screened? ICCPR 10(1), SMR 12, BOP 1, BPTP 1, ECHR 3, EPR 19.3, *Peers v Greece* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	4	1	9
Total Europe - %	62	54	17	4	38
Hungary	X	X	X		

Analysis

International instrument compliance

Both commitments relating to hygiene and sanitation in custodial institutions have been adopted.

14.3.5 Clothing & Bedding

This section focuses on clothing and bedding provisions for prisoners. International legal instruments place a series of obligations on States in respect of the provision of clothing and bedding. The questions in this section are based on these obligations.

3.5.1 Has your country adopted laws or policies to ensure that prisoners are provided with clothing that is suitable for the climate, is not degrading or humiliating and is age appropriate? SMR 17(1), EPR 20.1 & 20.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	10	0	7
Total Europe - %	71	71	42	0	29
Hungary	X	X	X		

3.5.2 Has your country adopted laws or policies requiring each prisoner to be provided with a bed and appropriate bedding and to ensure that all bedding is in good condition, is changed regularly and laundered? SMR 19, EPR 21

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	2	0	6
Total Europe - %	75	71	8	0	25

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Hungary	X	X	X		

Analysis

International instrument compliance

Both commitments concerning clothing and bedding in prison have been incorporated into Hungarian law.

14.3.6 Nutrition

This section focuses on the nutrition requirements of prisoners. International legal instruments place a series of obligations on States in respect of prisoner's nutrition. The questions in this section are based on these obligations.

3.6.1 Has your country adopted laws or policies to ensure that prisoners are provided with a sufficient quantity of nutritious food taking into account their health, physical condition, special dietary requirements, religion and culture? SMR 20(1), EPR 22.1 & 22.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	5	1	4
Total Europe - %	83	83	21	4	17
Hungary	X	X	X		

3.6.2 Has your country adopted laws or policies to ensure that prisoners have access to clean drinking water? SMR 20(2), EPR 22.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	16	5	1	5
Total Europe - %	79	67	21	4	21
Hungary	X	X	X		

Analysis

International instrument compliance

In accordance with most other EU Member States, Hungary has adopted both commitments relating to nutrition in prisons.

14.3.7 Legal advice, info & rights

This section focuses on the entitlement of prisoners to legal advice and information. International legal instruments place a series of obligations on States in respect of access to legal advice and information. The questions in this section are based on these obligations.

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3.7.1 Has your country adopted laws or policies requiring that adequate time and facilities be provided to prisoners to receive professional visits from their legal advisers? BOP 18(2), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	4	1	2
Total Europe - %	92	92	17	4	8
Hungary	X	X	X		

3.7.2 Has your country adopted laws or policies establishing the right of prisoners to communicate with their legal advisers by telephone and by letter? BOP 18(1), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	3	3	3
Total Europe - %	87	83	13	13	13
Hungary	X	X	X		

3.7.3 Has your country adopted laws or policies requiring that communications between a prisoner and his/her legal adviser remain confidential and can only be restricted by law or judicial authority? ICCPR 17, BOP 18(3) & (4), ECHR 8, EPR 23.4 & 23.5, *Campbell v The United Kingdom* (ECtHR 1992)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	3	1	2
Total Europe - %	92	92	13	4	8
Hungary	X	X	X		

Analysis

International instrument compliance

All commitments (both legally binding and voluntary) have been incorporated into Hungarian law.

Situation in practice

The Committee expressed concern about investigations carried out by police officers within the prison (not regarding internal incidents). Police officers were able to freely interview any prisoner and take evidence, including confessions. However, lawyers were not present during these interviews

14.3.8 *Contact with the outside world*

14.3.8.1 *Visits*

This section focuses on the entitlement of prisoners to maintain contacts with the outside world. International legal instruments place a series of obligations on states in respect of prisoners' on-going contact with the outside world. The questions in this section are based on these obligations.

3.8.1.1 Has your country adopted laws or policies establishing the right of prisoners to communicate with their family and friends by correspondence and by receiving visits, subject to reasonable conditions/restrictions imposed by law or another authority? ICCPR 23(1), UDHR 16(3), SMR 37, BOP 15 & 19, EPR 24.1 & 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	2	0
Total Europe - %	100	96	29	8	0
Hungary	X	X	X		

3.8.1.2 Has your country adopted laws or policies requiring that visits take place in an environment that enables prisoners to maintain and develop family and other relationships in as normal a manner as is possible subject to the maintenance of good order and security in the prison? SMR 79, EPR 24.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	6	0	2
Total Europe - %	92	88	25	0	8
Hungary	X	X	X		

14.3.8.2 Searching of visitors

3.8.2.1 Has your country adopted laws or policies requiring that searching procedures for visitors be undertaken in a manner that respects a person's dignity? SMR 27, BOP 19, EPR 54.1.c, 54.3, 54.4 & 54.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	4	0	7
Total Europe - %	71	63	17	0	29
Hungary	X	X	X		

3.8.2.2 Has your country adopted laws or policies requiring that prison officers only be permitted to search visitors of the same gender? EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	9	1	0	12
Total Europe - %	50	38	4	0	50
Hungary	X	X	X		

14.3.8.3 Restrictions on visits

3.8.3.1 Has your country adopted laws or policies requiring the authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party(ies) and to review these circumstances on a regular basis? SMR 27, 79 & 80, EPR 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	37	37	0	0	63
Hungary					X

3.8.3.2 Has your country adopted laws or policies preventing the withdrawal of contact for female prisoners with their children as a disciplinary action except in exceptional circumstances? SMR 27, 79 & 80, EPR 24.2 & 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	2	0	12
Total Europe - %	50	50	8	0	50
Hungary	X	X	X		

14.3.8.4 *Death, illness & transfer*

3.8.4.1 Has your country adopted laws or policies requiring that prisoners be informed of the death/serious illness of a close relative/ friend without delay? SMR 44(2), EPR 24.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	2	0	13
Total Europe - %	46	42	8	0	54
Hungary	X	X	X		

3.8.4.2 Has your country adopted laws or policies allowing a prisoner to leave the prison to visit a sick relative/friend, attend a funeral or for other humanitarian reasons? SMR 44(2), EPR 24.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Hungary	X	X			

3.8.4.3 Has your country adopted laws or policies ensuring that prisoners are allowed to inform their families or other nominated persons without delay of their imprisonment, transfer to another institution or of any serious illness that they may suffer from? SMR 44(1) & (3), BOP 16(1), EPR 24.8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Hungary	X	X	X		

3.8.4.4 Has your country adopted laws or policies requiring the prison authorities to immediately inform the spouse or the nearest relative to the prisoner (or any other person previously nominated), if the prisoner dies in custody, is removed to a hospital or suffers a serious injury/illness? SMR 44(1), EPR 24.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	3	0	6
Total Europe - %	75	75	13	0	25
Hungary	X	X	X		

14.3.8.5 Telephone and letters

3.8.5.1 Has your country adopted laws or policies preventing the monitoring or censoring of telephone calls unless the prisoner or the recipient of the call is informed of the possibility of such monitoring or, such monitoring has been agreed by any lawful authority? ICCPR 17, UDHR 12, SMR 37, BOP 19, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	3	1	5
Total Europe - %	79	79	13	4	21
Hungary	X	X	X		

3.8.5.2 Has your country adopted laws or policies permitting prisoners to send a minimum of 7 letters a week free of charge and more if he/she can afford it, and to receive as many letters as are sent to him/her? SMR 37, BOP 19, EPR 24.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	11	1	0	12
Total Europe - %	50	46	4	0	50
Hungary					X

3.8.5.3 Has your country adopted laws or policies preventing the prison authorities from opening prisoners' private correspondence subject to the maintenance of good order and safe and secure custody in the prison? ICCPR 17, UDHR 12, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	1	9
Total Europe - %	62	62	13	4	38
Hungary					X

14.3.8.6 Media

3.8.6.1 Has your country adopted laws or policies entitling prisoners to be kept informed of current affairs and other developments outside the prison by reading newspapers and periodicals and by listening to radio or television broadcasts (subject to the maintenance of good order and safe and secure custody)? SMR 39, BOP 28, EPR 24.10

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	1	1
Total Europe - %	96	92	21	4	4
Hungary	X	X	X		

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Analysis

International instrument compliance

All commitments relating to visits, restrictions on visits, searching of visitors and all issues regarding imprisonment, illness and transfer have been adopted into law and/or policy, except for the commitment requiring the authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party and to review these circumstances on a regular basis. As for the commitments relating to letters, telephone and media, the commitment based on legally binding international instruments preventing the prison authorities from opening prisoners' private correspondence subject to the maintenance of good order and safe and secure custody in the prison has not been incorporated in Hungarian law.

Situation in practice

The notional national minimum amount of visiting time allocated to each prisoner was a mere half hour per month. The CPT urged that this should be modified. In practice the situation was much better with all the visited prisons allowing more time. The condition of the visiting rooms was inadequate; in particular cramped or poorly lit and ventilated. It was also frequently complained that many prisoners were unable to make use of their full allotted time on the telephone. The Committee welcomed the cessation of systematic monitoring of prisoner's telephone calls.

14.3.9 Work

This section focuses on work in prison. International legal instruments place a series of obligations on States in respect of work in prison. The questions in this section are based on these obligations.

3.9.1 Has your country adopted laws or policies requiring work to be incorporated as a positive aspect of prison regimes and prohibiting its use as a form of punishment? SMR 71(1), EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Hungary	X	X	X		

3.9.2 Has your country adopted laws or policies requiring that prison work provided should prepare prisoners for worthwhile work on their release and facilitate their reintegration into the workforce? SMR 71(3) & (4), BPTP 8, EPR 26.3 & 26.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	18	7	0	4
Total Europe - %	83	75	29	0	17
Hungary	X	X	X		

3.9.3 Has your country adopted laws or policies entitling prisoners to be remunerated in respect of prison work carried out? ICESCR 7(a), UDHR 23, SMR 76(1), BPTP 8, EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	1	1
Total Europe - %	96	92	13	4	4
Hungary	X	X	X		

Analysis

International instrument compliance

All commitments regarding prison work have been incorporated into Hungarian law and/or policy. In reality however, shortcomings have been noted.

Situation in practice

In its 2009 inspection, the CPT described, moreover, the regime available to some prisoners as 'impoverished'. At Miskolc Prison a mere 20% of prisoners were offered work and no education or vocational training was available. This left the vast majority of prisoners locked in overcrowded cells for up to 23 hours per day. Additionally female prisoners were only allocated half the outdoor exercise allotted to men.

At Tizalok Prison both staff and prisoners unanimously claimed that the programme of activities failed to fulfil expectations. While the educational and vocational training programs were praised, only half of the prisoners were working as had been envisaged. The causes for this were contested by the Prison Authority and the private contractor involved, both blaming the other

14.3.10 Exercise & recreation

This section focuses on facilities for exercise and recreation in prison. International legal instruments place a series of obligations on States in respect of exercise and recreational facilities. The questions in this section are based on these obligations.

3.10.1 Has your country adopted laws or policies ensuring that, subject to the constraints of the particular prison and the maintenance of good order and security, prisoners shall be entitled to spend as much time out of their cells as is possible? EPR 25(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Hungary	X	X	X		

3.10.2 Has your country adopted laws or policies ensuring that prisoners receive at least one hours exercise each day in the open air, weather permitting? SMR 21, EPR 27.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	2	1

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	96	92	21	8	4
Hungary	X	X	X		

3.10.3 Has your country adopted laws or policies ensuring that prisoners shall have access to a well-stocked library at least once a week (subject to the maintenance of good order and safe and secure custody)? R(89)12: 10, EPR 28.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	13	0	0	11
Total Europe - %	54	54	0	0	46
Hungary					X

Analysis

International instrument compliance

All commitments relating to exercise and recreation have been incorporated into Hungarian law except that regarding weekly access to a library.

Situation in practice

See 3.9 above.

14.3.11 Education

This section focuses on facilities for education in prison. International legal instruments place a series of obligations on States in respect of prison education facilities. The questions in this section are based on these obligations.

3.11.1 Has your country adopted laws or policies requiring, as far as practicable, that prisoners have access to educational programmes that can meet their individual needs? ICESCR 13, UDHR 26, SMR 77(1), BPTP 6, R(89)12: 1, EPR 28.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	5	1	1
Total Europe - %	96	96	21	4	4
Hungary	X	X	X		

3.11.2 Has your country adopted laws or policies requiring that education provided in prisons shall be integrated, in so far as is practicable, with national educational systems/programmes enabling prisoners to continue their education following their release? SMR 77(2), R(89)12: 16, EPR 28.7.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	5	0	3
Total Europe - %	87	75	21	0	13

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Hungary	X	X	X		

3.11.3 Has your country adopted laws or policies requiring that vocational training be available for those prisoners who are able to benefit from it, particularly young prisoners? SMR 71(5), BPTP 8, R(89)12: 9, EPR 26.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	20	5	0	2
Total Europe - %	92	83	21	0	8
Hungary	X	X	X		

Analysis

International instrument compliance

All commitments relating to education have been incorporated in Hungarian law and policy, including the legally binding commitment regarding access to education as set out in question 3.11.1.

Situation in practice

See 3.9 above.

14.3.12 Freedom of thought, conscience & religion

3.12.1 Has your country adopted laws or policies ensuring that prisoners have the opportunity to practice their religion and to follow their beliefs whilst in custody? ICCPR 18(1), CERD 5 (d) (vii), UDHR 18, SMR 42, BPTP 3, EPR 29.1 & 29.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	5	0	0
Total Europe - %	100	96	21	0	0
Hungary	X	X	X		

Analysis

International instrument compliance

In common with all the other EU Member States, Hungary has adopted the commitment protecting freedom of thought, conscience and religion for prisoners.

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14.4 Health

14.4.1 Core principles

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.1.1 Has your country adopted laws or policies requiring that primary healthcare services to meet the needs of all prisoners be provided in each prison to a standard equivalent to that available to the community in general? ICESCR 12(1), SMR 22(1), PME 1, R(98)7: 10, 11, 12 & 19, EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	6	0	1
Total Europe - %	96	92	25	0	4
Hungary	X	X	X		

4.1.2 Has your country adopted laws or policies to ensure that where a sick prisoner requires treatment that cannot be provided by the medical staff in the prison he/she shall be transferred to an appropriate hospital without undue delay? SMR 22(2), BPTP 9, R(98)7: 3, EPR 46.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	3	1	2
Total Europe - %	92	88	13	4	8
Hungary	X	X	X		

4.1.3 Has your country adopted laws or policies requiring that medical records be created and accurately maintained on all prisoners and that such records be treated as confidential? BOP 26, R(98)7: 13, EPR 42.3.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	5	0	3
Total Europe - %	87	83	21	0	13
Hungary	X	X	X		

Analysis

International instrument compliance

All commitments have been incorporated.

Situation in practice

The CPT found that while the healthcare at one of the prisons visited was considered highly praiseworthy, at other institutions a lack of doctors led to considerable waiting times for treatment. This was exacerbated at some establishments where doctors were expected to treat both prisoners and staff. Access to outside medical care was, however, generally unproblematic.

The Committee criticised the practice of having custodial staff present for examinations on arrival and for all examinations of grade IV and KBK prisoners as breaching doctor-patient confidentiality.

Staffing levels in prisons across Hungary were generally reported to be inadequate. Indeed occasionally nurses would be seconded in order to perform duties of custodial staff, primarily searching female prisoners. This practice was criticised strongly by the Committee

14.4.2 Women and children

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations

4.2.1 Has your country adopted laws or policies to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor? CEDAW 12, SMR 23, BOP 5(2), R(98)7: 8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	7	3	0	17
Total Europe - %	29	29	13	0	71
Hungary	X	X	X		

4.2.2 Has your country adopted laws or policies requiring that appropriate care be afforded to all pregnant prisoners and nursing mothers? CEDAW 12(2), SMR 23, R(98)7: 8 & 69, EPR 34.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Hungary	X	X	X		

Analysis

International instrument compliance

Both commitments based on legally binding international legal instruments have been adopted.

14.4.3 Mental health care

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.3.1 Has your country adopted laws or policies requiring that prisoners with mental health difficulties be entitled to care appropriate to their circumstances, commensurate to the type of care available for people with similar mental health difficulties in the community? SMR 22(1), PPPMI 1 & 20, R(98)7:10, 11 & 52, R(2004)10: 35(1) & (2), EPR 40

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	4	0	3
Total Europe - %	87	79	17	0	13
Hungary	X	X	X		

4.3.2 Has your country adopted laws or policies to ensure that prisoners who require psychiatric in-patient care are transferred to a suitable hospital facility of an appropriate security level without undue delay? SMR 22(2), PPPMI 9(1) & 20, R(98)7: 3 & 55, R(2004)10: 8, 9(1) & 35(1), EPR 12(1) & 46(1)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	3	0	6
Total Europe - %	75	71	13	0	25
Hungary	X	X	X		

Analysis

International instrument compliance

All commitments relating to mental health care have been incorporated in both law and policy.

Situation in practice

The CPT expressed reservations at the fact that the IMEI (Judicial and Observation Psychiatric Unit) was placed inside a prison complex. Concerns over the location and operation of this unit were also made by the European Commissioner for Human Rights.

14.4.4 Vulnerable prisoners

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.4.1 Has your country adopted laws or policies requiring that prisoners assessed as vulnerable be accommodated in areas of the prison which are most convenient and appropriate for their monitoring and treatment by the medical personnel and other relevant agencies? SMR 22(2) & 62, EPR 12.2, 39, 43.1, 46.2, 47.1 & 47.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	3	0	8
Total Europe - %	67	63	13	0	33
Hungary	X	X	X		

4.4.2 Has your country adopted laws or policies requiring that prisoners assessed as being at risk of suicide/self-harm be continuously monitored by both medical and prison staff throughout the prisoner's time in custody and that records are kept of such monitoring? R(98)7: 58, EPR 47(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	5	0	14
Total Europe - %	42	29	21	0	58
Hungary	X	X			

4.4.3 Has your country adopted laws or policies requiring that prisoners detained in a special cell be visited daily, and as frequently as is necessary by a doctor who shall, inter alia, monitor his/ her physical and mental health? SMR 25(1) & 32(3), R(98)7: 66, EPR 43.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Hungary	X	X	X		

Analysis

International instrument compliance

All commitments have been incorporated.

14.4.5 *Medical & health care personnel*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.5.1 Has your country adopted laws or policies to ensure that every prisoner has access to appropriately qualified medical personnel in the prison at all times? SMR 24, BOP 24, R(98)7:1, 2 & 4, EPR 41.2 & 41.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Hungary	X	X	X		

Analysis

International instrument compliance

The commitment ensuring access to appropriately qualified medical staff has been incorporated in accordance with the majority of the other EU Member States. Still, staff shortages have been noted.

Situation in practice

See 4.1 above.

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14.4.6 Prisoners with addiction problems

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.6.1 Has your country adopted laws or policies to ensure that prisoners with addiction problems have access to appropriate treatment and support services, including those from external agencies? SMR 62, R(98)7: 7, 43, 44, 45, 46 & 47, EPR 42.3.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	8	0	3
Total Europe - %	88	79	33	0	13
Hungary	X	X	X		

Analysis

International instrument compliance

The commitment relating to prisoners with addiction problems has been adopted by Hungary.

14.4.7 Hunger strikes

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.7.1 Has your country adopted laws or policies forbidding the practice of forced feeding of hunger strikers? DOMHS, R(98)7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	37	21	21	0	63
Hungary	X	X	X		

Analysis

International instrument compliance

Commitment has been incorporated.

14.5 Good order

14.5.1 General approaches

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.1.1 Has your country adopted laws or policies requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody? R(82)17: 8, EPR 51.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	0	9
Total Europe - %	62	62	13	0	38
Hungary	X	X	X		

Analysis

International instrument compliance

The commitment concerning the necessity for regular reviews regarding the level of security for each prisoner has been adopted.

Situation in practice

Grade IV and KBK prisoners and their educators expressed frustration to the CPT over periodic reviews carried out to assess whether it was necessary for them to remain part of the special regime. Prisoners were placed in these special facilities according to the nature of their offence regardless of their behavior

14.5.2 Safety & Security

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.2.1 Has your country adopted laws or policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat? EPR 51.5, 53.1 & 53.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	63	63	17	0	37
Hungary	X	X	X		

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Analysis

International instrument compliance

The commitment has been incorporated in Hungarian law.

Situation in practice

Specific observations were made by both the CPT and the UN Committee Against Torture with regards to the situation of prisoners considered to require high security arrangements (grade IV prisoners). The procedural safeguards surrounding the allocation of a prisoner to grade IV or KBK (Special Security Units) facilities were highlighted as being inadequate. Grade IV prisoners were given a copy of the decision regarding their allocation and given information about the appeals process. However the reasons which resulted in such allocations were only given orally, making appeal more difficult, and the decision could not be appealed to an independent authority. For prisoners assigned to KBK facilities, the situation was worse. No reasons were given explaining the decision and furthermore there was no right of appeal.

14.5.3 Searching of prisoners

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.3.1 Has your country adopted laws or policies requiring that searches conducted on prisoners be carried out with due regard to the prisoner's dignity? ICCPR 10(1), BPTP 1, EPR 54.3 & 54.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	0	1
Total Europe - %	96	92	13	0	4
Hungary	X	X	X		

5.3.2 Has your country adopted laws or policies stipulating that prisoners may only be searched by a staff member of the same gender? ICCPR 10(1), BPTP 1, EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	1	0	1
Total Europe - %	96	92	4	0	4
Hungary	X	X	X		

5.3.3 Has your country adopted laws or policies stipulating that prisoners may only be subjected to a strip search in exceptional circumstances and for good reason and then, only in the presence of two officers in an appropriate place which ensures privacy? ICCPR 10(1), BPTP 1, EPR 54. 3, 54.4 & 54.6, *Van der Van v The Netherlands* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	3	1	13
Total Europe - %	66	54	13	4	54
Hungary					X

Analysis

International instrument compliance

All commitments relating to searching of prisoners have been adopted.

14.5.4 *Criminal acts, discipline & punishment*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.4.1 Has your country adopted laws or policies stipulating that all inquiries into breach of prison discipline or rules shall be conducted in an independent and impartial manner? ICCPR 14(1), UDHR 10, ECHR 6(1), *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	2	1	8
Total Europe - %	67	63	8	4	33
Hungary	X	X	X		

5.4.2 Has your country adopted laws or policies requiring that all incidents of bullying/violence/threatening behaviour between prisoners, and any breach of discipline be reported to an officer of a higher rank, duly recorded and properly investigated? EPR 52.2 & 58

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	62	62	17	0	38
Hungary	X	X	X		

5.4.3 Has your country adopted laws or policies stipulating that when a prisoner has been charged with a disciplinary offence he/she shall be promptly informed of the allegation made against him/her in a language that he/she understands? ICCPR 14(3)(a), CERD 5(a), SMR 30(2), ECHR 6(3)(a), EPR 59.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	3	0	7

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	71	71	13	0	29
Hungary	X	X	X		

5.4.4 Has your country adopted laws or policies stipulating if an inquiry is being conducted into a breach of prison discipline or rules the prisoner shall have adequate time to prepare his/her defence and/or to receive legal assistance? ICCPR 14(3)(b) & (d), SMR 30(2), ECHR 6(3)(b) & (c), EPR 59.b & 59.c, *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	2	0	9
Total Europe - %	62	58	8	0	38
Hungary	X	X	X		

5.4.5 Has your country adopted laws or policies stipulating that in any disciplinary proceedings prisoners must understand the proceedings and if necessary, appropriate interpretation facilities must be provided? ICCPR 14(3)(f), SMR 30(3), ECHR 6(3)(e), EPR 59.e

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Hungary	X	X	X		

5.4.6 Has your country adopted laws or policies stipulating that no prison officer shall impose a punishment/penalty/deprivation on a prisoner without due process and in accordance with law and/or relevant rules or instruments? EPR 57.2.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	2	0	4
Total Europe - %	83	83	8	0	17
Hungary	X	X	X		

5.4.7 Has your country adopted laws or policies stipulating that if a prisoner is found guilty of a disciplinary offence, he/she shall be entitled to exercise his/her right of appeal to an independent and impartial tribunal established by law? ICCPR 14(5), BOP 30(2), EPR 61

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	1	0	5
Total Europe - %	79	79	4	0	21
Hungary	X	X	X		

5.4.8 Has your country adopted laws or policies requiring that when a prisoner is detained in any type of special cell (special observation/cladded/strip) he/she shall be regularly monitored by a prison officer? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	3	0	7
Total Europe - %	71	67	13	0	29
Hungary	X	X	X		

5.4.9 Has your country adopted laws or policies requiring that a detailed record be maintained of, inter alia, the monitoring of such prisoners, their expressed requirements, actions taken in response to such requests and details of visits by officers or others to such prisoners? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	8	8	2	0	16
Total Europe - %	33	33	8	0	67
Hungary	X	X	X		

5.4.10 Has your country adopted laws or policies to ensure that prisoners in a special cell are able to contact a member of staff at all times, including during the night and that a staff member shall respond without delay? ICCPR 6(1), EPR 18.2.c & 52.4, *Edwards v The United Kingdom* (ECHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	4	0	63
Hungary	X	X	X		

Analysis

International instrument compliance

All commitments relating to discipline and punishment have been incorporated in Hungarian law and policy including all the legally binding commitments.

Situation in practice

Notwithstanding the legislation highlighted above, the Committee note a high incidence of inter-prisoner violence, with worrying complaints that staff would often be slow to react and on some occasions were seen to be egging on prisoners to be violent.

14.5.5 Use of force/weapons

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.5.1 Has your country adopted laws or policies stipulating that members of staff will use force only when absolutely necessary and that any force used shall be proportionate to the situation? SMR 54(1), CCLEO 3, BPUF 4, EPR 64 & 6

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	4	1	3
Total Europe - %	87	87	17	4	13
Hungary	X	X	X		

Analysis

International instrument compliance

The commitment relating to the use of force and weapons has been adopted.

Situation in practice

The CPT recommended that should it be necessary for prison staff to carry batons, these should be hidden from prisoners. The use of dogs in Hungarian prisons was also criticised. The Committee advised the creation of more stringent guidelines for the use of electronic batons, allowing for their use only as a very last resort.

14.5.6 Requests & complaints

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.6.1 Has your country adopted laws or policies to ensure that prisoners have sufficient opportunity to make requests or complaints to the Governor of the prison or to any other competent authority? SMR 36(1) & (3), BOP 33(1), EPR 70.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	3	0	1
Total Europe - %	96	96	13	0	4
Hungary	X	X	X		

5.6.2 Has your country adopted laws or policies establishing the right of a prisoner's legal advisor or to make a request or a complaint regarding that prisoner's treatment to the prison authorities, or other relevant authorities? BOP 33 (1) & (2), EPR 70.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	1	0	6
Total Europe - %	75	75	4	0	25
Hungary	X	X	X		

5.6.3 Has your country adopted laws or policies requiring that all complaints be promptly investigated in accordance with law? SMR 36(4), BOP 33(4)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	2	0	7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	71	67	8	0	29
Hungary	X	X	X		

5.6.4 Has your country adopted laws or policies to ensure that where a request is denied or a complaint is rejected, the prisoner is informed promptly as to the reason(s) for such denial or rejection? SMR 36(4), BOP 33(4), EPR 70.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	2	1	7
Total Europe - %	71	63	8	4	29
Hungary	X	X	X		

5.6.5 Has your country adopted laws or policies to ensure that prisoners are not disadvantaged for exercising their rights to make requests or complaints? BOP 33(4), EPR 70.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	3	0	13
Total Europe - %	46	42	13	0	54
Hungary	X	X	X		

5.6.6 Has your country adopted laws or policies requiring that complaints made by members of staff against other members of staff be properly recorded and investigated in accordance with the law? EPR 88 & 87.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	11	3	0	11
Total Europe - %	54	46	13	0	46
Hungary	X	X	X		

Analysis

International instrument compliance

All commitments relating to prisoner's requests and complaints have been incorporated in Hungarian law and policy

14.6 Management & Staff

14.6.1 *Training of staff*

This section focuses on the staff training and prison management. International legal instruments place a series of obligations on States in respect of the training and management of prison staff. The questions in this section are based on these obligations.

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6.1.1 Has your country adopted laws or policies to ensure that all prison staff receive appropriate training at regular intervals throughout their career? SMR 47(3), EPR 8, 76 & 81.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	14	7	0	5
Total Europe - %	79	58	29	0	21
Hungary	X		X		

6.1.2 Has your country adopted laws or policies to ensure that members of staff who work with particular groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, receive training particular to their individual work? R(82)17: 10, R(2004)10: 12(1), EPR 81.3, ERJO 129

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	38	21	21	0	62
Hungary	X		X		

Analysis

International instrument compliance

Both commitments relating to the training of personnel have been adopted into (voluntary) policies. As both the SPOC and the situation in practice tell us, specialized training is still a problem in Hungary

Situation in practice

The CPT noted that custodial staff working at IMEI did not receive any specific training for working with psychiatric patients.

14.7 Inspection & Monitoring

14.7.1 *Governmental Inspection*

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.1.1 Has your country adopted laws or policies requiring that prisons be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law? SMR 55, EPR 92, R(2004)10 36.1, ERJO 125, PPPMI 22

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	19	4	0	4
Total Europe - %	83	79	17	0	17
Hungary	X	X	X		

Analysis

International instrument compliance

The commitment relating to governmental monitoring has been adopted.

14.7.2 Independent monitoring

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.2.1 Has your country adopted laws or policies requiring that the conditions of detention and the treatment of prisoners shall be also monitored by an independent body or bodies, comprised of qualified experienced personnel, and whose findings shall be made public? OPCAT 3, 17, 18, 19, BOP 29.1, EPR 93.1, R(2004)10 36.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Hungary					X

7.2.2 Has your country adopted laws or policies granting such an independent body open access to places of detention, to prisoners and others whom it wishes to interview? OPCAT 19, 20, CPT 8,9 BOP 29.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	3	1	9
Total Europe - %	62	58	13	4	38
Hungary	X	X	X		

7.2.3 Has your country adopted laws or policies encouraging such independent bodies to cooperate with those international agencies that are legally entitled to visit prisons? CPT 2,7 EPR 93.2, ERJO 126.

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	6	1	0	17
Total Europe - %	29	25	4	0	71
Hungary					X

Analysis

International instrument compliance

Hungary has not incorporated the legally binding commitment set out in question 7.2.1. It has however adopted the legally binding commitment granting independent bodies open access to places of detention

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Situation in practice

Hungarian Prisons are subject to unannounced visits by the Office of Parliamentary Commissioner for Civil Rights and various NGOs. Hungary has not signed OP-CAT

14.8 Sentenced Prisoners

This section focuses on the particular provisions relating to convicted prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

8.1.1 Has your country adopted laws or policies requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan? ICCPR 10(3), SMR 80, EPR 6, 103.2 & 103.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	6	2	4
Total Europe - %	83	83	25	8	17
Hungary	X	X	X		

8.1.2 Has your country adopted laws or policies requiring that a sentence management plan be prepared for each prisoner serving a sentence of 12 months or over as soon as practicable after their admission? It should provide for, inter alia, the welfare and health needs of the prisoner, training, employment or education needs he/she may have, and include a release plan for the prisoner. This plan shall be reviewed at regular intervals to take into account the changing circumstances of the prisoner. SMR 65, 66 & 69, R(2003)23: 3 & 9, EPR 6, 103 & 104.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	5	0	10
Total Europe - %	58	54	21	0	42
Hungary	X	X	X		

Analysis

International instrument compliance

Both commitments relating to the sentence objective have been adopted.

14.9 Juveniles

This section focuses on the particular provisions relating to juvenile prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

9.1.1 Has your country adopted laws or policies requiring that juveniles be detained separately from adult offenders? ICCPR 10(3), CRC 37(c), BR 26.3, RPJDL 29, EPR 11.1, ERJO 59.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	1	3
Total Europe - %	87	87	13	4	13
Hungary	X	X	X		

9.1.2 Has your country adopted laws or policies to ensure that, subject to reasonable conditions and restrictions, a sentenced prisoner under the age of 18 shall be entitled to receive a minimum of two weekly visits? CRC 37(c), SMR 37, BOP 19, RPJDL 60, ERJO 83, 84, 85.1 & 85.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	6	3	0	15
Total Europe - %	37	25	13	0	63
Hungary					X

Analysis

International instrument compliance

The legally binding commitment requiring that juveniles be detained separately from adult offenders has been incorporated both in Hungarian law and policy.

14.10 Sentence Execution Modalities

This section of the questionnaire is designed to collate information on the differing methods by which custodial sentences and measures involving deprivation of liberty are enforced across EU Member States.

10.1.1. Which of the following modalities of prison sentence execution are provided for in the law of your country?

	Weekend detention	Evening detention	Daytime detention	Home detention	
				no electronic monitoring	electronic monitoring
EUROPE	9 = 38%	10 = 42%	3 = 13%	6 = 25%	14 = 58%
Hungary					X

10.1.2. What is the maximum period for which home detention with electronic monitoring can be imposed?

	Under 12 months	12-24 months	25 months - 36 months	37 months - 50 months	More than 50 months
EUROPE	7 = 29%	4 = 17%	0 = 0%	1 = 4%	2 = 8%
Hungary					X

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10.2.1. In which of the following locations can custodial sentences or measures involving deprivation of liberty be imposed?

	Penitentiary institution	Psychiatric institution	Detoxification institution	Educational institution	Home
EUROPE	24 = 100%	20 = 83%	10 = 42%	7 = 29%	12 = 50%
Hungary	X	X			

Analysis

Sentence execution modalities

Hungary is one of the only countries in the EU where no additional sentence execution modalities are available. Custodial sentences or measures involving deprivation of liberty can be imposed in relation to penitentiary institutions and psychiatric institutions.

Early release from prison, earned remission and suspension of sentence

In common with all EU countries, Hungary has adopted measures under which prisoners are entitled to early release from prison. Hungary has one of the lowest entry thresholds for early release with prisoners becoming eligible after one third of their sentence or less albeit that regulations differ depending on the length of sentence imposed. The Hungarian early release system is based on discretionary provisions. Decisions on a prisoner's early release are based on six of the ten criteria identified. Once a prisoner is granted early release, five out of twelve forms of monitoring or conditions identified, can be attached. No possibility exists in Hungarian law for prisoners to be granted remission as a result of work carried out in prison. Neither is provision made for the further execution of a prison sentence to be suspended during the course of the sentence

14.11 Early release from prison, earned remission and suspension of sentence

14.11.1 Early release

Early release means the release of the offender before their prison term is finished. It is possible only while the sentence is still being served. Early release does not include the suspended enforcement of a penalty which is dealt with later in this questionnaire.

11.1.2.1. Has your country adopted laws and regulations under which prisoners are entitled to early release from prison ?

	Yes	No
EUROPE	24 = 100%	0 = 0%
Hungary	X	

11.1.2.2. At what point in a prisoner's sentence do they become eligible for early release?

	One third of sentence or less	One third to one half of a sentence	One half to three quarters of a sentence	More than three quarters of a sentence	Other
EUROPE	2 = 8%	1 = 4%	7 = 29%	0 = 0%	14 = 58%
Hungary	X				

11.1.2.2. Does your country have different regulations for the early release of prisoners based on:

	A prisoner's nationality (non-EU citizen)	A prisoner's nationality (EU citizen)	The length of sentence imposed
EUROPE	Yes - 3 = 12% No - 21 = 88%	Yes - 3 = 12% No - 21 = 88%	Yes - 24 = 100% No - 0 = 0%
Hungary	N	N	Y

11.1.2.3. Are provisions governing the early release of prisoners automatic or discretionary?

	Automatic (prisoners are automatically released at a certain point in their sentence)	Discretionary (prisoners are only released following assessment)
EUROPE	Yes - 7 = 29% No - 17 = 71%	Yes - 20 = 83% No - 4 = 17%
Hungary	N	Y

11.1.2.4. What factors are taken into consideration when deciding whether a prisoner will be granted early release?

	The circumstances surrounding the crime	Prior criminal record	The offender's progress during imprisonment	Assessment as to whether the prisoner is likely to reoffend	Recommendation from the sentencing judge
EUROPE	Yes - 24 = 50% No - 24 = 50%	Yes - 15 = 63% No - 9 = 37%	Yes - 22 = 92% No - 2 = 8%	Yes - 19 = 79% No - 5 = 21%	Yes - 4 = 17% No - 20 = 83%
Hungary	Y	Y	Y	Y	Y

11.1.3.1. What forms of monitoring and conditions can be applied to prisoners' early release?

1. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
2. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)

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4. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)

5. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)

6. Electronic monitoring
7. Weekend/evening /daytime detention
8. Requirement containing limitations on leaving the country
9. Requirement to leave the country
10. Requirement to pay compensation
11. Requirement to undertake community service
12. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	Other
EUROPE	Y - 83 N - 17	Y - 8 N - 92	Y - 58 N - 42	Y - 62 N - 38	Y - 33 N - 77	Y - 25 N - 75	Y - 13 N - 87	Y - 42 N - 58	Y - 21 N - 79	Y - 29 N - 71	Y - 21 N - 79	9
Hungary	Y	N	Y	Y	Y	N	N	N	N	N	Y	

14.11.2 Sentence reduction as a result of prison work

11.2.1.1. Can a prisoner earn remission on their sentence as a result of work carried out in prison?

	Yes	No
EUROPE	9= 38%	15 - 62%
Hungary		X

14.11.3 Suspension of sentence enforcement

11.3.1. Does the national law of your country make provision for the further execution of a prison sentence to be suspended during the course of the sentence?

	Yes	No
EUROPE	10=42%	14= 58%
Hungary		X

11.3.2.1. What factors are taken into consideration when deciding whether a prisoner will have the further execution of their prison sentence suspended?

1. The circumstances surrounding the crime
2. Prior criminal record
3. The offender's progress during imprisonment
4. Assessment as to whether the prisoner is likely to reoffend
5. Recommendation from the sentencing judge
6. Suitability of home circumstances
7. Information from victim(s)
8. Willingness of the prisoner to leave the country upon release
9. The prisoner will be deported upon release

10. Other – please specify

	1	2	3	4	5	6	7	8	9	Other
EUROPE	Y - 8 N - 92	Y - 13 N - 78	Y - 17 N - 83	Y - 21 N - 79	Y - 0 N - 100	Y - 4 N - 96	Y - 0 N - 100	Y - 0 N - 100	Y - 0 N - 100	21
Hungary	N	N	N	N	N	N	N	N	N	

11.3.3.1. What forms of monitoring and conditions can be applied to prisoners whose further execution of a prison sentence has been suspended?

1. Unconditional supervision
2. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
4. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
5. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
6. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
7. Electronic monitoring
8. Weekend/evening /daytime detention
9. Requirement containing limitations on leaving the country
10. Requirement to leave the country
11. Requirement to pay compensation
12. Requirement to undertake community service
13. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	12	Other
EUROPE	Y - 4 N - 96	Y - 38 N - 62	Y - 4 N - 96	Y - 29 N - 71	Y - 17 N - 83	Y - 17 N - 83	Y - 4 N - 96	Y - 4 N - 96	Y - 21 N - 79	Y - 0 N - 100	Y - 17 N - 83	Y - 4 N - 96	2
Hungary	N	N	N	N	N	N	N	N	N	N	N	N	

Analysis

Sentence execution modalities

Hungary is one of the only countries in the EU where no additional sentence execution modalities are available. Custodial sentences or measures involving deprivation of liberty can be imposed in relation to penitentiary institutions and psychiatric institutions

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Early release from prison, earned remission and suspension of sentence

In common with all EU countries, Hungary has adopted measures under which prisoners are entitled to early release from prison. Hungary has one of the lowest entry thresholds for early release with prisoners becoming eligible after one third of their sentence or less albeit that regulations differ depending on the length of sentence imposed. The Hungarian early release system is based on discretionary provisions. Decisions on a prisoner's early release are based on six of the ten criteria identified. Once a prisoner is granted early release, five out of twelve forms of monitoring or conditions identified, can be attached. No possibility exists in Hungarian law for prisoners to be granted remission as a result of work carried out in prison. Neither is provision made for the further execution of a prison sentence to be suspended during the course of the sentence.

15 Ireland

15.1 Introduction

The questionnaire was completed by Dr. Ursula Kilkelly, senior lecturer in law at University College, Cork.

Ireland was visited twice by the Committee for the Prevention of Torture (2006 and 2010) and was the subject of a report from the European Commissioner for Human Rights in 2007. Additional information has also been sourced Amnesty International's 2009 country report on Ireland, the 2009 UNHCR Country Report on Human Rights Practices for Ireland (drawing on source material provided by the US Department of State) and the International Centre for Prison Studies.

Country	IRELAND, REPUBLIC OF
Ministry responsible	Department of Justice, Equality and Law Reform
Prison administration	Irish Prison Service
Contact address	IDA Business Park, Ballinalee Road, Longford, Co. Longford, Republic of Ireland.
Telephone/fax/website	tel: +353 43 35100 +353 43 35100 / fax: +353 43 35101 Web: www.irishprisons.ie
Head of prison administration (and title)	Brian Purcell Director General
Prison population total (including pre-trial detainees / remand prisoners)	4,409 at 13.10.2010 (national prison administration - not including 638 on temporary release and 409 unlawfully at large)
Prison population rate (per 100,000 of national population)	99 based on an estimated national population of 4.45 million at October 2010 (from Eurostat figures)
Pre-trial detainees / remand prisoners (percentage of prison population)	14.9% (4.12.2009)
Female prisoners (percentage of prison population)	3.4% (2009 average)
Juveniles / minors / young prisoners incl. definition (percentage of prison population)	2.4% (1.9.2008 - under 18)
Foreign prisoners (percentage of prison population)	10.8% (of sentenced prisoners, 4.12.2009)
Number of establishments /institutions	14 -2010
Official capacity of prison system	4,066 (1.3.2010)
Occupancy level (based on official capacity)	103.7% (1.3.2010)
Recent prison population trend	1992 2,155 (61)

IRELAND

(year, prison population total, prison population rate)	1995 2,054 (57) 1998 2,648 (71) 2001 3,025 (78) 2004 3,083 (76) 2007 3,305 (75)
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15.2 Overarching Principles

This section focuses on the overarching principles governing the management of prisons and the treatment of prisoners. International legal instruments place a series of obligations on States in respect of the management of prisons and the treatment of prisoners. The questions in this section are based on these obligations.

2.1.1 Has your country adopted laws or policies specifically requiring that prisoners must be treated with respect for their human rights? ICCPR 10(1), UDHR 1, BOP 1, BPTP 1, EPR 1 & 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	19	7	1	2
Total Europe - %	92	79	29	4	8
Ireland	X		X		

2.1.2 Has your country adopted laws or policies specifically requiring prisons to be managed in accordance with human rights standards? EPR 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	4	3	3
Total Europe - %	88	75	16	13	12
Ireland	X		X		

2.1.3 Has your country adopted laws or policies explicitly prohibiting practices that could constitute torture, inhumane or degrading treatment or punishment of prisoners? ICCPR 7, BOP 6, ECHR 3, *Kalashnikov v Russia* (ECtHR 2003)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	1	3	2
Total Europe - %	92	88	4	12	8
Ireland	X			X	

2.1.4 Has your country adopted laws or policies specifically requiring that prisoners be provided with a range of activities during their sentence (for example - educational, recreational, work/training and welfare programmes)? SMR 77 & 78, BOP 28, BPTP 6 & 8, EPR 25

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	0	0
Total Europe - %	100	96	29	0	0
Ireland	X		X		

Analysis

International instrument compliance

Ireland has made provision for all the commitments relating to the management of prisons and the treatment of prisoners including the legally binding commitments requiring the prisoners be treated in a manner which respects their human rights and that prohibiting practices which could constitute torture, inhumane or degrading treatment or punishment of prisoners. As the comments from the SPOC above indicate, these provisions are only to be found in policy documents which do not have a legal basis.

15.3 Conditions Of Imprisonment

15.3.1 Admission

This section focuses on the treatment of prisoners upon their admission to prison. International legal instruments place a series of obligations on States in respect of prisoner admission. The questions in this section are based on these obligations.

3.1.1 Has your country adopted laws or policies requiring that all prisoner details are recorded at the time of committal including, inter alia, details of any visible injuries and the prisoner's personal belongings? SMR 7(1), EPR 15.1, 31.1, 31.2 & 31.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	7	1	7
Total Europe - %	71	63	29	4	29
Ireland	X		X		

3.1.2 Has your country adopted laws or policies requiring that upon admission, each prisoner is given a booklet outlining his/her rights, duties, obligations and privileges and the rules and regulations governing the prison which apply to the individual prisoner? The booklet shall be written in a language that the prisoner understands. CERD 7, SMR 35, BOP 13, EPR 30

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	6	1	6
Total Europe - %	63	54	25	4	25
Ireland	X		X		

3.1.3 Has your country adopted laws or policies requiring that upon admission, every prisoner shall undergo a medical examination either by a nurse reporting to a doctor or by a doctor? SMR 24, BOP 24, R(98)7: 1, EPR 42.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	20	6	1	1
Total Europe - %	96	83	25	4	4
Ireland	X		X		

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3.1.4 Has your country adopted laws or policies requiring the doctor/nurse to pay particular attention to the detection of injuries, mental illnesses, of withdrawal symptoms resulting from the use of drugs, medication or alcohol, of contagious and chronic conditions, and, to assess the prisoner's suicide/self-harm risk? SMR 24, R(98)7: 1, EPR 42.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	10	8	1	9
Total Europe - %	62	42	33	4	38
Ireland	X		X		

3.1.5 Has your country adopted laws or policies requiring injuries detected during such an examination to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner? EPR 15.1.e & 42.3.c

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	5	4	1	17
Total Europe - %	29	21	17	4	71
Ireland					X

3.1.6 Has your country adopted laws or policies requiring upon admission that each prisoner be assessed to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves? ICCPR 6, UDHR 3, ECHR 2, R(2003)23: 12, EPR 52.1, *Keenan v The United Kingdom* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	5	1	13
Total Europe - %	46	42	21	4	54
Ireland					X

3.1.7 Has your country adopted laws or policies requiring that such risks be managed for the duration of the prisoner's sentence? ICCPR 6, UDHR 3, ECHR 2, EPR 52.2, *Osman v The United Kingdom* (ECtHR 2000)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	3	1	12
Total Europe - %	50	50	13	4	50
Ireland					X

Analysis

International instrument compliance

Ireland has adopted four of the seven commitments relating to prison admission including the legally binding commitment relating to the provision of a booklet to newly admitted prisoners setting out their rights and the regulations of the institution in which they will be housed. Legally binding commitments relating to the initial and on-going assessment of prisoners to determine whether they pose a safety risk to themselves or others have not been adopted however. All commitments are based on policy and have no legal basis. Irish law and

policy does not stipulate that injuries diagnosed during the admission medical examination must be noted and a medical opinion sought to assess whether they are commensurate with any allegations of mistreatment made by the prisoner

Situation in practice

In most of the prisons visited by the CPT in 2010, the delegation found that there were no rigorous admission procedures whereby all new prisoners would undergo a cell-share risk assessment before being allocated to a cell and provided with toiletries, bedding and a hot meal. Nor was there any induction programme to acquaint prisoners with the regime and running of the prison, or to ensure that they had been able to contact their family. Despite the policy position highlighted above, inmates also complained that they had not received any information about the regulations governing the day-to-day activities and procedures in the prison. Instead, they had to rely on other prisoners to tell them about the regime and the rules, which placed certain prisoners in a superior position. This was particularly true for illiterate prisoners met by the delegation. Further, for foreign national prisoners who did not speak English the lack of information in a language they could understand placed them in a particularly vulnerable position. The CPT also noted that prisoners were being medically screened promptly upon arrival. However, at Cork and Mountjoy Prisons, many prisoners were not being examined upon admission by a nurse or a doctor on the day of their admission and in some cases, not at all. Moreover, it appeared that the committal interviews were often extremely cursory and the notes on committal were of poor quality; at Mountjoy Prison, the words "fit and well" were often the only narrative for a number of prisoners newly admitted to prison.

15.3.2 Allocation

This section focuses on the allocation of prisoners to a particular prison. International legal instruments place a series of obligations on States in respect of prisoner allocation. The question in this section is based on these obligations.

3.2.1 Has your country adopted laws or policies requiring prisoners to be assigned to a prison as near to their home area as possible in order to maintain relationships with families and friends, subject to the maintenance of good order and security? BOP 20, EPR 17.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	15	6	1	5
Total Europe - %	79	63	25	4	21
Ireland					X

Analysis

International instrument compliance

The commitment requiring prisoners to be allocated to a prison as close as possible to their home has not been adopted by Ireland.

Situation in practice

See comments above from the SPOC regarding the allocation of prisoners in practice

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15.3.3 Accommodation

This section focuses on the living conditions of prisoners. International legal instruments place a series of obligations on States in respect of the accommodation of prisoners. The questions in this section are based on these obligations.

3.3.1 Has your country adopted laws or policies requiring that where possible prisoners should have individual cells to sleep in? SMR 9(1), EPR 18.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	3	0	10
Total Europe - %	58	54	13	0	42
Ireland					X

3.3.2. Has your country adopted laws or policies stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation? ICCPR 6(1), UDHR 3, SMR 9(2), ECHR 2, EPR 18.6 & 18.7, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	4	0	14
Total Europe - %	42	29	17	0	58
Ireland					X

3.3.3 Has your country adopted laws or policies requiring that the size of a cell must be suitable for its purpose? The suitability of the cell size should be dependent on the number of hours spent in the cell, the number of prisoners accommodated in the cell and the availability of in-cell-sanitation facilities that ensure privacy. SMR 9, 10, 11 & 12, EPR 18 & 19.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	8	2	1	15
Total Europe - %	37	33	8	4	63
Ireland					X

3.3.4 Has your country adopted laws or policies requiring that cells should not be used to accommodate more prisoners than the intended design capacity, unless justified in exceptional circumstances? SMR 9(1) & 10, EPR 18.1, 18.3, 18.4 & 18.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Ireland					X

3.3.5 Has your country adopted laws or policies requiring that cells be suitable for accommodating prisoners in respect of size, lighting, heating, ventilation and fittings? SMR 9, 10, 11, 12 & 13, EPR 18

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	16	4	0	6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	75	67	17	0	25
Ireland	X		X		

3.3.6 Has your country adopted laws or policies requiring that all prisoners have in-cell access to a working alarm bell that attracts the attention of staff at all times? ICCPR 6(1), UDHR 3, ECHR 2, EPR 18.2.c & 52.4, IPR 18(4), *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	13	2	0	4
Total Europe - %	83	54	8	0	17
Ireland					X

Analysis

International instrument compliance

Ireland has only incorporated one of the commitments regarding the accommodation of prisoners into its national law (the non-legally binding commitment relating to suitability of cells based on size, lighting, ventilation and fittings). Legally binding commitments requiring prisoners to be assessed as suitable for sharing accommodation and requiring all cells to have working alarm bells have therefore not been adopted. There is no provision in Irish law requiring that prisoners be accommodated in individual cells. Furthermore the provisions of international instruments requiring that cells should be fit for purpose based on the criteria of the number of hours spent in a cell, the number of prisoners accommodated and the availability of in-cell sanitation have also not been incorporated.

Situation in practice

The International Centre for Prison Studies reported that the prison system in the Republic of Ireland was operating at 104% of design capacity as of March 2010.

In 2006, the CPT highlighted that many prisons continued to suffer from overcrowding; this compounded the already limited and dilapidated conditions of the prisons themselves. In Mountjoy Prison for example, the Committee reported finding broken window panes, stained and peeling walls, dirty floors, broken lights and heard complaints of mice and cockroaches. The Irish Inspector of Prisons reported in 2009 that overcrowding at Mountjoy prison (the country's largest) was so severe that prisoners were held in reception and shower blocks. The situation had worsened by the time of the CPT's most recent inspection. The Committee noted that the prison population had expanded considerably, rising from some 3,150 in October 2006 to over 4,000 by the end of January 2010. At the same time, the Irish Prison Service struggled to provide sufficient capacity to accommodate the increasing prison population. The official operational capacity of some 4,100 belied the very real overcrowding that exists in a number of prison establishments. As was the case in 2006, the CPT found that the de facto overcrowding, combined with the conditions in certain of the old and dilapidated prisons, raised real concerns as to the safe and humane treatment of prisoners. The Irish authorities have long recognised the necessity to modernise and expand the prison estate and have constructed new accommodation blocks at a number of prisons providing some 370 additional places whilst a 250 places were envisaged to come into service in the course of 2010. However, the primary project to increase the capacity of the Irish Prison system is the Thornton Hall prison complex which will include sentenced adult male and adult female sections, and an adult male pre-release unit. The complex is projected

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to have a design capacity of 1,400 with a flexible operational capacity of up to 2,200 inmates. At the time of the CPT's visit, construction work was due to begin in late 2010 with the prison becoming operational in 2015. In response to this development, the CPT stated that it had serious misgivings about the construction of very large prison complexes, which have historically proven difficult to manage and unable to deliver the targeted services required of the various population groups within them.

The Committee highlighted that the impact of overcrowding in the prisons visited was not limited to cramped accommodation space but had considerable repercussions on hygiene, out-of-cell activities and other services provided by the prison, including the ability to allocate prisoners according inter alia to risk, needs, attitude and behaviour. The high turnover of inmates in certain of the prisons visited exacerbated the problem

15.3.4 Hygiene & Sanitation

This section focuses on the hygiene and sanitation facilities for prisoners. International legal instruments place a series of obligations on States in respect of hygiene and sanitation. The questions in this section are based on these obligations.

3.4.1 Has your country adopted laws or policies to ensure that all prisoners have access to adequate and appropriate sanitary and washing facilities that respect their privacy? SMR 12 & 13, EPR 19.3, 19.4 & 19.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	2	0	10
Total Europe - %	58	58	8	0	42
Ireland					X

3.4.2 Has your country adopted laws or policies requiring that all In-cell sanitation facilities must be adequately screened? ICCPR 10(1), SMR 12, BOP 1, BPTP 1, ECHR 3, EPR 19.3, *Peers v Greece* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	4	1	9
Total Europe - %	62	54	17	4	38
Ireland					X

Analysis

International instrument compliance

Neither of the commitments relating to hygiene and sanitation have adopted by Ireland. This includes the legally binding commitment to ensure that all in-cell sanitation facilities must be adequately screened.

Situation in practice

During its visit in 2006, the CPT noted that in numerous establishments, the practice of “slopping-out” continued in place of proper sanitation. Not only was this practice considered degrading but in addition it affected the conditions within the cell. Nor was it limited to only the

older facilities as in Cork prison: the practice was still to be found in a recently renovated wing. Further, most cells benefited from very little natural light and had poor artificial lighting. In 2010, many prisoners also complained that they did not possess adequate cleaning products to maintain their cells in a suitable hygienic state. Further, prisoners complained that they were only offered one shower a week and were not permitted to change their underwear more than once a week. In view of the poor living conditions, enabling prisoners to maintain good personal hygiene was considered essential by the CPT. In Mountjoy Prison, the Committee also found In-cell sanitation had still not been installed in any of the main accommodation blocks despite the fact that they continued to accommodate two prisoners in cells of 8m², originally designed for single occupancy.

The findings of the 2010 visit also showed that prisoners were not being let out of their cells to use the toilet when in need. The delegation also heard from many inmates that if they persistently requested to be let out of their cells in order to go to the toilet, they would be the subject of verbal abuse.

During the same visit, the CPT emphasised that the female unit of Limerick Prison did not offer good living conditions for the number of persons held there. The “single occupancy cells” always appeared to accommodate two women and frequently held three, with the third inmate either sleeping on a mattress on the floor or sharing a bed with a cell-mate. A sliding modesty screen for the toilet provided prisoners with a degree of privacy from officers looking into the cell; however, it provided no privacy from other inmates with whom they shared the cell. Further, inmates complained about the state of hygiene in the cells, notably: the toilets had no cover seats and, in some cells they did not flush properly; the lack of detergent products hindered efforts to keep cells clean. The two showers were flooded due to drainage problems and only dispensed tepid water, deficiencies which had apparently been brought to the attention of the prison management on numerous occasions. Further, the washing machines and dryers were inadequate for the needs of the unit

15.3.5 *Clothing & Bedding*

This section focuses on clothing and bedding provisions for prisoners. International legal instruments place a series of obligations on States in respect of the provision of clothing and bedding. The questions in this section are based on these obligations.

3.5.1 Has your country adopted laws or policies to ensure that prisoners are provided with clothing that is suitable for the climate, is not degrading or humiliating and is age appropriate? SMR 17(1), EPR 20.1 & 20.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	10	0	7
Total Europe - %	71	71	42	0	29
Ireland					X

3.5.2 Has your country adopted laws or policies requiring each prisoner to be provided with a bed and appropriate bedding and to ensure that all bedding is in good condition, is changed regularly and laundered? SMR 19, EPR 21

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	2	0	6
Total Europe - %	75	71	8	0	25

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Ireland	X	X			

Analysis

International instrument compliance

Neither of the commitments relating prisoners' clothing and bedding have been incorporated by Ireland.

15.3.6 Nutrition

This section focuses on the nutrition requirements of prisoners. International legal instruments place a series of obligations on States in respect of prisoner's nutrition. The questions in this section are based on these obligations.

3.6.1 Has your country adopted laws or policies to ensure that prisoners are provided with a sufficient quantity of nutritious food taking into account their health, physical condition, special dietary requirements, religion and culture? SMR 20(1), EPR 22.1 & 22.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	5	1	4
Total Europe - %	83	83	21	4	17
Ireland					X

3.6.2 Has your country adopted laws or policies to ensure that prisoners have access to clean drinking water? SMR 20(2), EPR 22.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	16	5	1	5
Total Europe - %	79	67	21	4	21
Ireland	X		X		

Analysis

International instrument compliance

Ireland has adopted the commitment relating to access to drinking water. Prisoners are guaranteed a sufficient quality of wholesome food and drink each day. However, as indicated by the SPOC's comments above, the accommodation of religious and cultural requirements is subject to a number of caveats.

15.3.7 Legal advice, info & rights

This section focuses on the entitlement of prisoners to legal advice and information. International legal instruments place a series of obligations on States in respect of access to legal advice and information. The questions in this section are based on these obligations.

3.7.1 Has your country adopted laws or policies requiring that adequate time and facilities be provided to prisoners to receive professional visits from their legal advisers? BOP 18(2), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	4	1	2
Total Europe - %	92	92	17	4	8
Ireland					X

3.7.2 Has your country adopted laws or policies establishing the right of prisoners to communicate with their legal advisers by telephone and by letter? BOP 18(1), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	3	3	3
Total Europe - %	87	83	13	13	13
Ireland					X

3.7.3 Has your country adopted laws or policies requiring that communications between a prisoner and his/her legal adviser remain confidential and can only be restricted by law or judicial authority? ICCPR 17, BOP 18(3) & (4), ECHR 8, EPR 23.4 & 23.5, *Campbell v The United Kingdom* (ECtHR 1992)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	3	1	2
Total Europe - %	92	92	13	4	8
Ireland					X

Analysis

International instrument compliance

Ireland's Prison Rules do not fully comply with the commitments set out above concerning prisoners' access to legal information and advice.

15.3.8 *Contact with the outside world*

15.3.8.1 *Visits*

This section focuses on the entitlement of prisoners to maintain contacts with the outside world. International legal instruments place a series of obligations on states in respect of prisoners' on-going contact with the outside world. The questions in this section are based on these obligations.

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3.8.1.1 Has your country adopted laws or policies establishing the right of prisoners to communicate with their family and friends by correspondence and by receiving visits, subject to reasonable conditions/restrictions imposed by law or another authority? ICCPR 23(1), UDHR 16(3), SMR 37, BOP 15 & 19, EPR 24.1 & 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	2	0
Total Europe - %	100	96	29	8	0
Ireland	X		X		

3.8.1.2 Has your country adopted laws or policies requiring that visits take place in an environment that enables prisoners to maintain and develop family and other relationships in as normal a manner as is possible subject to the maintenance of good order and security in the prison? SMR 79, EPR 24.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	6	0	2
Total Europe - %	92	88	25	0	8
Ireland					X

15.3.8.2 *Searching of visitors*

3.8.2.1 Has your country adopted laws or policies requiring that searching procedures for visitors be undertaken in a manner that respects a person's dignity? SMR 27, BOP 19, EPR 54.1.c, 54.3, 54.4 & 54.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	4	0	7
Total Europe - %	71	63	17	0	29
Ireland	X		X		

3.8.2.2 Has your country adopted laws or policies requiring that prison officers only be permitted to search visitors of the same gender? EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	9	1	0	12
Total Europe - %	50	38	4	0	50
Ireland	X		X		

15.3.8.3 *Restrictions on visits*

3.8.3.1 Has your country adopted laws or policies requiring the authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party(ies) and to review these circumstances on a regular basis? SMR 27, 79 & 80, EPR 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	0	0	63

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Ireland					X

3.8.3.2 Has your country adopted laws or policies preventing the withdrawal of contact for female prisoners with their children as a disciplinary action except in exceptional circumstances? SMR 27, 79 & 80, EPR 24.2 & 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	2	0	12
Total Europe - %	50	50	8	0	50
Ireland					X

15.3.8.4 *Death, illness & transfer*

3.8.4.1 Has your country adopted laws or policies requiring that prisoners be informed of the death/serious illness of a close relative/ friend without delay? SMR 44(2), EPR 24.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	2	0	13
Total Europe - %	46	42	8	0	54
Ireland	X		X		

3.8.4.2 Has your country adopted laws or policies allowing a prisoner to leave the prison to visit a sick relative/friend, attend a funeral or for other humanitarian reasons? SMR 44(2), EPR 24.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Ireland					X

3.8.4.3 Has your country adopted laws or policies ensuring that prisoners are allowed to inform their families or other nominated persons without delay of their imprisonment, transfer to another institution or of any serious illness that they may suffer from? SMR 44(1) & (3), BOP 16(1), EPR 24.8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Ireland					X

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3.8.4.4 Has your country adopted laws or policies requiring the prison authorities to immediately inform the spouse or the nearest relative to the prisoner (or any other person previously nominated), if the prisoner dies in custody, is removed to a hospital or suffers a serious injury/illness? SMR 44(1), EPR 24.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	3	0	6
Total Europe - %	75	75	13	0	25
Ireland					X

15.3.8.5 Telephone and letters

3.8.5.1 Has your country adopted laws or policies preventing the monitoring or censoring of telephone calls unless the prisoner or the recipient of the call is informed of the possibility of such monitoring or, such monitoring has been agreed by any lawful authority? ICCPR 17, UDHR 12, SMR 37, BOP 19, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	3	1	5
Total Europe - %	79	79	13	4	21
Ireland					X

3.8.5.2 Has your country adopted laws or policies permitting prisoners to send a minimum of 7 letters a week free of charge and more if he/she can afford it, and to receive as many letters as are sent to him/her? SMR 37, BOP 19, EPR 24.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	11	1	0	12
Total Europe - %	50	46	4	0	50
Ireland	X		X		

3.8.5.3 Has your country adopted laws or policies preventing the prison authorities from opening prisoners' private correspondence subject to the maintenance of good order and safe and secure custody in the prison? ICCPR 17, UDHR 12, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	1	9
Total Europe - %	62	62	13	4	38
Ireland					X

15.3.8.6 *Media*

3.8.6.1 Has your country adopted laws or policies entitling prisoners to be kept informed of current affairs and other developments outside the prison by reading newspapers and periodicals and by listening to radio or television broadcasts (subject to the maintenance of good order and safe and secure custody)? SMR 39, BOP 28, EPR 24.10

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	1	1
Total Europe - %	96	92	21	4	4
Ireland	X		X		

Analysis

International instrument compliance

Ireland has incorporated six of the fourteen commitments relating to prisoners' contact with the outside world by way of policy. This includes the legally binding commitment establishing the right of prisoners to communicate with and receive visits from friends and relatives. Legally binding commitments defining the circumstances in which the prison authorities may monitor a prisoner's telephone calls and open a prisoner's mail have not been adopted. Ireland has not adopted measures to comply with the provisions of international legal instruments relating to the need to explain the circumstances in which visits can be restricted and regularly review the same, the right for prisoners to inform relatives and friends concerning their illness and transfer to another institution or regulating the quality of the environment in which prison visits take place.

Situation in practice

In general, the situation regarding visits had not evolved considerably since the previous visit of the CPT in 2006. Prisoners were still permitted one half-hour visit per week, plus one discretionary additional fifteen-minute visit. The main development is that in all prisons visited except for Mountjoy Prison, visits were pre-booked. Further, visits were now taking place on weekends. That said, the CPT continues to have a number of concerns as regards visits specifically relating to the size of visiting facilities and the absence of privacy. In some establishments, prisoners were forbidden to have any contact with their families including with their children.

The CPT also noted that custodial staff retain the right to inspect and read legal correspondence belonging to the prisoner

15.3.9 *Work*

This section focuses on work in prison. International legal instruments place a series of obligations on States in respect of work in prison. The questions in this section are based on these obligations.

3.9.1 Has your country adopted laws or policies requiring work to be incorporated as a positive aspect of prison regimes and prohibiting its use as a form of punishment? SMR 71(1), EPR 26.1

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Ireland					X

3.9.2 Has your country adopted laws or policies requiring that prison work provided should prepare prisoners for worthwhile work on their release and facilitate their reintegration into the workforce? SMR 71(3) & (4), BPTP 8, EPR 26.3 & 26.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	18	7	0	4
Total Europe - %	83	75	29	0	17
Ireland					X

3.9.3 Has your country adopted laws or policies entitling prisoners to be remunerated in respect of prison work carried out? ICESCR 7(a), UDHR 23, SMR 76(1), BPTP 8, EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	1	1
Total Europe - %	96	92	13	4	4
Ireland	X		X		

Analysis

International instrument compliance

Ireland has adopted the legally binding commitment requiring that prisoners can be remunerated for work carried out in prison into its prison policy. The other two commitments have not been incorporated.

Situation in practice

The CPT acknowledged the investment made by the Irish Prison Service to develop the opportunities for education, work, recreation and sport for prisoners. According to the information provided by the authorities, 48% of prisoners were involved in education, with approximately 25% involved for ten hours or more in the week. Further, the delegation was able to observe for itself the modern classroom facilities available to prisoners in Limerick and Midlands Prisons. As regards work and vocational training, in 2008, 381 prisoners participated in accredited courses albeit that in both instances, this fell short of the Prison Service's on internal targets. The delegation observed that the general regime within the Irish Prison Service continues to provide for a reasonable out-of-cell time of some seven-and-a-half hours per day. However, as was the case in 2006, in several of the prisons visited, the nature of the regime is limited; opportunities for purposeful work or access to educational and sports activities remain insufficient, and for those prisoners on protection there are still almost no organised activities available.

During its 2010 visit, the delegation heard that in various prisons visited services were often disrupted due to a lack of staff; this was particularly the case at Cork, Limerick and Mountjoy Prisons where inmates frequently arrived for their educational or work activities late and had to leave them early

15.3.10 Exercise & recreation

This section focuses on facilities for exercise and recreation in prison. International legal instruments place a series of obligations on States in respect of exercise and recreational facilities. The questions in this section are based on these obligations.

3.10.1 Has your country adopted laws or policies ensuring that, subject to the constraints of the particular prison and the maintenance of good order and security, prisoners shall be entitled to spend as much time out of their cells as is possible? EPR 25(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Ireland					X

3.10.2 Has your country adopted laws or policies ensuring that prisoners receive at least one hours exercise each day in the open air, weather permitting? SMR 21, EPR 27.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	2	1
Total Europe - %	96	92	21	8	4
Ireland	X		X		

3.10.3 Has your country adopted laws or policies ensuring that prisoners shall have access to a well-stocked library at least once a week (subject to the maintenance of good order and safe and secure custody)? R(89)12: 10, EPR 28.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	13	0	0	11
Total Europe - %	54	54	0	0	46
Ireland					X

Analysis

International instrument compliance

One out of the three commitments has been incorporated.

Situation in practice

See comments on exercise and recreation at 3.9 above.

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15.3.11 Education

This section focuses on facilities for education in prison. International legal instruments place a series of obligations on States in respect of prison education facilities. The questions in this section are based on these obligations.

3.11.1 Has your country adopted laws or policies requiring, as far as practicable, that prisoners have access to educational programmes that can meet their individual needs? ICESCR 13, UDHR 26, SMR 77(1), BPTP 6, R(89)12: 1, EPR 28.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	5	1	1
Total Europe - %	96	96	21	4	4
Ireland					X

3.11.2 Has your country adopted laws or policies requiring that education provided in prisons shall be integrated, in so far as is practicable, with national educational systems/programmes enabling prisoners to continue their education following their release? SMR 77(2), R(89)12: 16, EPR 28.7.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	5	0	3
Total Europe - %	87	75	21	0	13
Ireland					X

3.11.3 Has your country adopted laws or policies requiring that vocational training be available for those prisoners who are able to benefit from it, particularly young prisoners? SMR 71(5), BPTP 8, R(89)12: 9, EPR 26.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	20	5	0	2
Total Europe - %	92	83	21	0	8
Ireland	X		X		

Analysis

International instrument compliance

Only one of the three commitments has been adopted by Ireland. See clarification from the SPOC above as to why the legally binding commitment relating to education meeting a prisoner's individual needs does not tally with the Irish Prison Rules.

15.3.12 Freedom of thought, conscience & religion

3.12.1 Has your country adopted laws or policies ensuring that prisoners have the opportunity to practice their religion and to follow their beliefs whilst in custody? ICCPR 18(1), CERD 5 (d) (vii), UDHR 18, SMR 42, BPTP 3, EPR 29.1 & 29.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	5	0	0
Total Europe - %	100	96	21	0	0
Ireland	X		X		

Analysis

International instrument compliance

The legally binding commitment relating establishing the right of prisoners to practice their religion has been adopted by Ireland albeit with a basis on policy not in law.

15.4 Health

15.4.1 Core principles

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.1.1 Has your country adopted laws or policies requiring that primary healthcare services to meet the needs of all prisoners be provided in each prison to a standard equivalent to that available to the community in general? ICESCR 12(1), SMR 22(1), PME 1, R(98)7: 10, 11, 12 & 19, EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	6	0	1
Total Europe - %	96	92	25	0	4
Ireland	X		X		

4.1.2 Has your country adopted laws or policies to ensure that where a sick prisoner requires treatment that cannot be provided by the medical staff in the prison he/she shall be transferred to an appropriate hospital without undue delay? SMR 22(2), BPTP 9, R(98)7: 3, EPR 46.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	3	1	2
Total Europe - %	92	88	13	4	8
Ireland					X

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4.1.3 Has your country adopted laws or policies requiring that medical records be created and accurately maintained on all prisoners and that such records be treated as confidential? BOP 26, R(98)7: 13, EPR 42.3.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	5	0	3
Total Europe - %	87	83	21	0	13
Ireland	X		X		

Analysis

International instrument compliance

Two of the three commitments relating to the core principles of prison health care have been adopted by Ireland within its prison policy including the legally binding commitments requiring that primary health care for prisoners be provided at a standard equivalent to that provided in the community and that relating to the establishment and maintenance of confidential medical records. See comments from the SPOC above for qualification of equivalence in practice.

Situation in practice

During its 2006 visit, Committee reported finding gross insufficiencies in health care staff levels at most of the establishments visited. This meant that consultations took place very rapidly with inadequate recording of findings. Additionally whilst health screening of prisoners upon arrival was completed promptly, the records taken were frequently insufficient or incorrect. The Committee noted that the quality of health care provision could vary greatly from prison to prison. The practice of placing nurses under the authority of a prison officer was criticised as it was felt that health care staff should be completely independent from custodial staff.

Following its 2010 visit, the CPT noted that the health-care service in prisons had continued to evolve with the further development of the Healthcare Standards, the introduction of nurse managers and of nurse-led initiatives, the development of in-reach mental health services and the provision of a professional pharmaceutical service in each prison. However, the delegation found that the central management of prison health care services as well as the provision of the health care in certain individual establishments remained weak and that there was still too little synergy between the different medical specialisations. The lack of any epidemiological information on the prison population hampered, furthermore, the ability to evaluate prisoners' real health needs as regards medical and nursing care.

During the same visit, the Committee noted that health care facilities inspected were well equipped and of sufficient size but that inadequate staff resources continued to hamper the effective provision of primary health care facilities to prisoners. Specific problems cited included inadequate admission interviews, an absence of rigour in following up on recommendations made in hospital letters or in reviewing prisoners after their discharge from hospital back to prison; there was also a lack of follow-up of those persons with chronic diseases. As regards medical confidentiality, the CPT's delegation again received a number of complaints, particularly as regards external consultations, concerning the presence of custodial staff as a matter of policy. Shortcomings were also observed in the quality of case notes. For example, in most instances the recording of injuries was somewhat scant and gave no reference to the allegations or any detailed description of how the injuries occurred.

15.4.2 Women and children

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations

4.2.1 Has your country adopted laws or policies to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor? CEDAW 12, SMR 23, BOP 5(2), R(98)7: 8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	7	3	0	17
Total Europe - %	29	29	13	0	71
Ireland					X

4.2.2 Has your country adopted laws or policies requiring that appropriate care be afforded to all pregnant prisoners and nursing mothers? CEDAW 12(2), SMR 23, R(98)7: 8 & 69, EPR 34.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Ireland					X

Analysis

International instrument compliance

Neither of the commitments relating to women's health care has been adopted by Ireland including the legally binding commitment regarding the right of women prisoners to have access to a female doctor. As indicated by the SPOC, the Irish Prison Rules afford the right to pregnant prisoners to give birth outside prison but make no specific provision on pregnancy or nursing mothers.

15.4.3 Mental health care

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.3.1 Has your country adopted laws or policies requiring that prisoners with mental health difficulties be entitled to care appropriate to their circumstances, commensurate to the type of care available for people with similar mental health difficulties in the community? SMR 22(1), PPPMI 1 & 20, R(98)7:10, 11 & 52, R(2004)10: 35(1) & (2), EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	4	0	3
Total Europe - %	87	79	17	0	13

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Ireland					X

4.3.2 Has your country adopted laws or policies to ensure that prisoners who require psychiatric in-patient care are transferred to a suitable hospital facility of an appropriate security level without undue delay? SMR 22(2), PPPMI 9(1) & 20, R(98)7: 3 & 55, R(2004)10: 8, 9(1) & 35(1), EPR 12(1) & 46(1)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	3	0	6
Total Europe - %	75	71	13	0	25
Ireland					X

Analysis

International instrument compliance

Neither of the commitments relating to mental health care of prisoners has been adopted by Ireland.

Situation in practice

The CPT found in 2006 that psychiatric care was found to be improving in some respects but remained inadequate in others. Lengthy delays for mentally ill prisoners waiting to be transferred to an appropriate psychiatric facility in particular were highlighted. The widespread prescription of anti-psychotic drugs, often made without regular follow ups or indeed indications as to their necessity, was also criticised. A large number of attempted suicides were reported. The fact that many prisoners with drug or alcohol dependencies who subsequently self harmed or attempted suicide were not given a psychiatric assessment afterwards was also deemed worrying by the Committee.

15.4.4 Vulnerable prisoners

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.4.1 Has your country adopted laws or policies requiring that prisoners assessed as vulnerable be accommodated in areas of the prison which are most convenient and appropriate for their monitoring and treatment by the medical personnel and other relevant agencies? SMR 22(2) & 62, EPR 12.2, 39, 43.1, 46.2, 47.1 & 47.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	3	0	8
Total Europe - %	67	63	13	0	33
Ireland					X

4.4.2 Has your country adopted laws or policies requiring that prisoners assessed as being at risk of suicide/self-harm be continuously monitored by both medical and prison staff throughout the prisoner's time in custody and that records are kept of such monitoring? R(98)7: 58, EPR 47(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	5	0	14
Total Europe - %	42	29	21	0	58
Ireland					X

4.4.3 Has your country adopted laws or policies requiring that prisoners detained in a special cell be visited daily, and as frequently as is necessary by a doctor who shall, inter alia, monitor his/ her physical and mental health? SMR 25(1) & 32(3), R(98)7: 66, EPR 43.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Ireland					X

Analysis

International instrument compliance

None of the commitments relating to vulnerable prisoners has been adopted by Ireland.

15.4.5 *Medical & health care personnel*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.5.1 Has your country adopted laws or policies to ensure that every prisoner has access to appropriately qualified medical personnel in the prison at all times? SMR 24, BOP 24, R(98)7:1, 2 & 4, EPR 41.2 & 41.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Ireland					X

Analysis

International instrument compliance

The commitment stipulating that every prisoner should have access to appropriately qualified medical personnel at all times has not been adopted by Ireland.

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Situation in practice

See comments on the availability of health care staff at section 4.1 above.

15.4.6 Prisoners with addiction problems

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.6.1 Has your country adopted laws or policies to ensure that prisoners with addiction problems have access to appropriate treatment and support services, including those from external agencies? SMR 62, R(98)7: 7, 43, 44, 45, 46 & 47, EPR 42.3.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	8	0	3
Total Europe - %	88	79	33	0	13
Ireland					X

Analysis

International instrument compliance

No law or policy commitment has been enacted in Ireland to ensure that prisoners with addiction problems have access to appropriate treatment and support services.

Situation in practice

Following its visit in 2006, the CPT highlighted that while there was medical treatment available for prisoners with addiction problems, there was insufficient counselling to accompany such treatment. Additionally there was an absence of programs to prevent the spread of blood borne diseases for example by providing bleach and information on the sterilisation of syringes. In the period since 2006, further investment has been to address addiction problems within the Irish prison system notably through initiatives such as the provision of detoxification, methadone maintenance, education programmes, addiction counselling and drug therapy programmes. Additional measures were also in the process of being taken to prevent drugs entering prisons, such as security checks on staff and visitors entering the prison, the deployment of canine drug detection units, the introduction of mandatory drug testing, booked visits and better intelligence through the work of the newly established operational support group in each prison. All these measures were in evidence to varying degrees in the prisons visited by the CPT's delegation. Concerns were again expressed concerning the absence of counselling facilities to accompany programmes whereby methadone was proscribed to prisoners with an addiction problem.

15.4.7 Hunger strikes

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.7.1 Has your country adopted laws or policies forbidding the practice of forced feeding of hunger strikers? DOMHS, R(98)7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	37	21	21	0	63
Ireland					X

Analysis

International instrument compliance

The commitment preventing the forced feeding of hunger strikers has not been adopted by Ireland.

15.5 Good order

15.5.1 *General approaches*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.1.1 Has your country adopted laws or policies requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody? R(82)17: 8, EPR 51.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	0	9
Total Europe - %	62	62	13	0	38
Ireland					X

Analysis

International instrument compliance

Irish prison policy does not specifically tally with requirements of international legal instruments. More limited provisions regarding the monitoring of a prisoner's security classification is, however, provided in the Irish Prison Rules (see comments from the SPOC above).

Situation in practice

In 2006, the CPT found that there was a worryingly high level of inter-prisoner violence inside Irish prisons. Indeed the committee deemed several prisons unsafe, both for prisoners and staff. The culture which causes this violence is largely fuelled by the widespread availability of drugs and feuding gangs continuing their vendettas inside prison. The large number of prisoners on voluntary protection attests to the levels of violence. Since 2006, a number of

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measures have been taken to address safety concerns. However, the Committee noted that the situation in Mountjoy Prison remained unsafe for prisoners and staff alike with stabbings, slashings and assaults an almost daily occurrence. The CPT reiterated that the prison service must act proactively to prevent violence by inmates against other inmates. It also noted that tackling effectively the problems posed by inter-prisoner violence requires the implementation of an individualised risk and needs assessment programme, the availability of sufficient members of staff and ensuring that staff of all grades receive the requisite initial and ongoing training throughout their careers, including in the management of inter-prisoner violence.

15.5.2 Safety & Security

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.2.1 Has your country adopted laws or policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat? EPR 51.5, 53.1 & 53.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	63	63	17	0	37
Ireland					X

Analysis

International instrument compliance

Irish prison policy does not specifically tally with requirements of international legal instruments. More limited provisions regarding the placement of prisoners on protection is, however, provided in the Irish Prison Rules (see comments from the SPOC above).

Situation in practice

Following its 2010 visit, the CPT highlighted that for those prisoners placed on protection for more than a few weeks, additional measures should be taken in order to provide them with appropriate conditions and treatment; access to activities, educational courses and sport should be feasible. Moreover, there needed to be a more proactive approach by the prison health-care service towards prisoners on protection, particularly as regards psychological and psychiatric care, especially as some of them might spend a year or more in conditions akin to solitary confinement. The Committee also highlighted that there should be an individual assessment of their needs at regular intervals and, where appropriate, transfer to another prison should be considered.

See comments in respect of section 5.1 above.

15.5.3 Searching of prisoners

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.3.1 Has your country adopted laws or policies requiring that searches conducted on prisoners be carried out with due regard to the prisoner's dignity? ICCPR 10(1), BPTP 1, EPR 54.3 & 54.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	0	1
Total Europe - %	96	92	13	0	4
Ireland	X		X		

5.3.2 Has your country adopted laws or policies stipulating that prisoners may only be searched by a staff member of the same gender? ICCPR 10(1), BPTP 1, EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	1	0	1
Total Europe - %	96	92	4	0	4
Ireland	X		X		

5.3.3 Has your country adopted laws or policies stipulating that prisoners may only be subjected to a strip search in exceptional circumstances and for good reason and then, only in the presence of two officers in an appropriate place which ensures privacy? ICCPR 10(1), BPTP 1, EPR 54. 3, 54.4 & 54.6, *Van der Van v The Netherlands* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	3	1	13
Total Europe - %	66	54	13	4	54
Ireland	X		X		

Analysis

International instrument compliance

All instruments relating to the searching of prisoners have been adopted into Irish prison policy.

15.5.4 Criminal acts, discipline & punishment

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

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5.4.1 Has your country adopted laws or policies stipulating that all inquiries into breach of prison discipline or rules shall be conducted in an independent and impartial manner? ICCPR 14(1), UDHR 10, ECHR 6(1), *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	2	1	8
Total Europe - %	67	63	8	4	33
Ireland					X

5.4.2 Has your country adopted laws or policies requiring that all incidents of bullying/violence/threatening behaviour between prisoners, and any breach of discipline be reported to an officer of a higher rank, duly recorded and properly investigated? EPR 52.2 & 58

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	62	62	17	0	38
Ireland					X

5.4.3 Has your country adopted laws or policies stipulating that when a prisoner has been charged with a disciplinary offence he/she shall be promptly informed of the allegation made against him/her in a language that he/she understands? ICCPR 14(3)(a), CERD 5(a), SMR 30(2), ECHR 6(3)(a), EPR 59.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	3	0	7
Total Europe - %	71	71	13	0	29
Ireland					X

5.4.4 Has your country adopted laws or policies stipulating if an inquiry is being conducted into a breach of prison discipline or rules the prisoner shall have adequate time to prepare his/her defence and/or to receive legal assistance? ICCPR 14(3)(b) & (d), SMR 30(2), ECHR 6(3)(b) & (c), EPR 59.b & 59.c, *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	2	0	9
Total Europe - %	62	58	8	0	38
Ireland					X

5.4.5 Has your country adopted laws or policies stipulating that in any disciplinary proceedings prisoners must understand the proceedings and if necessary, appropriate interpretation facilities must be provided? ICCPR 14(3)(f), SMR 30(3), ECHR 6(3)(e), EPR 59.e

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Ireland	X	X			

5.4.6 Has your country adopted laws or policies stipulating that no prison officer shall impose a punishment/penalty/deprivation on a prisoner without due process and in accordance with law and/or relevant rules or instruments? EPR 57.2.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	2	0	4
Total Europe - %	83	83	8	0	17
Ireland					X

5.4.7 Has your country adopted laws or policies stipulating that if a prisoner is found guilty of a disciplinary offence, he/she shall be entitled to exercise his/her right of appeal to an independent and impartial tribunal established by law? ICCPR 14(5), BOP 30(2), EPR 61

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	1	0	5
Total Europe - %	79	79	4	0	21
Ireland	X	X			

5.4.8 Has your country adopted laws or policies requiring that when a prisoner is detained in any type of special cell (special observation/cladded/strip) he/she shall be regularly monitored by a prison officer? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	3	0	7
Total Europe - %	71	67	13	0	29
Ireland	X		X		

5.4.9 Has your country adopted laws or policies requiring that a detailed record be maintained of, inter alia, the monitoring of such prisoners, their expressed requirements, actions taken in response to such requests and details of visits by officers or others to such prisoners? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	8	8	2	0	16
Total Europe - %	33	33	8	0	67
Ireland	X		X		

5.4.10 Has your country adopted laws or policies to ensure that prisoners in a special cell are able to contact a member of staff at all times, including during the night and that a staff member shall respond without delay? ICCPR 6(1), EPR 18.2.c & 52.4, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	4	0	63
Ireland					X

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Analysis

International instrument compliance

Irish prison policy is only commensurate with two of the ten commitments relating to criminal acts and discipline within the prison. The legally binding requirements concerning the requirement to monitor prisoners placed in special cells and to record information relating to the same alongside ensuring that such prisoners are able to contact prison staff at all times have been incorporated albeit on a policy basis. Legally binding commitments relating to the impartial investigation of breaches of prison discipline, ensuring that prisoners have access to information about the charges against them in a language which they understand, have adequate time to prepare their defence, can access interpretation facilities during a hearing if required and can appeal to an independent and impartial tribunal have not been incorporated. Furthermore, the legally binding requirements concerning the requirement to monitor prisoners placed in special cells and to record information relating to the same alongside ensuring that such prisoners are able to contact prison staff at all times have also not been incorporated. See comments from SPOC above for clarification.

Situation in practice

The CPT noted that a new legal basis for the imposition of disciplinary sanctions has been adopted since its previous visit in 2006. On 31 March 2007, the Prisons Act was enacted, Part 3 of which concerns prison discipline and, more particularly: the sanctions applicable for a breach of discipline; the possibility for a prisoner to petition the Minister of Justice against a sanction; where the sanction concerns a forfeiture of remission of sentence, a right of appeal to an independent special tribunal, with the possibility of access to legal advice or representation and to apply for legal aid. The new procedures stipulate that prisoners are to be informed in writing of the charges against them and given sufficient time to prepare their defence; they are also allowed to cross-examine evidence given against them, to call witnesses on their behalf, and to make a plea in mitigation to the Governor before the imposition of any penalty. The Committee continued to have major reservations over the effect in practice of the authority invested in the governor of a prison to impose on a prisoner who is found to have committed a breach of discipline, the sanction of "loss of all privileges" for a period of up to 60 days. The delegation observed that such a measure is not infrequently applied and that it can result in inmates being held for prolonged periods in conditions akin to solitary confinement (i.e. confined alone in a cell with no stimulation or contact with the outside world). The Prisons Act 2007 states under Article 13.1(c) that cellular confinement cannot exceed three days. As the CPT made clear in its report on the 2006 visit, the imposition of such a regime for up to 60 days as a disciplinary sanction is totally unacceptable. Despite these improvements, the CPT delegation also noted shortcomings in the impartial investigation of offences and that information concerning a prisoner's right of appeal was not always being clearly communicated to inmates.

15.5.5 Use of force/weapons

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.5.1 Has your country adopted laws or policies stipulating that members of staff will use force only when absolutely necessary and that any force used shall be proportionate to the situation? SMR 54(1), CCLEO 3, BPUF 4, EPR 64 & 6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	4	1	3
Total Europe - %	87	87	17	4	13
Ireland					X

Analysis

International instrument compliance

The Irish Prison Rules stipulate that force can be used when it is “reasonably” necessary rather than “absolutely” necessary as defined in international legal instruments.

Situation in practice

CPT inspectors reported a generally good rapport between prisoners and staff in the establishments visited in both 2006 and 2010. However, in certain of the prisons visited, the delegation received a number of allegations of verbal abuse (particularly at Cork Prison, in relation to prisoners from the traveller community and foreign nationals, which on occasion was of a racist nature) and of physical ill-treatment of inmates by certain members of the prison staff. The alleged ill-treatment consisted mostly of punches and kicks to the body; such treatment seemed to be particularly prevalent during removal to the segregation unit. In its reports to the Irish authorities, the CPT has highlighted the importance of the Ministry of Justice, Prison Service and prison governors delivering the clear message that ill-treatment of inmates was not acceptable and will be dealt with severely. In the light of the information gathered during the 2010 visit, the CPT reiterates its recommendation that the Irish authorities continue to deliver at regular intervals the message that all forms of ill-treatment of prisoners, including verbal abuse, are not acceptable and will be the subject of severe sanctions. More specifically, prison officers must be made fully aware that the force used to control violent and/or recalcitrant prisoners should be no more than is strictly necessary and that once a prisoner has been brought under control there can be no justification for him being struck. The CPT also highlighted instances when force was used against a prisoner and the prisoner did not immediately receive a medical examination: injuries incurred sometimes went unrecorded as a consequence. Similarly there was no central register to record when officers used force or applied control and restraint techniques. The Committee also found that internal investigations into alleged misconduct were insufficiently thorough.

15.5.6 Requests & complaints

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.6.1 Has your country adopted laws or policies to ensure that prisoners have sufficient opportunity to make requests or complaints to the Governor of the prison or to any other competent authority? SMR 36(1) & (3), BOP 33(1), EPR 70.1

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	3	0	1
Total Europe - %	96	96	13	0	4
Ireland					X

5.6.2 Has your country adopted laws or policies establishing the right of a prisoner's legal advisor or to make a request or a complaint regarding that prisoner's treatment to the prison authorities, or other relevant authorities? BOP 33 (1) & (2), EPR 70.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	1	0	6
Total Europe - %	75	75	4	0	25
Ireland					X

5.6.3 Has your country adopted laws or policies requiring that all complaints be promptly investigated in accordance with law? SMR 36(4), BOP 33(4)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	2	0	7
Total Europe - %	71	67	8	0	29
Ireland					X

5.6.4 Has your country adopted laws or policies to ensure that where a request is denied or a complaint is rejected, the prisoner is informed promptly as to the reason(s) for such denial or rejection? SMR 36(4), BOP 33(4), EPR 70.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	2	1	7
Total Europe - %	71	63	8	4	29
Ireland					X

5.6.5 Has your country adopted laws or policies to ensure that prisoners are not disadvantaged for exercising their rights to make requests or complaints? BOP 33(4), EPR 70.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	3	0	13
Total Europe - %	46	42	13	0	54
Ireland					X

5.6.6 Has your country adopted laws or policies requiring that complaints made by members of staff against other members of staff be properly recorded and investigated in accordance with the law? EPR 88 & 87.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	11	3	0	11
Total Europe - %	54	46	13	0	46

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Ireland					X

Analysis

International instrument compliance

Irish prison policy does not specifically comply with the provisions of international legal instruments concerning prison requests and complaints. See comments from SPOC above for interpretation

Situation in practice

During its 2006 visit, many prisoners interviewed by the CPT complained of a lack of faith in the complaints system. The CPT examined a number of specific cases during its 2010 visit and also found shortcomings in the investigation and handling of prisoners' complaints. The Irish Prison Service has now issued a new policy concerning the investigation of prisoner complaints and allegations.

See also comments regarding use of force set out at 5.5 above

15.6 Management & Staff

15.6.1 *Training of staff*

This section focuses on the staff training and prison management. International legal instruments place a series of obligations on States in respect of the training and management of prison staff. The questions in this section are based on these obligations.

6.1.1 Has your country adopted laws or policies to ensure that all prison staff receive appropriate training at regular intervals throughout their career? SMR 47(3), EPR 8, 76 & 81.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	14	7	0	5
Total Europe - %	79	58	29	0	21
Ireland					X

6.1.2 Has your country adopted laws or policies to ensure that members of staff who work with particular groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, receive training particular to their individual work? R(82)17: 10, R(2004)10: 12(1), EPR 81.3, ERJO 129

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	38	21	21	0	62
Ireland					X

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Analysis

International instrument compliance

Neither of the commitments relating to the initial and on-going training of staff have been adopted by Ireland

Situation in practice

In 2006, the CPT reported that on-going training for custodial staff was non-existent. In 2010 the Committee highlighted the need for staff working with juveniles to undergo specialist training in light of vulnerabilities of this particular group of inmates..

15.7 Inspection & Monitoring

15.7.1 *Governmental Inspection*

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.1.1 Has your country adopted laws or policies requiring that prisons be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law? SMR 55, EPR 92, R(2004)10 36.1, ERJO 125, PPPMI 22

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	19	4	0	4
Total Europe - %	83	79	17	0	17
Ireland					X

Analysis

International instrument compliance

This commitment has not been adopted by Ireland.

15.7.2 *Independent monitoring*

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

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7.2.1 Has your country adopted laws or policies requiring that the conditions of detention and the treatment of prisoners shall be also monitored by an independent body or bodies, comprised of qualified experienced personnel, and whose findings shall be made public? OPCAT 3, 17, 18, 19, BOP 29.1, EPR 93.1, R(2004)10 36.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Ireland	X	X			

7.2.2 Has your country adopted laws or policies granting such an independent body open access to places of detention, to prisoners and others whom it wishes to interview? OPCAT 19, 20, CPT 8,9 BOP 29.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	3	1	9
Total Europe - %	62	58	13	4	38
Ireland	X	X			

7.2.3 Has your country adopted laws or policies encouraging such independent bodies to cooperate with those international agencies that are legally entitled to visit prisons? CPT 2,7 EPR 93.2, ERJO 126.

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	6	1	0	17
Total Europe - %	29	25	4	0	71
Ireland					X

Analysis

International instrument compliance

Ireland has incorporated both legally binding obligations on independent inspection of prisons into its national law. See comments from the SPOC above concerning the limitations of the Irish Inspector of Prison's role

Situation in practice

The CPT welcomed the creation of a statutory legal basis for the post of Inspector of Prisons which, importantly, secures its independence. In addition they emphasised the importance of this post receiving sufficient resources to fulfil its mandate. Amnesty International highlighted, however, that the Inspector of Prisons still has no investigative or adjudicative powers in respect of individual prisoner complaints.

Ireland is a signatory to OP-CAT although failure to identify a suitable NPM is hindering ratification.

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15.8 Sentenced Prisoners

This section focuses on the particular provisions relating to convicted prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

8.1.1 Has your country adopted laws or policies requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan? ICCPR 10(3), SMR 80, EPR 6, 103.2 & 103.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	6	2	4
Total Europe - %	83	83	25	8	17
Ireland					X

8.1.2 Has your country adopted laws or policies requiring that a sentence management plan be prepared for each prisoner serving a sentence of 12 months or over as soon as practicable after their admission? It should provide for, inter alia, the welfare and health needs of the prisoner, training, employment or education needs he/she may have, and include a release plan for the prisoner. This plan shall be reviewed at regular intervals to take into account the changing circumstances of the prisoner. SMR 65, 66 & 69, R(2003)23: 3 & 9, EPR 6, 103 & 104.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	5	0	10
Total Europe - %	58	54	21	0	42
Ireland					X

Analysis

International instrument compliance

Neither of the commitments relating to sentenced prisoners has been adopted by Ireland including the legally binding commitment requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan.

Situation in practice

A number of prisoners serving life sentences at this and other prisons visited complained to the CPT delegation in 2010 about the lack of any structured sentence plan, which they believed made it very difficult to know what was required of them when they went before the Parole Board. Further, they stated that they were given no assistance in coming to terms with their sentence or encouragement to study or learn a vocation. Other prisoners serving long-term sentences also complained about the lack of a sentence plan and of the absence of any assistance in preparation for release into the community

15.9 Juveniles

This section focuses on the particular provisions relating to juvenile prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

9.1.1 Has your country adopted laws or policies requiring that juveniles be detained separately from adult offenders? ICCPR 10(3), CRC 37(c), BR 26.3, RPJDL 29, EPR 11.1, ERJO 59.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	1	3
Total Europe - %	87	87	13	4	13
Ireland					X

9.1.2 Has your country adopted laws or policies to ensure that, subject to reasonable conditions and restrictions, a sentenced prisoner under the age of 18 shall be entitled to receive a minimum of two weekly visits? CRC 37(c), SMR 37, BOP 19, RPJDL 60, ERJO 83, 84, 85.1 & 85.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	6	3	0	15
Total Europe - %	37	25	13	0	63
Ireland	X		X		

Analysis

International instrument compliance

One of the two legally binding instruments relating to juveniles has been adopted by Ireland. See comments from SPOC concerning the regulations governing the accommodation of adults and juveniles.

15.10 Sentence Execution Modalities

This section of the questionnaire is designed to collate information on the differing methods by which custodial sentences and measures involving deprivation of liberty are enforced across EU Member States.

10.1.1. Which of the following modalities of prison sentence execution are provided for in the law of your country?

	Weekend detention	Evening detention	Daytime detention	Home detention	
				no electronic monitoring	electronic monitoring
EUROPE	9 = 38%	10 = 42%	3 = 13%	6 = 25%	14 = 58%
Ireland					X

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10.1.2. What is the maximum period for which home detention with electronic monitoring can be imposed?

	Under 12 months	12-24 months	25 months - 36 months	37 months - 50 months	More than 50 months
EUROPE	7 = 29%	4 = 17%	0=0%	1 = 4%	2 = 8 %
Ireland	X				

10.2.1. In which of the following locations can custodial sentences or measures in-volving deprivation of liberty be imposed?

	Penitentiary institution	Psychiatric institution	Detoxification institution	Educational institution	Home
EUROPE	24 = 100%	20 = 83%	10 = 42%	7 = 29%	12 = 50%
Ireland	X	X			

15.11 Early release from prison, earned remission and suspension of sentence

15.11.1 Early release

Early release means the release of the offender before their prison term is finished. It is possible only while the sentence is still being served. Early release does not include the suspended enforcement of a penalty which is dealt with later in this questionnaire.

11.1.2.1. Has your country adopted laws and regulations under which prisoners are entitled to early release from prison ?

	Yes	No
EUROPE	24 = 100%	0 = 0%
Ireland	X	

11.1.2.2. At what point in a prisoner's sentence do they become eligible for early release?

	One third of sentence or less	One third to one half of a sentence	One half to three quarters of a sentence	More than three quarters of a sentence	Other
EUROPE	2 = 8%	1 = 4%	7 = 29%	0 = 0%	14 = 58%
Ireland	X				

11.1.2.2. Does your country have different regulations for the early release of prisoners based on:

	A prisoner's nationality (non-EU citizen)	A prisoner's nationality (EU citizen)	The length of sentence imposed
EUROPE	Yes - 3 = 12%	Yes - 3 = 12%	Yes - 24 = 100%

	A prisoner's nationality (non-EU citizen)	A prisoner's nationality (EU citizen)	The length of sentence imposed
	No - 21 = 88%	No - 21 = 88%	No - 0 = 0%
Ireland	N	N	Y

11.1.2.3. Are provisions governing the early release of prisoners automatic or discretionary?

	Automatic (prisoners are automatically released at a certain point in their sentence)	Discretionary (prisoners are only released following assessment)
EUROPE	Yes - 7 = 29% No - 17 = 71%	Yes - 20 = 83% No - 4 = 17%
Ireland	Y	Y

11.1.2.4. What factors are taken into consideration when deciding whether a prisoner will be granted early release?

	The circum- stances surround- ing the crime	Prior criminal record	The offender's progress during imprisonment	Assessment as to whether the prisoner is likely to reoffend	Recom- mendation from the sentencing judge
EUROPE	Yes - 24 = 50% No - 24 = 50%	Yes - 15 = 63% No - 9 = 37%	Yes - 22 = 92% No - 2 = 8%	Yes - 19 = 79% No - 5 = 21%	Yes - 4 = 17% No - 20 = 83%
Ireland	N	N	Y	N	N

11.1.3.1. What forms of monitoring and conditions can be applied to prisoners' early release?

1. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
2. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
4. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
5. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
6. Electronic monitoring
7. Weekend/evening /daytime detention
8. Requirement containing limitations on leaving the country
9. Requirement to leave the country
10. Requirement to pay compensation
11. Requirement to undertake community service
12. Other – please specify

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	1	2	3	4	5	6	7	8	9	10	11	Other
EUROPE	Y - 83 N - 17	Y - 8 N - 92	Y - 58 N - 42	Y - 62 N - 38	Y - 33 N - 77	Y - 25 N - 75	Y - 13 N - 87	Y - 42 N - 58	Y - 21 N - 79	Y - 29 N - 71	Y - 21 N - 79	9
Ireland	N	N	N	N	N	N	N	N	N	N	N	X

15.11.2 Sentence reduction as a result of prison work

11.2.1.1. Can a prisoner earn remission on their sentence as a result of work carried out in prison?

	Yes	No
EUROPE	9= 38%	15 = 62%
Ireland		X

15.11.3 Suspension of sentence enforcement

11.3.1. Does the national law of your country make provision for the further execution of a prison sentence to be suspended during the course of the sentence?

	Yes	No
EUROPE	10=42%	14= 58%
Ireland		X

11.3.2.1. What factors are taken into consideration when deciding whether a prisoner will have the further execution of their prison sentence suspended?

1. The circumstances surrounding the crime
2. Prior criminal record
3. The offender's progress during imprisonment
4. Assessment as to whether the prisoner is likely to reoffend
5. Recommendation from the sentencing judge
6. Suitability of home circumstances
7. Information from victim(s)
8. Willingness of the prisoner to leave the country upon release
9. The prisoner will be deported upon release
10. Other – please specify

	1	2	3	4	5	6	7	8	9	Other
EUROPE	Y - 8 N - 92	Y - 13 N - 78	Y - 17 N - 83	Y - 21 N - 79	Y - 0 N - 100	Y - 4 N - 96	Y - 0 N - 100	Y - 0 N - 100	Y - 0 N - 100	21
Ireland	N	N	N	N	N	N	N	N	N	

11.3.3.1. What forms of monitoring and conditions can be applied to prisoners whose further execution of a prison sentence has been suspended?

1. Unconditional supervision
2. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
4. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
5. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
6. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
7. Electronic monitoring
8. Weekend/evening /daytime detention
9. Requirement containing limitations on leaving the country
10. Requirement to leave the country
11. Requirement to pay compensation
12. Requirement to undertake community service
13. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	12	Other
EUROPE	Y - 4 N - 96	Y - 38 N - 62	Y - 4 N - 96	Y - 29 N - 71	Y - 17 N - 83	Y - 17 N - 83	Y - 4 N - 96	Y - 4 N - 96	Y - 21 N - 79	Y - 0 N - 100	Y - 17 N - 83	Y - 4 N - 96	2
Ireland	N	N	N	N	N	N	N	N	N	N	N	N	

Analysis

Sentence execution modalities

In Ireland, the only additional sentence execution modality available is home detention coupled with electronic monitoring. Such electronic monitoring can be used for a period up to twelve months. Custodial sentences or measures involving deprivation of liberty can be imposed in relation to penitentiary institutions and psychiatric institutions.

Early release from prison, earned remission and suspension of sentence

In common with all EU countries, Ireland has adopted measures under which prisoners are entitled to early release from prison. Ireland has one of the lowest entry thresholds for early release with prisoners becoming eligible after one third of their sentence or less albeit that regulations differ depending on the length of sentence imposed. The Irish early release system combines both discretionary and automatic provisions. Decisions on a prisoner's early release are based on two of the ten criteria identified. Once a prisoner is granted early release, no forms of monitoring or conditions are normally attached. No possibility exists in Irish law for prisoners to be granted remission as a result of work carried out in prison. Neither is provision made for the further execution of a prison sentence to be suspended during the course of the sentence .

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Appendix

1. Prisons Act (2007)
2. Prison Rules (2007)
3. Mulligan -v- Governor of Portlaoise Prison & Anor (2010)

16 Italy

16.1 Introduction

The questionnaire was completed by Professor Dr. Giulio Illuminati, Professor of penal process law at the University of Bologna and his assistant Daniele Vicoli.

Italy has been visited four times by the Committee for the Prevention of Torture in the period since 2005 (2006, 2008, 2009 and 2010 ((report as yet unpublished)) and was the subject of reports by the European Commissioner for Human Rights in 2005 and the UN Committee Against Torture in 2007. Additional information has also been sourced from the 2009 UNHCR Country Report on Human Rights Practices for Italy (drawing on source material provided by the US Department of State) and the International Centre for Prison Studies.

Country	ITALY		
Ministry responsible	Ministry of Justice		
Prison administration	Department of Prison Administration		
Contact address	Largo Luigi Daga 2, I-00164 ROME, Italy		
Telephone/fax/website	tel: +39 06 66 59 13 21 +39 06 66 59 13 21 fax: +39 06 66 16 51 39 Web: www.giustizia.it		
Head of prison administration (and title)	Giovanni Tinebra Head of the Department of Prison Administration		
Prison population total (including pre-trial detainees / remand prisoners)	67,615 at 28.2.2011 (Ministry of Justice - not including those in institutions)		
Prison population rate (per 100,000 of national population)	111 based on an estimated national population of 60.68 million at end of february 2011 (Eurostat figures)		
Pre-trial detainees / remand prisoners (percentage of prison population)	42.1% (31.10.2010 - not including those in institutions for minors)		
Female prisoners (percentage of prison population)	4.4% (28.2.2011 - not including those in institutions for minors)		
Juveniles / minors / young prisoners incl. definition (percentage of prison population)	0.5% (31.12.2008 - under 18; including those in institutions for minors)		
Foreign prisoners (percentage of prison population)	36.8% 28-2-2011 - not including those in institutions for minors)		
Number of establishments / institutions	225 (2010 - 207 penal institutions for adults, 18 for minors)		
Official capacity of prison system	45,284 (28.2.2011 - not including penal institutions for minors)		
Occupancy level (based on official capacity)	149,3% (28.2.2011 - not including penal institutions for minors)		
Recent prison population trend (year, prison population total, prison	1992	46,152	(81)
	1995	49,642	(87)

ITALY

population rate)	1998	49,050	(85)
	2001	55,136	(95)
	2004	56,090	(96)
	2007	45,612	(77)

16.2 Overarching Principles

This section focuses on the overarching principles governing the management of prisons and the treatment of prisoners. International legal instruments place a series of obligations on States in respect of the management of prisons and the treatment of prisoners. The questions in this section are based on these obligations.

2.1.1 Has your country adopted laws or policies specifically requiring that prisoners must be treated with respect for their human rights? ICCPR 10(1), UDHR 1, BOP 1, BPTP 1, EPR 1 & 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	19	7	1	2
Total Europe – %	92	79	29	4	8
Italy	X	X			

2.1.2 Has your country adopted laws or policies specifically requiring prisons to be managed in accordance with human rights standards? EPR 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	21	18	4	3	3
Total Europe – %	88	75	16	13	12
Italy	X	X			

2.1.3 Has your country adopted laws or policies explicitly prohibiting practices that could constitute torture, inhumane or degrading treatment or punishment of prisoners? ICCPR 7, BOP 6, ECHR 3, *Kalashnikov v Russia* (ECtHR 2003)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	21	1	3	2
Total Europe – %	92	88	4	12	8
Italy	X	X			

2.1.4 Has your country adopted laws or policies specifically requiring that prisoners be provided with a range of activities during their sentence (for example - educational, recreational, work/training and welfare programmes)? SMR 77 & 78, BOP 28, BPTP 6 & 8, EPR 25

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	24	23	7	0	0
Total Europe – %	100	96	29	0	0
Italy	X	X			

Analysis

International instrument compliance

In common with the majority of EU member states, Italy has passed legislation designed to protect the human rights of its prisoners and provide them with a meaningful regime during their time in custody. This legislation includes all of the commitments arising from legally binding international legal instruments. Italy has three distinct types of criminal detention: 'ordinary' for normal prisoners; 'special surveillance system' for prisoners deemed dangerous and lastly prisoners detained under section 41 bis of the Prisons Act. All prisoners detained under 41 bis are there to prevent communication with members of Mafia style organisations and in effect, sever all ties between the prisoner and their group.

Situation in practice

The legal framework highlighted above notwithstanding, the CPT found some evidence of ill-treatment of prisoners in two of the establishments visited based on allegations made by prisoners which appeared to be subsequently corroborated by examination of medical case files. The Committee also raised concerns about the level of inter-prisoner violence within the same institutions which had resulted in serious injuries and, in one case, the death of a prisoner. In addition, a number of allegations were received that staff did not always intervene promptly and consistently when violence between prisoners occurred. In both establishments, the problem of violence among prisoners was in part the result of serious overcrowding and a shortage of staff. Allegations of prisoner mistreatment were also made to CPT delegates in one of the 41 bis establishments.

The regime objectives of special 41 bis prisoners in Italy were questioned by both the Commissioner for Human Rights and the Committee for the Prevention of Torture. Both expressed concerns that the stringent conditions imposed upon prisoners went beyond what was necessary to prevent misuse of communication and were in fact intended to compel the prisoner to co-operate with police and judicial investigations.

Furthermore in some psychiatric establishments the absence of out of cell activities and a systematic failure to create individualised treatment plans led inspectors to question what therapeutic benefit the patient could hope for.

16.3 Conditions Of Imprisonment

16.3.1 Admission

This section focuses on the treatment of prisoners upon their admission to prison. International legal instruments place a series of obligations on States in respect of prisoner admission. The questions in this section are based on these obligations.

3.1.1 Has your country adopted laws or policies requiring that all prisoner details are recorded at the time of committal including, inter alia, details of any visible injuries and the prisoner's personal belongings? SMR 7(1), EPR 15.1, 31.1, 31.2 & 31.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	7	1	7
Total Europe - %	71	63	29	4	29

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Italy	X	X			

3.1.2 Has your country adopted laws or policies requiring that upon admission, each prisoner is given a booklet outlining his/her rights, duties, obligations and privileges and the rules and regulations governing the prison which apply to the individual prisoner? The booklet shall be written in a language that the prisoner understands. CERD 7, SMR 35, BOP 13, EPR 30

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	6	1	6
Total Europe - %	63	54	25	4	25
Italy	X	X			

3.1.3 Has your country adopted laws or policies requiring that upon admission, every prisoner shall undergo a medical examination either by a nurse reporting to a doctor or by a doctor? SMR 24, BOP 24, R(98)7: 1, EPR 42.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	20	6	1	1
Total Europe - %	96	83	25	4	4
Italy	X	X			

3.1.4 Has your country adopted laws or policies requiring the doctor/nurse to pay particular attention to the detection of injuries, mental illnesses, of withdrawal symptoms resulting from the use of drugs, medication or alcohol, of contagious and chronic conditions, and, to assess the prisoner's suicide/self-harm risk? SMR 24, R(98)7: 1, EPR 42.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	10	8	1	9
Total Europe - %	62	42	33	4	38
Italy	X	X			

3.1.5 Has your country adopted laws or policies requiring injuries detected during such an examination to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner? EPR 15.1.e & 42.3.c

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	5	4	1	17
Total Europe - %	29	21	17	4	71
Italy					X

3.1.6 Has your country adopted laws or policies requiring upon admission that each prisoner be assessed to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves? ICCPR 6, UDHR 3, ECHR 2, R(2003)23: 12, EPR 52.1, *Keenan v The United Kingdom* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	5	1	13
Total Europe - %	46	42	21	4	54
Italy	X	X			

3.1.7 Has your country adopted laws or policies requiring that such risks be managed for the duration of the prisoner's sentence? ICCPR 6, UDHR 3, ECHR 2, EPR 52.2, *Osman v The United Kingdom* (ECtHR 2000)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	3	1	12
Total Europe - %	50	50	13	4	50
Italy					X

Analysis

International instrument compliance

Italy has incorporated five of the seven commitments relating to the admission of prisoners into its national law. These include the legally binding commitments requiring prisoners to be given information in a booklet concerning their rights and the rules of the institution in which they are housed and, the requirement that prisoners be assessed to ascertain whether they pose a risk to themselves or other. The legally binding commitment requiring risks identified to be managed throughout a prisoners sentence has not, however, been incorporated. Another important omission relates to the non-adoption of law or policies requiring injuries detected during such a prisoner's medical examination upon admission to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner.

Situation in practice

During its 2008 visit, the CPT noted major shortcomings in the system for screening new arrivals to prison. In Brescia prison in particular it was noted that there was no systematic approach to this. Elsewhere, injuries were not analysed for compatibility with the manner in which the prisoner reported that they came about. Furthermore injuries were only reported to the relevant prosecutor if the prognosis for recovery was over 20 days or the prisoner specifically requested that this occurred. One practitioner interview described the system as "completely useless".

16.3.2 Allocation

This section focuses on the allocation of prisoners to a particular prison. International legal instruments place a series of obligations on States in respect of prisoner allocation. The question in this section is based on these obligations.

3.2.1 Has your country adopted laws or policies requiring prisoners to be assigned to a prison as near to their home area as possible in order to maintain relationships with families and friends, subject to the maintenance of good order and security? BOP 20, EPR 17.1

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	15	6	1	5
Total Europe - %	79	63	25	4	21
Italy	X	X			

Analysis

International instrument compliance

Commitment relating to prisoner allocation has been adopted by Italy.

16.3.3 Accommodation

This section focuses on the living conditions of prisoners. International legal instruments place a series of obligations on States in respect of the accommodation of prisoners. The questions in this section are based on these obligations.

3.3.1 Has your country adopted laws or policies requiring that where possible prisoners should have individual cells to sleep in? SMR 9(1), EPR 18.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	3	0	10
Total Europe - %	58	54	13	0	42
Italy	X	X			

3.3.2. Has your country adopted laws or policies stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation? ICCPR 6(1), UDHR 3, SMR 9(2), ECHR 2, EPR 18.6 & 18.7, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	4	0	14
Total Europe - %	42	29	17	0	58
Italy	X	X			

3.3.3 Has your country adopted laws or policies requiring that the size of a cell must be suitable for its purpose? The suitability of the cell size should be dependent on the number of hours spent in the cell, the number of prisoners accommodated in the cell and the availability of in-cell-sanitation facilities that ensure privacy. SMR 9, 10, 11 & 12, EPR 18 & 19.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	8	2	1	15
Total Europe - %	37	33	8	4	63
Italy	X	X			

3.3.4 Has your country adopted laws or policies requiring that cells should not be used to accommodate more prisoners than the intended design capacity, unless justified in exceptional circumstances? SMR 9(1) & 10, EPR 18.1, 18.3, 18.4 & 18.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Italy	X	X			

3.3.5 Has your country adopted laws or policies requiring that cells be suitable for accommodating prisoners in respect of size, lighting, heating, ventilation and fittings? SMR 9, 10, 11, 12 & 13, EPR 18

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	16	4	0	6
Total Europe - %	75	67	17	0	25
Italy	X	X			

3.3.6 Has your country adopted laws or policies requiring that all prisoners have in-cell access to a working alarm bell that attracts the attention of staff at all times? ICCPR 6(1), UDHR 3, ECHR 2, EPR 18.2.c & 52.4, IPR 18(4), *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	13	2	0	4
Total Europe - %	83	54	8	0	17
Italy					X

Analysis

International instrument compliance

Italy has adopted five out of the six commitments relating to the accommodation of prisoners including the legally binding commitment requiring prisoners to be assessed as suitable for sharing accommodation. Italian law requires that prisoners be accommodated in individual cells wherever possible. Furthermore the provisions of international instruments requiring that cells should be fit for purpose based on the criteria of the number of hours spent in a cell, the number of prisoners accommodated and the availability of in-cell sanitation have also been incorporated. A less restrictive criteria stipulating that cells should not be used to accommodate more prisoners than their design capacity has also been adopted. The legally binding commitment requiring all cells to have working alarm bells has not been adopted by Italy.

Situation in practice

Notwithstanding the legal framework outlined above, international organisations have raised a number of concerns concerning accommodation within the Italian prison system. The UNHCR indicated that prison and detention centres generally met international standards although some prisons remained overcrowded and antiquated. According to the Ministry of Justice, at end 2009 an estimated 66,500 inmates were housed in a prison system designed to hold 44,066; however, the uneven distribution of prisoners left a few institutions particularly

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overcrowded. Lengthy pre-trial detention exacerbated these problems. During the first half of 2009, 47 percent of all prisoners were either in pre-trial detention or awaiting a final sentence. The CPT, the Commissioner for Human Rights and the UN Committee Against Torture also highlighted over-crowding as an issue in Italian prisons despite the introduction of collective pardon for some prisoners and a programme of new prison construction. Overcrowding was observed to have an impact on a wide range of issues such as: living space; hygiene; privacy; opportunities for employment, education and other activities; health care and increased tension and violence. Other factors contributing to overcrowding included the adoption of new legislation criminalising non-compliance with an order to leave the country and resulting in the imprisonment of a large number of foreign nationals, a shift towards a reduction in alternatives to prison for persons considered "recidivists", and a lack of differentiation in the imposition of long prison sentences for different kinds of drug-related offences. As of 2008, the Ministry of Justice was considering a range of additional measures to combat overcrowding such as the construction of four new prisons, the enlargement of existing prisons and the preparation of draft legislation to introduce non-custodial sanctions instead of short prison sentences. The Ministry of Justice was also considering the introduction of electronic surveillance outside prison for conditionally released prisoners.

The International Centre for Prison Studies reported that the prison system in Italy was operating at 150% of design capacity as of February 2011.

16.3.4 Hygiene & Sanitation

This section focuses on the hygiene and sanitation facilities for prisoners. International legal instruments place a series of obligations on States in respect of hygiene and sanitation. The questions in this section are based on these obligations.

3.4.1 Has your country adopted laws or policies to ensure that all prisoners have access to adequate and appropriate sanitary and washing facilities that respect their privacy? SMR 12 & 13, EPR 19.3, 19.4 & 19.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	2	0	10
Total Europe - %	58	58	8	0	42
Italy	X	X			

3.4.2 Has your country adopted laws or policies requiring that all In-cell sanitation facilities must be adequately screened? ICCPR 10(1), SMR 12, BOP 1, BPTP 1, ECHR 3, EPR 19.3, *Peers v Greece* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	4	1	9
Total Europe - %	62	54	17	4	38
Italy	X	X			

Analysis

International instrument compliance

Italy has adopted incorporated both commitments relating to prison hygiene and sanitation into its national law including the legally binding commitment relating the screening of in-cell sanitation.

Situation in practice

The CPT found that material detention conditions were broadly acceptable in one of the three institutions visited in 2008 whilst conditions in the other two prisons displayed a number of shortcomings (disrepair, water penetration, broken sanitary facilities etc.)

16.3.5 Clothing & Bedding

This section focuses on clothing and bedding provisions for prisoners. International legal instruments place a series of obligations on States in respect of the provision of clothing and bedding. The questions in this section are based on these obligations.

3.5.1 Has your country adopted laws or policies to ensure that prisoners are provided with clothing that is suitable for the climate, is not degrading or humiliating and is age appropriate? SMR 17(1), EPR 20.1 & 20.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	10	0	7
Total Europe - %	71	71	42	0	29
Italy	X	X			

3.5.2 Has your country adopted laws or policies requiring each prisoner to be provided with a bed and appropriate bedding and to ensure that all bedding is in good condition, is changed regularly and laundered? SMR 19, EPR 21

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	2	0	6
Total Europe - %	75	71	8	0	25
Italy	X	X			

Analysis

International instrument compliance

Both commitments relating to prisoners' clothing and bedding have been adopted by Italy.

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16.3.6 Nutrition

This section focuses on the nutrition requirements of prisoners. International legal instruments place a series of obligations on States in respect of prisoner’s nutrition. The questions in this section are based on these obligations.

3.6.1 Has your country adopted laws or policies to ensure that prisoners are provided with a sufficient quantity of nutritious food taking into account their health, physical condition, special dietary requirements, religion and culture? SMR 20(1), EPR 22.1 & 22.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	5	1	4
Total Europe - %	83	83	21	4	17
Italy	X	X			

3.6.2 Has your country adopted laws or policies to ensure that prisoners have access to clean drinking water? SMR 20(2), EPR 22.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	16	5	1	5
Total Europe - %	79	67	21	4	21
Italy	X	X			

Analysis

International instrument compliance

Both commitments relating to prison nutrition have been incorporated into Italian law.

16.3.7 Legal advice, info & rights

This section focuses on the entitlement of prisoners to legal advice and information. International legal instruments place a series of obligations on States in respect of access to legal advice and information. The questions in this section are based on these obligations.

3.7.1 Has your country adopted laws or policies requiring that adequate time and facilities be provided to prisoners to receive professional visits from their legal advisers? BOP 18(2), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	4	1	2
Total Europe - %	92	92	17	4	8
Italy	X	X			

3.7.2 Has your country adopted laws or policies establishing the right of prisoners to communicate with their legal advisers by telephone and by letter? BOP 18(1), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	3	3	3
Total Europe - %	87	83	13	13	13
Italy	X	X			

3.7.3 Has your country adopted laws or policies requiring that communications between a prisoner and his/her legal adviser remain confidential and can only be restricted by law or judicial authority? ICCPR 17, BOP 18(3) & (4), ECHR 8, EPR 23.4 & 23.5, *Campbell v The United Kingdom* (ECtHR 1992)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	3	1	2
Total Europe - %	92	92	13	4	8
Italy	X	X			

Analysis

International instrument compliance

All commitments relating to prisoners' legal advice and information have been adopted by Italy including the legally binding commitment protecting the confidentiality of a prisoner's correspondence with their legal advisor unless the law or a judicial authority deems otherwise.

Situation in practice

A separate 41 bis detention regime applies to prisoners who have committed – or who are suspected of having committed – an offence in connection with mafia-type, terrorist or subversive organisations, and who are thought to be maintaining links with such organisations. The CPT visited two establishments where the 41 bis regime applies and found that cell searches were also regularly carried out while the prisoner was absent giving rise to issues around the confidentiality of legal correspondence

16.3.8 Contact with the outside world

16.3.8.1 Visits

This section focuses on the entitlement of prisoners to maintain contacts with the outside world. International legal instruments place a series of obligations on states in respect of prisoners' on-going contact with the outside world. The questions in this section are based on these obligations.

3.8.1.1 Has your country adopted laws or policies establishing the right of prisoners to communicate with their family and friends by correspondence and by receiving visits, subject to reasonable conditions/restrictions imposed by law or another authority? ICCPR 23(1), UDHR 16(3), SMR 37, BOP 15 & 19, EPR 24.1 & 24.2

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	2	0
Total Europe - %	100	96	29	8	0
Italy	X	X			

3.8.1.2 Has your country adopted laws or policies requiring that visits take place in an environment that enables prisoners to maintain and develop family and other relationships in as normal a manner as is possible subject to the maintenance of good order and security in the prison? SMR 79, EPR 24.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	6	0	2
Total Europe - %	92	88	25	0	8
Italy	X	X			

16.3.8.2 *Searching of visitors*

3.8.2.1 Has your country adopted laws or policies requiring that searching procedures for visitors be undertaken in a manner that respects a person's dignity? SMR 27, BOP 19, EPR 54.1.c, 54.3, 54.4 & 54.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	4	0	7
Total Europe - %	71	63	17	0	29
Italy	X	X			

3.8.2.2 Has your country adopted laws or policies requiring that prison officers only be permitted to search visitors of the same gender? EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	9	1	0	12
Total Europe - %	50	38	4	0	50
Italy					X

16.3.8.3 *Restrictions on visits*

3.8.3.1 Has your country adopted laws or policies requiring the authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party(ies) and to review these circumstances on a regular basis? SMR 27, 79 & 80, EPR 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	0	0	63
Italy	X	X			

3.8.3.2 Has your country adopted laws or policies preventing the withdrawal of contact for female prisoners with their children as a disciplinary action except in exceptional circumstances? SMR 27, 79 & 80, EPR 24.2 & 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	2	0	12
Total Europe - %	50	50	8	0	50
Italy					X

16.3.8.4 Death, illness & transfer

3.8.4.1 Has your country adopted laws or policies requiring that prisoners be informed of the death/serious illness of a close relative/ friend without delay? SMR 44(2), EPR 24.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	2	0	13
Total Europe - %	46	42	8	0	54
Italy	X	X			

3.8.4.2 Has your country adopted laws or policies allowing a prisoner to leave the prison to visit a sick relative/friend, attend a funeral or for other humanitarian reasons? SMR 44(2), EPR 24.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Italy	X	X			

3.8.4.3 Has your country adopted laws or policies ensuring that prisoners are allowed to inform their families or other nominated persons without delay of their imprisonment, transfer to another institution or of any serious illness that they may suffer from? SMR 44(1) & (3), BOP 16(1), EPR 24.8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Italy	X	X			

3.8.4.4 Has your country adopted laws or policies requiring the prison authorities to immediately inform the spouse or the nearest relative to the prisoner (or any other person previously nominated), if the prisoner dies in custody, is removed to a hospital or suffers a serious injury/illness? SMR 44(1), EPR 24.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	3	0	6
Total Europe - %	75	75	13	0	25
Italy	X	X			

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16.3.8.5 Telephone and letters

3.8.5.1 Has your country adopted laws or policies preventing the monitoring or censoring of telephone calls unless the prisoner or the recipient of the call is informed of the possibility of such monitoring or, such monitoring has been agreed by any lawful authority? ICCPR 17, UDHR 12, SMR 37, BOP 19, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	3	1	5
Total Europe - %	79	79	13	4	21
Italy	X	X			

3.8.5.2 Has your country adopted laws or policies permitting prisoners to send a minimum of 7 letters a week free of charge and more if he/she can afford it, and to receive as many letters as are sent to him/her? SMR 37, BOP 19, EPR 24.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	11	1	0	12
Total Europe - %	50	46	4	0	50
Italy					X

3.8.5.3 Has your country adopted laws or policies preventing the prison authorities from opening prisoners' private correspondence subject to the maintenance of good order and safe and secure custody in the prison? ICCPR 17, UDHR 12, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	1	9
Total Europe - %	62	62	13	4	38
Italy	X	X			

16.3.8.6 Media

3.8.6.1 Has your country adopted laws or policies entitling prisoners to be kept informed of current affairs and other developments outside the prison by reading newspapers and periodicals and by listening to radio or television broadcasts (subject to the maintenance of good order and safe and secure custody)? SMR 39, BOP 28, EPR 24.10

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	1	1
Total Europe - %	96	92	21	4	4
Italy	X	X			

Analysis

International instrument compliance

Italy has incorporated eleven of the fourteen commitments relating to prisoners' contact with the outside world into its national law. Legally binding commitments establishing the right of prisoners to communicate with and receive visits from friends and relatives, defining the circumstances in which the prison authorities may monitor a prisoner's telephone calls and open a prisoner's mail have all been incorporated. Although provisions forbidding the searching of visitors by prison staff from the opposite gender have not been adopted, comments from the SPOC above indicate that this rarely happens in practice.

Situation in practice

The CPT expressed concern at the lack of human contact for prisoners detained under the 41 bis regime. Guards were specifically forbidden from engaging inmates in conversation and visiting hours were heavily restricted and in closed conditions, one hour per month being the norm. Several prisoners reported ceasing to make use of the visiting times available because of the considerable stress it involved for both the prisoner and the visitor. Prisoners were regularly 'frisked' and subjected to occasional full body visual searches. It should be noted that the prisoners interviewed did not specifically object to this regime.

16.3.9 Work

This section focuses on work in prison. International legal instruments place a series of obligations on States in respect of work in prison. The questions in this section are based on these obligations.

3.9.1 Has your country adopted laws or policies requiring work to be incorporated as a positive aspect of prison regimes and prohibiting its use as a form of punishment? SMR 71(1), EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Italy	X	X			

3.9.2 Has your country adopted laws or policies requiring that prison work provided should prepare prisoners for worthwhile work on their release and facilitate their reintegration into the workforce? SMR 71(3) & (4), BPTP 8, EPR 26.3 & 26.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	18	7	0	4
Total Europe - %	83	75	29	0	17
Italy	X	X			

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3.9.3 Has your country adopted laws or policies entitling prisoners to be remunerated in respect of prison work carried out? ICESCR 7(a), UDHR 23, SMR 76(1), BPTP 8, EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	1	1
Total Europe - %	96	92	13	4	4
Italy	X	X			

Analysis

International instrument compliance

Italy has incorporated all of the commitments relating prison work into its national law including the legally binding commitment requiring that prisoners be remunerated for work carried out in prison.

Situation in practice

The CPT praised the efforts made by the management in all establishments visited to provide work and other activities (such as vocational training or education) to prisoners within the limited resources available. That said, the reality for the vast majority of remand prisoners and many sentenced prisoners was that regular out-of-cell activities were centred on four hours of outdoor exercise per day (which, on occasion, also included sporting activities).

The Committee, was, however, highly critical of the complete lack of infrastructure to enable meaningful activities for prisoners held within the 41 bis regime. The prison authorities at one institute said they were simply not in a position to satisfy the relevant national legal requirements and work in these facilities was therefore limited and menial.

16.3.10 Exercise & recreation

This section focuses on facilities for exercise and recreation in prison. International legal instruments place a series of obligations on States in respect of exercise and recreational facilities. The questions in this section are based on these obligations.

3.10.1 Has your country adopted laws or policies ensuring that, subject to the constraints of the particular prison and the maintenance of good order and security, prisoners shall be entitled to spend as much time out of their cells as is possible? EPR 25(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Italy					X

3.10.2 Has your country adopted laws or policies ensuring that prisoners receive at least one hours exercise each day in the open air, weather permitting? SMR 21, EPR 27.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	2	1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	96	92	21	8	4
Italy	X	X			

3.10.3 Has your country adopted laws or policies ensuring that prisoners shall have access to a well-stocked library at least once a week (subject to the maintenance of good order and safe and secure custody)? R(89)12: 10, EPR 28.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	13	0	0	11
Total Europe - %	54	54	0	0	46
Italy	X	X			

Analysis

International instrument compliance

Italy has adopted two of the three commitments relating to exercise and recreation.

Situation in practice

See comments at 3.9 above.

16.3.11 Education

This section focuses on facilities for education in prison. International legal instruments place a series of obligations on States in respect of prison education facilities. The questions in this section are based on these obligations.

3.11.1 Has your country adopted laws or policies requiring, as far as practicable, that prisoners have access to educational programmes that can meet their individual needs? ICESCR 13, UDHR 26, SMR 77(1), BPTP 6, R(89)12: 1, EPR 28.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	5	1	1
Total Europe - %	96	96	21	4	4
Italy	X	X			

3.11.2 Has your country adopted laws or policies requiring that education provided in prisons shall be integrated, in so far as is practicable, with national educational systems/programmes enabling prisoners to continue their education following their release? SMR 77(2), R(89)12: 16, EPR 28.7.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	5	0	3
Total Europe - %	87	75	21	0	13
Italy	X	X			

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3.11.3 Has your country adopted laws or policies requiring that vocational training be available for those prisoners who are able to benefit from it, particularly young prisoners? SMR 71(5), BPTP 8, R(89)12: 9, EPR 26.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	20	5	0	2
Total Europe - %	92	83	21	0	8
Italy	X	X			

Analysis

International instrument compliance

Italy has incorporated all of the commitments relating to prison education into its national law including the legally binding requirement that prisoners should have access to educational programmes which meet their needs.

Situation in practice

See comments at 3.9 above. The CPR also commented critically on the education facilities on offer within the 41 bis regime. The committee noted that there were opportunities to pursue various education courses also commented on the high dropout rate because of practical obstacles. Within one facility visited there was a single teacher who didn't have the authority to draw up learning plans for the prisoners.

16.3.12 Freedom of thought, conscience & religion

3.12.1 Has your country adopted laws or policies ensuring that prisoners have the opportunity to practice their religion and to follow their beliefs whilst in custody? ICCPR 18(1), CERD 5 (d) (vii), UDHR 18, SMR 42, BPTP 3, EPR 29.1 & 29.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	5	0	0
Total Europe - %	100	96	21	0	0
Italy	X	X			

Analysis

International instrument compliance

The legally binding commitment relating to freedom of thought, conscience and religion has been adopted by Italy.

16.4 Health

16.4.1 Core principles

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.1.1 Has your country adopted laws or policies requiring that primary healthcare services to meet the needs of all prisoners be provided in each prison to a standard equivalent to that available to the community in general? ICESCR 12(1), SMR 22(1), PME 1, R(98)7: 10, 11, 12 & 19, EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	6	0	1
Total Europe - %	96	92	25	0	4
Italy	X	X			

4.1.2 Has your country adopted laws or policies to ensure that where a sick prisoner requires treatment that cannot be provided by the medical staff in the prison he/she shall be transferred to an appropriate hospital without undue delay? SMR 22(2), BPTP 9, R(98)7: 3, EPR 46.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	3	1	2
Total Europe - %	92	88	13	4	8
Italy	X	X			

4.1.3 Has your country adopted laws or policies requiring that medical records be created and accurately maintained on all prisoners and that such records be treated as confidential? BOP 26, R(98)7: 13, EPR 42.3.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	5	0	3
Total Europe - %	87	83	21	0	13
Italy					X

Analysis

International instrument compliance

All commitments relating to the core principles of prison health care have been incorporated by Italy into its national law including the legally binding commitment requiring the authorities to provide primary healthcare services to a standard equivalent to that available in the community at large.

Situation in practice

The CPT reported positively on the standards on healthcare available within the Italian prison system within the exception of mental health care (see below). Prisoners subject to the 41

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bis regime also complained to the CPT of long delays in receiving medical attention and medication

16.4.2 *Women and children*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations

4.2.1 Has your country adopted laws or policies to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor? CEDAW 12, SMR 23, BOP 5(2), R(98)7: 8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	7	3	0	17
Total Europe - %	29	29	13	0	71
Italy					X

4.2.2 Has your country adopted laws or policies requiring that appropriate care be afforded to all pregnant prisoners and nursing mothers? CEDAW 12(2), SMR 23, R(98)7: 8 & 69, EPR 34.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Italy	X	X			

Analysis

International instrument compliance

Italy has adopted one of the two commitments relating to the provision of prison health care to women. The legally binding commitment requiring states to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor has not, however, been incorporated into Italian law or policy.

16.4.3 *Mental health care*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.3.1 Has your country adopted laws or policies requiring that prisoners with mental health difficulties be entitled to care appropriate to their circumstances, commensurate to the type of care available for people with similar mental health difficulties in the community? SMR 22(1), PPPMI 1 & 20, R(98)7:10, 11 & 52, R(2004)10: 35(1) & (2), EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	4	0	3
Total Europe - %	87	79	17	0	13
Italy	X	X			

4.3.2 Has your country adopted laws or policies to ensure that prisoners who require psychiatric in-patient care are transferred to a suitable hospital facility of an appropriate security level without undue delay? SMR 22(2), PPPMI 9(1) & 20, R(98)7: 3 & 55, R(2004)10: 8, 9(1) & 35(1), EPR 12(1) & 46(1)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	3	0	6
Total Europe - %	75	71	13	0	25
Italy					X

Analysis

International instrument compliance

Italy has adopted one of the two commitments relating to mental health care in prisons into its national law. The requirement to ensure that prisoners who require psychiatric in-patient care are transferred to a suitable hospital facility without delay has not, however, been incorporated.

Situation in practice

While a generally positive impression of the health care available to prisoners was reported by the CPT, the same could not be said of the psychiatric institutions visited. For example in the CONP at Milan, inspectors noted conditions to be dark, poorly maintained, dirty and the scant equipment available was dilapidated. Furthermore the sanitary conditions were criticised and a “fetid odour” was said to permeate the facility. Patients were reported to have very limited time outside their cells. Patient confidentiality was compromised by prison guards working as secretaries for the medical facilities with full access to the database.

16.4.4 Vulnerable prisoners

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.4.1 Has your country adopted laws or policies requiring that prisoners assessed as vulnerable be accommodated in areas of the prison which are most convenient and appropriate for their monitoring and treatment by the medical personnel and other relevant agencies? SMR 22(2) & 62, EPR 12.2, 39, 43.1, 46.2, 47.1 & 47.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	3	0	8
Total Europe - %	67	63	13	0	33
Italy	X	X			

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4.4.2 Has your country adopted laws or policies requiring that prisoners assessed as being at risk of suicide/self-harm be continuously monitored by both medical and prison staff throughout the prisoner's time in custody and that records are kept of such monitoring? R(98)7: 58, EPR 47(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	5	0	14
Total Europe - %	42	29	21	0	58
Italy	X		X		

4.4.3 Has your country adopted laws or policies requiring that prisoners detained in a special cell be visited daily, and as frequently as is necessary by a doctor who shall, inter alia, monitor his/ her physical and mental health? SMR 25(1) & 32(3), R(98)7: 66, EPR 43.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Italy	X	X			

Analysis

International instrument compliance

All commitments relating to vulnerable prisoners have been adopted by Italy.

16.4.5 Medical & health care personnel

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.5.1 Has your country adopted laws or policies to ensure that every prisoner has access to appropriately qualified medical personnel in the prison at all times? SMR 24, BOP 24, R(98)7:1, 2 & 4, EPR 41.2 & 41.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Italy					X

Analysis

International instrument compliance

Italy has not adopted the commitment relating to medical and health care personnel.

16.4.6 Prisoners with addiction problems

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.6.1 Has your country adopted laws or policies to ensure that prisoners with addiction problems have access to appropriate treatment and support services, including those from external agencies? SMR 62, R(98)7: 7, 43, 44, 45, 46 & 47, EPR 42.3.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	8	0	3
Total Europe - %	88	79	33	0	13
Italy	X	X			

Analysis

International instrument compliance

The commitment relating to prisoners with addiction problems has been incorporated into Italian law.

16.4.7 Hunger strikes

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.7.1 Has your country adopted laws or policies forbidding the practice of forced feeding of hunger strikers? DOMHS, R(98)7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	37	21	21	0	63
Italy	X	X			

Analysis

International instrument compliance

The commitment prohibiting the forced feeding of hunger strikers has been incorporated into Italian national law.

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16.5 Good order

16.5.1 General approaches

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.1.1 Has your country adopted laws or policies requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody? R(82)17: 8, EPR 51.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	0	9
Total Europe - %	62	62	13	0	38
Italy	X	X			

Analysis

International instrument compliance

Italy has incorporated the requirement to review the security classification for each prisoner at regular intervals throughout their time in custody into its national law.

16.5.2 Safety & Security

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.2.1 Has your country adopted laws or policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat? EPR 51.5, 53.1 & 53.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	63	63	17	0	37
Italy	X	X			

Analysis

International instrument compliance

Italy has incorporated the requirement requiring regular review of all prisoners placed on protection into its national law.

16.5.3 Searching of prisoners

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.3.1 Has your country adopted laws or policies requiring that searches conducted on prisoners be carried out with due regard to the prisoner's dignity? ICCPR 10(1), BPTP 1, EPR 54.3 & 54.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	0	1
Total Europe - %	96	92	13	0	4
Italy	X	X			

5.3.2 Has your country adopted laws or policies stipulating that prisoners may only be searched by a staff member of the same gender? ICCPR 10(1), BPTP 1, EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	1	0	1
Total Europe - %	96	92	4	0	4
Italy	X	X			

5.3.3 Has your country adopted laws or policies stipulating that prisoners may only be subjected to a strip search in exceptional circumstances and for good reason and then, only in the presence of two officers in an appropriate place which ensures privacy? ICCPR 10(1), BPTP 1, EPR 54. 3, 54.4 & 54.6, *Van der Van v The Netherlands* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	3	1	13
Total Europe - %	66	54	13	4	54
Italy					X

Analysis

International instrument compliance

Two out of the three commitments relating to searching of prisoners have been incorporated into Italian national law. All provisos arising from the ECtHR case *Van der Van v The Netherlands* (2004) have not, however, been adopted.

16.5.4 Criminal acts, discipline & punishment

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

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5.4.1 Has your country adopted laws or policies stipulating that all inquiries into breach of prison discipline or rules shall be conducted in an independent and impartial manner? ICCPR 14(1), UDHR 10, ECHR 6(1), *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	2	1	8
Total Europe - %	67	63	8	4	33
Italy					X

5.4.2 Has your country adopted laws or policies requiring that all incidents of bullying/violence/threatening behaviour between prisoners, and any breach of discipline be reported to an officer of a higher rank, duly recorded and properly investigated? EPR 52.2 & 58

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	62	62	17	0	38
Italy	X	X			

5.4.3 Has your country adopted laws or policies stipulating that when a prisoner has been charged with a disciplinary offence he/she shall be promptly informed of the allegation made against him/her in a language that he/she understands? ICCPR 14(3)(a), CERD 5(a), SMR 30(2), ECHR 6(3)(a), EPR 59.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	3	0	7
Total Europe - %	71	71	13	0	29
Italy	X	X			

5.4.4 Has your country adopted laws or policies stipulating if an inquiry is being conducted into a breach of prison discipline or rules the prisoner shall have adequate time to prepare his/her defence and/or to receive legal assistance? ICCPR 14(3)(b) & (d), SMR 30(2), ECHR 6(3)(b) & (c), EPR 59.b & 59.c, *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	2	0	9
Total Europe - %	62	58	8	0	38
Italy					X

5.4.5 Has your country adopted laws or policies stipulating that in any disciplinary proceedings prisoners must understand the proceedings and if necessary, appropriate interpretation facilities must be provided? ICCPR 14(3)(f), SMR 30(3), ECHR 6(3)(e), EPR 59.e

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Italy					X

5.4.6 Has your country adopted laws or policies stipulating that no prison officer shall impose a punishment/penalty/deprivation on a prisoner without due process and in accordance with law and/or relevant rules or instruments? EPR 57.2.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	2	0	4
Total Europe - %	83	83	8	0	17
Italy	X	X			

5.4.7 Has your country adopted laws or policies stipulating that if a prisoner is found guilty of a disciplinary offence, he/she shall be entitled to exercise his/her right of appeal to an independent and impartial tribunal established by law? ICCPR 14(5), BOP 30(2), EPR 61

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	1	0	5
Total Europe - %	79	79	4	0	21
Italy					X

5.4.8 Has your country adopted laws or policies requiring that when a prisoner is detained in any type of special cell (special observation/cladded/strip) he/she shall be regularly monitored by a prison officer? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	3	0	7
Total Europe - %	71	67	13	0	29
Italy	X	X			

5.4.9 Has your country adopted laws or policies requiring that a detailed record be maintained of, inter alia, the monitoring of such prisoners, their expressed requirements, actions taken in response to such requests and details of visits by officers or others to such prisoners? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	8	8	2	0	16
Total Europe - %	33	33	8	0	67
Italy					X

5.4.10 Has your country adopted laws or policies to ensure that prisoners in a special cell are able to contact a member of staff at all times, including during the night and that a staff member shall respond without delay? ICCPR 6(1), EPR 18.2.c & 52.4, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	4	0	63
Italy					X

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Analysis

International instrument compliance

Italy has only adopted four of the ten commitments relating to criminal acts, discipline and punishment: this includes the legally binding commitments that requiring prisoners alleged to have breached the disciplinary code are given information about their charges in a language they can understand and, the requirement regarding the monitoring of prisoners placed in special cells.

Legally binding commitments relating to the impartial investigation of breaches of prison discipline, ensuring that prisoners have adequate time to prepare their defence, can access interpretation facilities during a hearing if required and can appeal to an independent and impartial tribunal have not been incorporated. Furthermore, the legally binding requirements concerning the requirement to record information relating to the monitoring of and contact with prisoners in special cells alongside ensuring that such prisoners are able to contact prison staff at all times have also not been incorporated.

Situation in practice

During its 2008 visit, the CPT found that Italian prison disciplinary regime did not make excessive use of sanctions. In many cases, however, there appeared to be procedural deficiencies with decisions taken in disciplinary cases being insufficiently reasoned. Furthermore, the prisoner only had the right to legal representation if they appealed against the first decision. The CPT also criticised the practice of having Doctors certify patients as fit for punishment (in cases involving disciplinary confinement) and their involvement as members of disciplinary boards which was considered to be a contravention of internationally established standards of professional ethics.

In the psychiatric establishments visited, the Committee also highlighted that transferring a prisoner to a different section or even another institution in order to prevent inter-prisoner violence was common practice.

16.5.5 *Use of force/weapons*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.5.1 Has your country adopted laws or policies stipulating that members of staff will use force only when absolutely necessary and that any force used shall be proportionate to the situation? SMR 54(1), CCLEO 3, BPUF 4, EPR 64 & 6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	4	1	3
Total Europe - %	87	87	17	4	13
Italy	X	X			

Analysis

International instrument compliance

Italy has incorporated the commitment stipulating that members of staff will use force only when absolutely necessary and that any force used shall be proportionate to the situation into its national law.

Situation in practice

As indicated at section 2.1 above, the CPT found evidence to support allegations made by prisoners concerning physical mistreatment at the hands of prison staff.

16.5.6 Requests & complaints

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.6.1 Has your country adopted laws or policies to ensure that prisoners have sufficient opportunity to make requests or complaints to the Governor of the prison or to any other competent authority? SMR 36(1) & (3), BOP 33(1), EPR 70.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	3	0	1
Total Europe - %	96	96	13	0	4
Italy	X	X			

5.6.2 Has your country adopted laws or policies establishing the right of a prisoner's legal advisor or to make a request or a complaint regarding that prisoner's treatment to the prison authorities, or other relevant authorities? BOP 33 (1) & (2), EPR 70.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	1	0	6
Total Europe - %	75	75	4	0	25
Italy					X

5.6.3 Has your country adopted laws or policies requiring that all complaints be promptly investigated in accordance with law? SMR 36(4), BOP 33(4)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	2	0	7
Total Europe - %	71	67	8	0	29
Italy					X

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5.6.4 Has your country adopted laws or policies to ensure that where a request is denied or a complaint is rejected, the prisoner is informed promptly as to the reason(s) for such denial or rejection? SMR 36(4), BOP 33(4), EPR 70.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	2	1	7
Total Europe - %	71	63	8	4	29
Italy	X	X			

5.6.5 Has your country adopted laws or policies to ensure that prisoners are not disadvantaged for exercising their rights to make requests or complaints? BOP 33(4), EPR 70.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	3	0	13
Total Europe - %	46	42	13	0	54
Italy					X

5.6.6 Has your country adopted laws or policies requiring that complaints made by members of staff against other members of staff be properly recorded and investigated in accordance with the law? EPR 88 & 87.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	11	3	0	11
Total Europe - %	54	46	13	0	46
Italy					X

Analysis

International instrument compliance

Italy has only adopted two of the commitments relating to prison requests and complaints procedures

16.6 Management & Staff

16.6.1 Training of staff

This section focuses on the staff training and prison management. International legal instruments place a series of obligations on States in respect of the training and management of prison staff. The questions in this section are based on these obligations.

6.1.1 Has your country adopted laws or policies to ensure that all prison staff receive appropriate training at regular intervals throughout their career? SMR 47(3), EPR 8, 76 & 81.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	14	7	0	5
Total Europe - %	79	58	29	0	21

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Italy					X

6.1.2 Has your country adopted laws or policies to ensure that members of staff who work with particular groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, receive training particular to their individual work? R(82)17: 10, R(2004)10: 12(1), EPR 81.3, ERJO 129

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	38	21	21	0	62
Italy					X

Analysis

International instrument compliance

Neither of the commitments relating to prison management and staff have been incorporated into Italian policy or law

Situation in practice

The CPT expressed its disappointment that the prison guards working at secure psychiatric facilities received no additional training in order to prepare them for their role.

16.7 Inspection & Monitoring

16.7.1 Governmental Inspection

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.1.1 Has your country adopted laws or policies requiring that prisons be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law? SMR 55, EPR 92, R(2004)10 36.1, ERJO 125, PPPMI 22

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	19	4	0	4
Total Europe - %	83	79	17	0	17
Italy					X

Analysis

International instrument compliance

This provision has not been incorporated into Italian law.

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Situation in practice

The CPT acknowledged during its 2008 visit that all establishments visited by the delegation were regularly inspected by the regional branches of the Department of Prison Administration (proveditore regionale). It emphasised, however, that the resources and functions of the Supervisory judge, responsible for providing judicial oversight of various aspects of imprisonment, should be increased. The huge numbers of prisoners assigned to each judge rendered it impossible for such oversight duties to be effectively discharged entailing that everything was dealt with by written procedure

16.7.2 Independent monitoring

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.2.1 Has your country adopted laws or policies requiring that the conditions of detention and the treatment of prisoners shall be also monitored by an independent body or bodies, comprised of qualified experienced personnel, and whose findings shall be made public? OPCAT 3, 17, 18, 19, BOP 29.1, EPR 93.1, R(2004)10 36.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Italy	X	X			

7.2.2 Has your country adopted laws or policies granting such an independent body open access to places of detention, to prisoners and others whom it wishes to interview? OPCAT 19, 20, CPT 8,9 BOP 29.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	3	1	9
Total Europe - %	62	58	13	4	38
Italy					X

7.2.3 Has your country adopted laws or policies encouraging such independent bodies to cooperate with those international agencies that are legally entitled to visit prisons? CPT 2,7 EPR 93.2, ERJO 126.

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	6	1	0	17
Total Europe - %	29	25	4	0	71
Italy					X

Analysis

International instrument compliance

Only one of the three commitments relating to the independent monitoring of prisons has been adopted by Italy

Situation in practice

Italy has not yet ratified OP-CAT. It has, however, stated recently that it intends to as soon as an appropriate body is identified or established to function as a NPM.

16.8 Sentenced Prisoners

This section focuses on the particular provisions relating to convicted prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

8.1.1 Has your country adopted laws or policies requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan? ICCPR 10(3), SMR 80, EPR 6, 103.2 & 103.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	6	2	4
Total Europe - %	83	83	25	8	17
Italy	X	X	X	X	

8.1.2 Has your country adopted laws or policies requiring that a sentence management plan be prepared for each prisoner serving a sentence of 12 months or over as soon as practicable after their admission? It should provide for, inter alia, the welfare and health needs of the prisoner, training, employment or education needs he/she may have, and include a release plan for the prisoner. This plan shall be reviewed at regular intervals to take into account the changing circumstances of the prisoner. SMR 65, 66 & 69, R(2003)23: 3 & 9, EPR 6, 103 & 104.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	5	0	10
Total Europe - %	58	54	21	0	42
Italy					X

Analysis

International instrument compliance

The legally binding commitment relating to a prisoner's release and reintegration has been adopted by Italy. This is not, however, backed up by a requirement to prepare a sentence management plan.

ITALY

16.9 Juveniles

This section focuses on the particular provisions relating to juvenile prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

9.1.1 Has your country adopted laws or policies requiring that juveniles be detained separately from adult offenders? ICCPR 10(3), CRC 37(c), BR 26.3, RPJDL 29, EPR 11.1, ERJO 59.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	1	3
Total Europe - %	87	87	13	4	13
Italy	X	X			

9.1.2 Has your country adopted laws or policies to ensure that, subject to reasonable conditions and restrictions, a sentenced prisoner under the age of 18 shall be entitled to receive a minimum of two weekly visits? CRC 37(c), SMR 37, BOP 19, RPJDL 60, ERJO 83, 84, 85.1 & 85.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	6	3	0	15
Total Europe - %	37	25	13	0	63
Italy					X

Analysis

International instrument compliance

The legally binding requirement to house juvenile and adult prisoners apart from each other has been adopted by Italy.

Situation in practice

The guards who worked at juvenile detention centres were singled out for particular praise by the CPT. In particular the practice of allowing them to wear 'normal' clothes to make detention more comfortable was highlighted.

16.10 Sentence Execution Modalities

This section of the questionnaire is designed to collate information on the differing methods by which custodial sentences and measures involving deprivation of liberty are enforced across EU Member States.

10.1.1. Which of the following modalities of prison sentence execution are provided for in the law of your country?

	Weekend detention	Evening detention	Daytime detention	Home detention	
				no electronic monitoring	electronic monitoring
EUROPE	9 = 38%	10 = 42%	3 = 13%	6 = 25%	14 = 58%
Italy		X		X	X

10.1.2. What is the maximum period for which home detention with electronic monitoring can be imposed?

	Under 12 months	12-24 months	25 months - 36 months	37 months - 50 months	More than 50 months
EUROPE	7 = 29%	4 = 17%	0 = 0%	1 = 4%	2 = 8%
Italy				X	

10.2.1. In which of the following locations can custodial sentences or measures involving deprivation of liberty be imposed?

	Penitentiary institution	Psychiatric institution	Detoxification institution	Educational institution	Home
EUROPE	24 = 100%	20 = 83%	10 = 42%	7 = 29%	12 = 50%
Italy	X	X	X		X

Analysis

Sentence execution modalities

Italian law provides for three additional sentence execution modalities: evening detention, home detention without electronic monitoring and home detention with electronic monitoring. Home detention, with or without electronic monitoring, can be applied for penalties up to a maximum of 48 months (i.e. 37-50 months as above, 10.1.2). Custodial sentences or measures involving deprivation of liberty can be imposed in relation to penitentiary, psychiatric and detoxification institutions coupled with the home detention measures referred to above.

16.11 Early release from prison, earned remission and suspension of sentence

16.11.1 Early release

Early release means the release of the offender before their prison term is finished. It is possible only while the sentence is still being served. Early release does not include the suspended enforcement of a penalty which is dealt with later in this questionnaire.

ITALY

11.1.2.1. Has your country adopted laws and regulations under which prisoners are entitled to early release from prison ?

	Yes	No
EUROPE	24 = 100%	0 = 0%
Italy	X	

11.1.2.2. At what point in a prisoner's sentence do they become eligible for early release?

	One third of sentence or less	One third to one half of a sentence	One half to three quarters of a sentence	More than three quarters of a sentence	Other
EUROPE	2 = 8%	1 = 4%	7 = 29%	0 = 0%	14 = 58%
Italy			X		

11.1.2.2. Does your country have different regulations for the early release of prisoners based on:

	A prisoner's nationality (non-EU citizen)	A prisoner's nationality (EU citizen)	The length of sentence imposed
EUROPE	Yes - 3 = 12% No - 21 = 88%	Yes - 3 = 12% No - 21 = 88%	Yes - 24 = 100% No - 0 = 0%
Italy	N	N	Y

11.1.2.3. Are provisions governing the early release of prisoners automatic or discretionary?

	Automatic (prisoners are automatically released at a certain point in their sentence)	Discretionary (prisoners are only released following assessment)
EUROPE	Yes - 7 = 29% No - 17 = 71%	Yes - 20 = 83% No - 4 = 17%
Italy	N	Y

11.1.2.4. What factors are taken into consideration when deciding whether a prisoner will be granted early release?

	The circumstances surrounding the crime	Prior criminal record	The offender's progress during imprisonment	Assessment as to whether the prisoner is likely to reoffend	Recommendation from the sentencing judge
EUROPE	Yes - 24 = 50% No - 24 = 50%	Yes - 15 = 63% No - 9 = 37%	Yes - 22 = 92% No - 2 = 8%	Yes - 19 = 79% No - 5 = 21%	Yes - 4 = 17% No - 20 = 83%
Italy	N	Y	Y	Y	Y

11.1.3.1. What forms of monitoring and conditions can be applied to prisoners' early release?

1. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
2. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
4. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
5. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
6. Electronic monitoring
7. Weekend/evening /daytime detention
8. Requirement containing limitations on leaving the country
9. Requirement to leave the country
10. Requirement to pay compensation
11. Requirement to undertake community service
12. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	Other
EUROPE	Y - 83	Y - 8	Y - 58	Y - 62	Y - 33	Y - 25	Y - 13	Y - 42	Y - 21	Y - 29	Y - 21	
	N - 17	N - 92	N - 42	N - 38	N - 77	N - 75	N - 87	N - 58	N - 79	N - 71	N - 79	9
Italy	Y	N	Y	Y	Y	N	N	Y	N	N	N	

16.11.2 *Sentence reduction as a result of prison work*

11.2.1.1. Can a prisoner earn remission on their sentence as a result of work carried out in prison?

	Yes	No
EUROPE	9= 38%	15 – 62%
Italy		X

16.11.3 *Suspension of sentence enforcement*

11.3.1. Does the national law of your country make provision for the further execution of a prison sentence to be suspended during the course of the sentence?

	Yes	No
EUROPE	10=42%	14= 58%
Italy		X

ITALY

11.3.2.1. What factors are taken into consideration when deciding whether a prisoner will have the further execution of their prison sentence suspended?

1. The circumstances surrounding the crime
2. Prior criminal record
3. The offender's progress during imprisonment
4. Assessment as to whether the prisoner is likely to reoffend
5. Recommendation from the sentencing judge
6. Suitability of home circumstances
7. Information from victim(s)
8. Willingness of the prisoner to leave the country upon release
9. The prisoner will be deported upon release
10. Other – please specify

	1	2	3	4	5	6	7	8	9	Other
EUROPE	Y - 8 N - 92	Y - 13 N - 78	Y - 17 N - 83	Y - 21 N - 79	Y - 0 N - 100	Y - 4 N - 96	Y - 0 N - 100	Y - 0 N - 100	Y - 0 N - 100	21
Italy	N	N	N	N	N	N	N	N	N	

11.3.3.1. What forms of monitoring and conditions can be applied to prisoners whose further execution of a prison sentence has been suspended?

1. Unconditional supervision
2. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
4. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
5. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
6. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
7. Electronic monitoring
8. Weekend/evening /daytime detention
9. Requirement containing limitations on leaving the country
10. Requirement to leave the country
11. Requirement to pay compensation
12. Requirement to undertake community service
13. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	12	Other
EUROPE	Y - 4	Y - 38	Y - 4	Y - 29	Y - 17	Y - 17	Y - 4	Y - 4	Y - 21	Y - 0	Y - 17	Y - 4	2
	N - 96	N - 62	N - 96	N - 71	N - 83	N - 83	N - 96	N - 96	N - 79	N - 100	N - 83	N - 96	
Italy	N	N	N	N	N	N	N	N	N	N	N	N	

Analysis

Early release from prison, earned remission and suspension of sentence

In common with all EU countries, Italy has adopted measures under which prisoners are entitled to early release from prison. Prisoners in Italy can become eligible for early release between one half and three quarters of the way through their sentence albeit that differing regulations apply depending on the length of sentence imposed. The early release system in Italy is based around discretionary provisions. Decisions on a prisoner's early release are based on four of the ten identified criteria. Five differing forms of monitoring and conditions can be applied to a prisoner granted early release. Prisoners in Italy are not able to earn remission from their sentence as a result of work undertaken in prison. Neither is provision made for the further execution of a prison sentence to be suspended during the course of the sentence.

Appendix

1. Art. 11 D.P.R. n. 230/2000
2. Art.18-ter L. n. 354/1975
3. Art. 37 D.P.R. n. 230/2000
4. Art. 11, c. 5 L. N. 354/75
5. Art. 23, c. 1 D.P.R. 230/00
6. Art. 23, c. 3 D.P.R. 230/00
7. Art. 38 D.P.R. n. 230/2000
8. Art. 47 ter L. n. 354/1975
9. Art.18-ter L. n. 354/1975
10. Art. 1 L. n. 354/1975
11. Art. 1 D.P.R. n. 230/2000
12. Art. 4 L. n. 354/1975
13. Art. 5 D.P.R. n. 230/2000
14. Art. 6 D.P.R. n. 230/2000
15. Art. 7 D. LGS. 272/1989
16. Art. 8 D.P.R. n. 230/2000
17. Art. 8 L. n. 354/1975
18. Art. 9 L. n. 354/1975
19. Art. 10 L. n. 354/1975
20. Art. 11 L. n. 354/75
21. Art. 11 L. n. 354/75
22. Art. 11 L. n. 354/75
23. Art. 11 L. n. 354/75
24. Art. 11 D.P.R. n. 230/2000
25. Art. 12 L. n. 354/1975
26. Art. 13 L. n. 354/75

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27. Art. 14 L. n. 354/1975
28. Art. 14-bis L. n. 354/75
29. Art. 15 L. n. 354/1975
30. Art.16 D.P.R. n. 230/2000
31. Art. 17 D.P.R. n. 230/2000
32. Art. 17 L. n. 354/1975
33. Art. 18-ter L. n. 354/1975
34. Art. 18 L. n. 354/1975
35. Art. 18 L. n. 354/1975
36. Art. 18 L. n. 354/1975
37. Art. 19 L. n. 354/1975
38. Art. 20 D.P.R. n. 230/2000
39. Art. 20 D.P.R. n. 230/2000
40. Art. 20 D. LGS. 272/1989
41. Art. 21 D.P.R. n. 230/2000
42. Art. 23 D.P.R. n. 230/2000
43. Art. 23 D.P.R. n. 230/2000
44. Art. 27 Cost.
45. Art. 27 L. n. 354/1975
46. Art. 28 L. n. 354/1975
47. Art. 29 L. n. 354/1975
48. Art. 30 L. n. 354/1975
49. Art. 32 D.P.R. n. 230/2000
50. Art. 33 D.P.R. n. 230/2000
51. Art. 34 L. n. 354/75
52. Art. 35 D.P.R. n. 230/2000
53. Art. 35 L. n. 354/75
54. Art. 35 D.P.R. n. 230/2000
55. Art. 35 disp. att. C.P.P.
56. Art. 36 Disp. Att. C.P.P.
57. Art. 37 D. P. R. n. 230/2000
58. Art. 38 L. n. 354/75
59. Art. 38 D.P.R. n. 230/2000
60. Art. 39 D.P.R. n. 230/2000
61. Art. 41 L. n. 354/75
62. Art.42 D. P.R. n. 230/2000
63. Art. 43 L. n. 354/1975
64. Art. 45 L. n. 354/1975
65. Art. 47 L. 354/1975
66. Art. 48 L. n. 354/1975
67. Art. 58 D.P.R. n. 230/2000
68. Art. 61 D.P.R. n. 230/2000
69. Art. 62 L. n. 354/1975
70. Art. 63 D.P.R. n. 230/2000
71. Art. 64 D.P.R. n. 230/2000
72. Art. 67 L. n. 354/1975
73. Art. 69 D.P.R. n. 230/2000
74. Art. 73 D.P.R. n. 230/2000
75. Art. 74 D.P.R. n. 230/2000
76. Art. 75 D.P.R. n. 230/2000
77. Art. 75 D.P.R. n. 230/2000
78. Art. 81 D.P.R. n. 230/2000

79. Art. 81 D.P.R. n. 230/2000
80. Art. 82 D.P.R. n. 230/2000
81. Art. 94 D.P.R. 309/1990
82. Art. 104 C.P.P.
83. Art. 115 D.P.R. n. 230/2000
84. Art. 176 C.P.
85. Art. 387 C.P.P.
86. Circ. DAP n. 468118 del 1992
87. Circolare n. 2133-5683 del 1987
88. Corte Cost. sent. n. 212/1997 del 17.6.1997
89. Corte Cost. n.313 del 1990

17 Latvia

17.1 Introduction

The questionnaire was completed by Dr. Andrejas Judins, Senior Researcher in Criminal Justice at the Providus Centre for Public Policy in Latvia.

Latvia was visited by the CPT in 2007 and 2009 (2009 report as yet unpublished). The European Commissioner for Human Rights visited Estonia in 2006 and reported, inter alia, on conditions of detention and health care in prison. The UN Committee Against Torture also reported on aspects of detention conditions in Latvia in 2007. Additional information has been sourced from an earlier EU-study on pre-trial detention (Van Kalmthout, Knapen and Morgenstern - Pre-trial Detention in the EU, Nijmegen: WLP 2009) and the International Centre for Prison Studies.

Country	LATVIA
Ministry responsible	Ministry of Justice
Prison administration	Latvian Prison Administration
Contact address	Ieslodzījuma Vietu Departaments, Stabu iela 89, LV-1009 Riga
Telephone/fax/website	tel: +371 7 208 325 / fax: +371 7 278 697 / www.ievp.gov.lv
Head of prison administration (and title)	Visvaldis Pukite Director
Prison population total (including pre-trial detainees / remand prisoners)	7,055 at 1.1.2010 (national prison administration)
Prison population rate (per 100,000 of national population)	314 based on an estimated national population of 2.25 million at beginning of 2010 (from Eurostat figures)
Pre-trial detainees / remand prisoners (percentage of prison population)	28.3% (1.1.2010)
Female prisoners (percentage of prison population)	5.7% (1.1.2010)
Juveniles / minors / young prisoners incl. definition (percentage of prison population)	2.1% (1.1.2010 - under 18)
Foreign prisoners (percentage of prison population)	1.1% (1.10.2009 - Council of Europe Annual Penal Statistics)
Number of establishments / institutions	15 -2006
Official capacity of prison	9,168

LATVIA

system	(1.10.2007)		
Occupancy level (based on official capacity)	70.4% (1.10.2007)		
Recent prison population trend (year, prison population total, prison population rate)	1992	8,34	-314
	1995	9,457	-374
	1998	10,07	-410
	2001	8,831	-373
	2004	8,179	-353
	2007	6,548	-287

17.2 Overarching Principles

This section focuses on the overarching principles governing the management of prisons and the treatment of prisoners. International legal instruments place a series of obligations on States in respect of the management of prisons and the treatment of prisoners. The questions in this section are based on these obligations.

2.1.1 Has your country adopted laws or policies specifically requiring that prisoners must be treated with respect for their human rights? ICCPR 10(1), UDHR 1, BOP 1, BPTP 1, EPR 1 & 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	19	7	1	2
Total Europe - %	92	79	29	4	8
Latvia	X	X			

2.1.2 Has your country adopted laws or policies specifically requiring prisons to be managed in accordance with human rights standards? EPR 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	4	3	3
Total Europe - %	88	75	16	13	12
Latvia	X	X			

2.1.3 Has your country adopted laws or policies explicitly prohibiting practices that could constitute torture, inhumane or degrading treatment or punishment of prisoners? ICCPR 7, BOP 6, ECHR 3, *Kalashnikov v Russia* (ECtHR 2003)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	1	3	2
Total Europe - %	92	88	4	12	8
Latvia	X	X			

2.1.4 Has your country adopted laws or policies specifically requiring that prisoners be provided with a range of activities during their sentence (for example - educational, recreational, work/training and welfare programmes)? SMR 77 & 78, BOP 28, BPTP 6 & 8, EPR 25

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	0	0
Total Europe - %	100	96	29	0	0
Latvia	X	X	X		

Analysis

International instrument compliance

In common with the majority of EU member states, Latvia has passed legislation designed to protect the human rights of its prisoners and provide them with a meaningful regime during their time in custody. This legislation includes all of the commitments arising from legally binding international legal instruments.

Situation in practice

The legal framework highlighted above notwithstanding, the CPT heard evidence from prisoners concerning ill-treatment at the hands of prison staff at With respect to ill-treatment at both Daugavpils and Jelgava Prisons. The CPT recommended that the management in these prisons should 'remind their staff that all forms of ill-treatment of prisoners (including verbal abuse) is not acceptable and will be the subject of severe sanctions'

17.3 Conditions Of Imprisonment

17.3.1 Admission

This section focuses on the treatment of prisoners upon their admission to prison. International legal instruments place a series of obligations on States in respect of prisoner admission. The questions in this section are based on these obligations.

3.1.1 Has your country adopted laws or policies requiring that all prisoner details are recorded at the time of committal including, inter alia, details of any visible injuries and the prisoner's personal belongings? SMR 7(1), EPR 15.1, 31.1, 31.2 & 31.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	7	1	7
Total Europe - %	71	63	29	4	29
Latvia	X	X			

LATVIA

3.1.2 Has your country adopted laws or policies requiring that upon admission, each prisoner is given a booklet outlining his/her rights, duties, obligations and privileges and the rules and regulations governing the prison which apply to the individual prisoner? The booklet shall be written in a language that the prisoner understands. CERD 7, SMR 35, BOP 13, EPR 30

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	6	1	6
Total Europe - %	63	54	25	4	25
Latvia					X

3.1.3 Has your country adopted laws or policies requiring that upon admission, every prisoner shall undergo a medical examination either by a nurse reporting to a doctor or by a doctor? SMR 24, BOP 24, R(98)7: 1, EPR 42.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	20	6	1	1
Total Europe - %	96	83	25	4	4
Latvia	X	X			

3.1.4 Has your country adopted laws or policies requiring the doctor/nurse to pay particular attention to the detection of injuries, mental illnesses, of withdrawal symptoms resulting from the use of drugs, medication or alcohol, of contagious and chronic conditions, and, to assess the prisoner's suicide/self-harm risk? SMR 24, R(98)7: 1, EPR 42.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	10	8	1	9
Total Europe - %	62	42	33	4	38
Latvia	X	X			

3.1.5 Has your country adopted laws or policies requiring injuries detected during such an examination to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner? EPR 15.1.e & 42.3.c

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	5	4	1	17
Total Europe - %	29	21	17	4	71
Latvia	X	X			

3.1.6 Has your country adopted laws or policies requiring upon admission that each prisoner be assessed to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves? ICCPR 6, UDHR 3, ECHR 2, R(2003)23: 12, EPR 52.1, *Keenan v The United Kingdom* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	5	1	13
Total Europe - %	46	42	21	4	54
Latvia					X

3.1.7 Has your country adopted laws or policies requiring that such risks be managed for the duration of the prisoner's sentence? ICCPR 6, UDHR 3, ECHR 2, EPR 52.2, *Osman v The United Kingdom* (ECtHR 2000)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	3	1	12
Total Europe - %	50	50	13	4	50
Latvia					X

Analysis

International instrument compliance

Latvia has incorporated four out of the seven commitments relating to the admission of prisoners. Legally binding commitments relating to the provision of a booklet to prisoners outlining their rights and the rules of the establishment and the need to assess (and continue to assess) the degree of risk posed by a prisoner both to themselves and others have not been incorporated.

Situation in practice

Despite Latvia's adherence to the commitments arising from legal instruments concerning the medical examination of prisoners following the admission to prison, the CPT identified shortcomings in such procedures in two of the prisons it visited in 2007. The Committee highlighted that a record should always be drawn up after a medical examination of a prisoner, on arrival or after a violent incident within the prison, which contains: (i) a full account of statements made by the prisoner concerned which are relevant to the medical examination, including any allegations of ill-treatment made by him; (ii) a full account of objective medical findings based on a thorough examination; (iii) the doctor's conclusions in the light of (i) and (ii). They also emphasised that in his conclusions, the doctor should indicate the degree of consistency between any allegations made and the objective medical findings; these conclusions should be made available to the prisoner and his lawyer. Furthermore, the UN Committee against Torture highlighted problems in relation to prisoner registration and recommended that Latvia needed to develop a comprehensive listing of all places of detention, including places of detention of aliens, and establish a central register of inmates or, alternatively, finalize the development of a common database to be used by the Imprisonment Facility Management Board and the State Probation Service which will allow tracking down every detainee and/or convicted prisoner within the penitentiary system, as well as within the probation system.

17.3.2 Allocation

This section focuses on the allocation of prisoners to a particular prison. International legal instruments place a series of obligations on States in respect of prisoner allocation. The question in this section is based on these obligations.

LATVIA

3.2.1 Has your country adopted laws or policies requiring prisoners to be assigned to a prison as near to their home area as possible in order to maintain relationships with families and friends, subject to the maintenance of good order and security? BOP 20, EPR 17.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	15	6	1	5
Total Europe - %	79	63	25	4	21
Latvia	X		X		

Analysis

International instrument compliance

Latvian policy requires prisoners to be allocated to a prison as near to their home area as possible.

17.3.3 Accommodation

This section focuses on the living conditions of prisoners. International legal instruments place a series of obligations on States in respect of the accommodation of prisoners. The questions in this section are based on these obligations.

3.3.1 Has your country adopted laws or policies requiring that where possible prisoners should have individual cells to sleep in? SMR 9(1), EPR 18.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	3	0	10
Total Europe - %	58	54	13	0	42
Latvia					X

3.3.2. Has your country adopted laws or policies stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation? ICCPR 6(1), UDHR 3, SMR 9(2), ECHR 2, EPR 18.6 & 18.7, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	4	0	14
Total Europe - %	42	29	17	0	58
Latvia					X

3.3.3 Has your country adopted laws or policies requiring that the size of a cell must be suitable for its purpose? The suitability of the cell size should be dependent on the number of hours spent in the cell, the number of prisoners accommodated in the cell and the availability of in-cell-sanitation facilities that ensure privacy. SMR 9, 10, 11 & 12, EPR 18 & 19.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	8	2	1	15
Total Europe - %	37	33	8	4	63

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Latvia	X	X			

3.3.4 Has your country adopted laws or policies requiring that cells should not be used to accommodate more prisoners than the intended design capacity, unless justified in exceptional circumstances? SMR 9(1) & 10, EPR 18.1, 18.3, 18.4 & 18.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Latvia					X

3.3.5 Has your country adopted laws or policies requiring that cells be suitable for accommodating prisoners in respect of size, lighting, heating, ventilation and fittings? SMR 9, 10, 11, 12 & 13, EPR 18

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	16	4	0	6
Total Europe - %	75	67	17	0	25
Latvia					X

3.3.6 Has your country adopted laws or policies requiring that all prisoners have in-cell access to a working alarm bell that attracts the attention of staff at all times? ICCPR 6(1), UDHR 3, ECHR 2, EPR 18.2.c & 52.4, IPR 18(4), *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	13	2	0	4
Total Europe - %	83	54	8	0	17
Latvia					X

Analysis

International instrument compliance

Latvia has only incorporated one of the commitments regarding the accommodation of prisoners into its national law. Legally binding commitments requiring prisoners to be assessed as suitable for sharing accommodation and requiring all cells to have working alarm bells have therefore not been adopted. There is no provision in Latvian law requiring that prisoners be accommodated in individual cells.

Situation in practice

The Latvian prison population was approximately 7,000 at 1 January 2010. The prison population rate was around 314 per 100,000 on the same date (based on an estimated national population of around 2.25 million) giving Latvia one of the highest rates of imprisonment in the European Union. Of the total prison population, almost 30% is in pre-trial detention and 1% is foreign. The latter figure was derived from the Council of Europe Penal Statistics – Survey 2007; date 1 October 2009. From the ICPS data it appear that in general, there was no prison overcrowding in Latvia: the occupancy level stood at 70.4% at 1 October 2007. According to the

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study “An analysis of minimum standards in pre-trial detention and the grounds for regular review in the Member States of the EU” however, the problem of overcrowding does exist because the official capacity of all prisons is actually not fully used and the living space per prisoner amounts to only 2.5 – 4 m². Following its 2007 visit, the CPT recommended that the existing legal standards on living space for prisoners to be raised without any further delay, so as to provide for at least 4 m² per prisoner in multi-occupancy cells and that official capacities and occupancy levels of cells in Latvian prisons should be revised accordingly. A minimum living space of 6 m² was recommended for single occupancy cells. The UN Committee against Torture also highlighted problems relating to overcrowded prisons in its 2007 report.

Specific problems relating to the ventilation and lighting of cells were highlighted by both the CPT and the European Commissioner of Human Rights.

17.3.4 Hygiene & Sanitation

This section focuses on the hygiene and sanitation facilities for prisoners. International legal instruments place a series of obligations on States in respect of hygiene and sanitation. The questions in this section are based on these obligations.

3.4.1 Has your country adopted laws or policies to ensure that all prisoners have access to adequate and appropriate sanitary and washing facilities that respect their privacy? SMR 12 & 13, EPR 19.3, 19.4 & 19.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	2	0	10
Total Europe - %	58	58	8	0	42
Latvia	X	X			

3.4.2 Has your country adopted laws or policies requiring that all In-cell sanitation facilities must be adequately screened? ICCPR 10(1), SMR 12, BOP 1, BPTP 1, ECHR 3, EPR 19.3, *Peers v Greece* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	4	1	9
Total Europe - %	62	54	17	4	38
Latvia	X	X			

Analysis

International instrument compliance

Latvia has adopted both of the commitments relating to hygiene and sanitation in prison including the legally binding obligation to ensure that in-cell sanitation facilities are adequately screened.

Situation in practice

The European Commissioner for Human Rights heard complaints from prisoners concerning privacy when using sanitary facilities and that such facilities were unhygienic and poorly maintained. Commenting on detention conditions for female adult prisoners at Ilguciema Prison,

the CPT recommended that the Latvian authorities take steps to ensure that prisoners were provided with adequate quantities of personal hygiene products

17.3.5 *Clothing & Bedding*

This section focuses on clothing and bedding provisions for prisoners. International legal instruments place a series of obligations on States in respect of the provision of clothing and bedding. The questions in this section are based on these obligations.

3.5.1 Has your country adopted laws or policies to ensure that prisoners are provided with clothing that is suitable for the climate, is not degrading or humiliating and is age appropriate? SMR 17(1), EPR 20.1 & 20.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	10	0	7
Total Europe - %	71	71	42	0	29
Latvia	X	X			

3.5.2 Has your country adopted laws or policies requiring each prisoner to be provided with a bed and appropriate bedding and to ensure that all bedding is in good condition, is changed regularly and laundered? SMR 19, EPR 21

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	2	0	6
Total Europe - %	75	71	8	0	25
Latvia	X	X			

Analysis

International instrument compliance

Latvia has incorporated both commitments relating to prisoners clothing and bedding into its national law.

17.3.6 *Nutrition*

This section focuses on the nutrition requirements of prisoners. International legal instruments place a series of obligations on States in respect of prisoner's nutrition. The questions in this section are based on these obligations.

3.6.1 Has your country adopted laws or policies to ensure that prisoners are provided with a sufficient quantity of nutritious food taking into account their health, physical condition, special dietary requirements, religion and culture? SMR 20(1), EPR 22.1 & 22.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	5	1	4
Total Europe - %	83	83	21	4	17

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Latvia	X	X			

3.6.2 Has your country adopted laws or policies to ensure that prisoners have access to clean drinking water? SMR 20(2), EPR 22.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	16	5	1	5
Total Europe - %	79	67	21	4	21
Latvia	X	X			

Analysis

International instrument compliance

Latvia has adopted both measures relating to prisoners' nutrition.

17.3.7 Legal advice, info & rights

This section focuses on the entitlement of prisoners to legal advice and information. International legal instruments place a series of obligations on States in respect of access to legal advice and information. The questions in this section are based on these obligations.

3.7.1 Has your country adopted laws or policies requiring that adequate time and facilities be provided to prisoners to receive professional visits from their legal advisers? BOP 18(2), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	4	1	2
Total Europe - %	92	92	17	4	8
Latvia	X	X			

3.7.2 Has your country adopted laws or policies establishing the right of prisoners to communicate with their legal advisers by telephone and by letter? BOP 18(1), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	3	3	3
Total Europe - %	87	83	13	13	13
Latvia	X	X			

3.7.3 Has your country adopted laws or policies requiring that communications between a prisoner and his/her legal adviser remain confidential and can only be restricted by law or judicial authority? ICCPR 17, BOP 18(3) & (4), ECHR 8, EPR 23.4 & 23.5, *Campbell v The United Kingdom* (ECtHR 1992)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	3	1	2
Total Europe - %	92	92	13	4	8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Latvia	X	X			

Analysis

International instrument compliance

Latvia has adopted all three commitments relating to prisoners' legal rights including the legally binding commitment protecting the confidentiality of a prisoner's correspondence with their legal advisor.

17.3.8 *Contact with the outside world*

17.3.8.1 *Visits*

This section focuses on the entitlement of prisoners to maintain contacts with the outside world. International legal instruments place a series of obligations on states in respect of prisoners' on-going contact with the outside world. The questions in this section are based on these obligations.

3.8.1.1 Has your country adopted laws or policies establishing the right of prisoners to communicate with their family and friends by correspondence and by receiving visits, subject to reasonable conditions/restrictions imposed by law or another authority? ICCPR 23(1), UDHR 16(3), SMR 37, BOP 15 & 19, EPR 24.1 & 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	2	0
Total Europe - %	100	96	29	8	0
Latvia	X	X			

3.8.1.2 Has your country adopted laws or policies requiring that visits take place in an environment that enables prisoners to maintain and develop family and other relationships in as normal a manner as is possible subject to the maintenance of good order and security in the prison? SMR 79, EPR 24.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	6	0	2
Total Europe - %	92	88	25	0	8
Latvia					X

17.3.8.2 *Searching of visitors*

3.8.2.1 Has your country adopted laws or policies requiring that searching procedures for visitors be undertaken in a manner that respects a person's dignity? SMR 27, BOP 19, EPR 54.1.c, 54.3, 54.4 & 54.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	4	0	7

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	71	63	17	0	29
Latvia	X	X			

3.8.2.2 Has your country adopted laws or policies requiring that prison officers only be permitted to search visitors of the same gender? EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	9	1	0	12
Total Europe - %	50	38	4	0	50
Latvia	X	X			

17.3.8.3 *Restrictions on visits*

3.8.3.1 Has your country adopted laws or policies requiring the authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party(ies) and to review these circumstances on a regular basis? SMR 27, 79 & 80, EPR 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	0	0	63
Latvia					X

3.8.3.2 Has your country adopted laws or policies preventing the withdrawal of contact for female prisoners with their children as a disciplinary action except in exceptional circumstances? SMR 27, 79 & 80, EPR 24.2 & 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	2	0	12
Total Europe - %	50	50	8	0	50
Latvia					X

17.3.8.4 *Death, illness & transfer*

3.8.4.1 Has your country adopted laws or policies requiring that prisoners be informed of the death/serious illness of a close relative/ friend without delay? SMR 44(2), EPR 24.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	2	0	13
Total Europe - %	46	42	8	0	54
Latvia					X

3.8.4.2 Has your country adopted laws or policies allowing a prisoner to leave the prison to visit a sick relative/friend, attend a funeral or for other humanitarian reasons? SMR 44(2), EPR 24.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Latvia	X	X			

3.8.4.3 Has your country adopted laws or policies ensuring that prisoners are allowed to inform their families or other nominated persons without delay of their imprisonment, transfer to another institution or of any serious illness that they may suffer from? SMR 44(1) & (3), BOP 16(1), EPR 24.8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Latvia	X	X			

3.8.4.4 Has your country adopted laws or policies requiring the prison authorities to immediately inform the spouse or the nearest relative to the prisoner (or any other person previously nominated), if the prisoner dies in custody, is removed to a hospital or suffers a serious injury/illness? SMR 44(1), EPR 24.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	3	0	6
Total Europe - %	75	75	13	0	25
Latvia	X	X			

17.3.8.5 Telephone and letters

3.8.5.1 Has your country adopted laws or policies preventing the monitoring or censoring of telephone calls unless the prisoner or the recipient of the call is informed of the possibility of such monitoring or, such monitoring has been agreed by any lawful authority? ICCPR 17, UDHR 12, SMR 37, BOP 19, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	3	1	5
Total Europe - %	79	79	13	4	21
Latvia					X

3.8.5.2 Has your country adopted laws or policies permitting prisoners to send a minimum of 7 letters a week free of charge and more if he/she can afford it, and to receive as many letters as are sent to him/her? SMR 37, BOP 19, EPR 24.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	11	1	0	12
Total Europe - %	50	46	4	0	50
Latvia					X

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3.8.5.3 Has your country adopted laws or policies preventing the prison authorities from opening prisoners' private correspondence subject to the maintenance of good order and safe and secure custody in the prison? ICCPR 17, UDHR 12, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	1	9
Total Europe - %	62	62	13	4	38
Latvia					X

17.3.8.6 *Media*

3.8.6.1 Has your country adopted laws or policies entitling prisoners to be kept informed of current affairs and other developments outside the prison by reading newspapers and periodicals and by listening to radio or television broadcasts (subject to the maintenance of good order and safe and secure custody)? SMR 39, BOP 28, EPR 24.10

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	1	1
Total Europe - %	96	92	21	4	4
Latvia	X	X			

Analysis

International instrument compliance

Latvia has incorporated seven of the fourteen commitments relating to prisoners' contact with the outside world into its national law. This includes the legally binding commitment establishing the right of prisoners to communicate with and receive visits from friends and relatives. Legally binding commitments defining the circumstances in which the prison authorities may monitor a prisoner's telephone calls and open a prisoner's mail have not been adopted however. Neither has Latvia adopted measures to comply with the provisions of international legal instruments relating to the need to explain the circumstances in which visits can be restricted and regularly review the same and prohibiting the withdrawal of contact between a female prisoner and her children as a disciplinary measure. Latvian prisoners also do not enjoy the right to be informed of the death or serious illness of a relative without delay.

Situation in practice

The CPT commented that the visiting regime for some life sentence prisoners was restrictive. It recommended that such prisoners should be able to receive at least one visit per month.

17.3.9 *Work*

This section focuses on work in prison. International legal instruments place a series of obligations on States in respect of work in prison. The questions in this section are based on these obligations.

3.9.1 Has your country adopted laws or policies requiring work to be incorporated as a positive aspect of prison regimes and prohibiting its use as a form of punishment? SMR 71(1), EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Latvia	X	X			

3.9.2 Has your country adopted laws or policies requiring that prison work provided should prepare prisoners for worthwhile work on their release and facilitate their reintegration into the workforce? SMR 71(3) & (4), BPTP 8, EPR 26.3 & 26.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	18	7	0	4
Total Europe - %	83	75	29	0	17
Latvia	X		X		

3.9.3 Has your country adopted laws or policies entitling prisoners to be remunerated in respect of prison work carried out? ICESCR 7(a), UDHR 23, SMR 76(1), BPTP 8, EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	1	1
Total Europe - %	96	92	13	4	4
Latvia	X	X			

Analysis

International instrument compliance

Latvia has adopted all commitments relating to prison work including the legally binding commitment requiring that prisoners be remunerated for work carried out in prison.

17.3.10 Exercise & recreation

This section focuses on facilities for exercise and recreation in prison. International legal instruments place a series of obligations on States in respect of exercise and recreational facilities. The questions in this section are based on these obligations.

3.10.1 Has your country adopted laws or policies ensuring that, subject to the constraints of the particular prison and the maintenance of good order and security, prisoners shall be entitled to spend as much time out of their cells as is possible? EPR 25(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Latvia	X	X			

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3.10.2 Has your country adopted laws or policies ensuring that prisoners receive at least one hours exercise each day in the open air, weather permitting? SMR 21, EPR 27.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	2	1
Total Europe - %	96	92	21	8	4
Latvia	X	X			

3.10.3 Has your country adopted laws or policies ensuring that prisoners shall have access to a well-stocked library at least once a week (subject to the maintenance of good order and safe and secure custody)? R(89)12: 10, EPR 28.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	13	0	0	11
Total Europe - %	54	54	0	0	46
Latvia	X	X			

Analysis

International instrument compliance

All commitments relating to prisoners' exercise and recreation have been adopted by Latvia.

Situation in practice

The European Commissioner for Human Rights highlighted complaints from prisoners concerning the absence of meaningful activities available to prisoners including restricted access to outdoor activities in some establishments. These problems were also the subject of comments from the CPT with particular reference to life sentence prisoners.

17.3.11 Education

This section focuses on facilities for education in prison. International legal instruments place a series of obligations on States in respect of prison education facilities. The questions in this section are based on these obligations.

3.11.1 Has your country adopted laws or policies requiring, as far as practicable, that prisoners have access to educational programmes that can meet their individual needs? ICESCR 13, UDHR 26, SMR 77(1), BPTP 6, R(89)12: 1, EPR 28.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	5	1	1
Total Europe - %	96	96	21	4	4
Latvia	X	X			

3.11.2 Has your country adopted laws or policies requiring that education provided in prisons shall be integrated, in so far as is practicable, with national educational

systems/programmes enabling prisoners to continue their education following their release?
SMR 77(2), R(89)12: 16, EPR 28.7.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	5	0	3
Total Europe - %	87	75	21	0	13
Latvia	X		X		

3.11.3 Has your country adopted laws or policies requiring that vocational training be available for those prisoners who are able to benefit from it, particularly young prisoners? SMR 71(5), BPTP 8, R(89)12: 9, EPR 26.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	20	5	0	2
Total Europe - %	92	83	21	0	8
Latvia	X		X		

Analysis

International instrument compliance

All commitments relating to prison education have been adopted by Latvia including the legally binding commitment obliging the authorities to ensure that prisoners have access to education programmes that meet their individual needs.

Situation in practice

See comments relating to 3.10 above..

17.3.12 Freedom of thought, conscience & religion

3.12.1 Has your country adopted laws or policies ensuring that prisoners have the opportunity to practice their religion and to follow their beliefs whilst in custody? ICCPR 18(1), CERD 5 (d) (vii), UDHR 18, SMR 42, BPTP 3, EPR 29.1 & 29.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	5	0	0
Total Europe - %	100	96	21	0	0
Latvia	X	X			

Analysis

International instrument compliance

The legally binding commitment requiring states to ensure that prisoners have the opportunity to practice their religion whilst in custody has been incorporated by Latvia into its national law.

17.4 Health

17.4.1 Core principles

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.1.1 Has your country adopted laws or policies requiring that primary healthcare services to meet the needs of all prisoners be provided in each prison to a standard equivalent to that available to the community in general? ICESCR 12(1), SMR 22(1), PME 1, R(98)7: 10, 11, 12 & 19, EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	6	0	1
Total Europe - %	96	92	25	0	4
Latvia	X	X			

4.1.2 Has your country adopted laws or policies to ensure that where a sick prisoner requires treatment that cannot be provided by the medical staff in the prison he/she shall be transferred to an appropriate hospital without undue delay? SMR 22(2), BPTP 9, R(98)7: 3, EPR 46.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	3	1	2
Total Europe - %	92	88	13	4	8
Latvia	X	X			

4.1.3 Has your country adopted laws or policies requiring that medical records be created and accurately maintained on all prisoners and that such records be treated as confidential? BOP 26, R(98)7: 13, EPR 42.3.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	5	0	3
Total Europe - %	87	83	21	0	13
Latvia	X	X			

Analysis

International instrument compliance

All commitments relating to the core principles of prison health care have been adopted by Latvia including the legally binding commitment requiring that primary health care facilities be provided in all prisons to a standard equivalent to that available in the community.

Situation in practice

The CPT highlighted staff shortages at both Jēkabpils Prison and Rīga Central Prisons and recommended that immediate steps should be taken to ensure that the vacant posts be

immediately filled and that the complement of qualified nursing staff at Jēkabpils Prison and Riga Central Prison be significantly increased. The Committee also recommended that all medical examinations of life-sentenced prisoners should be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers. Furthermore it emphasised that a definitive end should be put to the practice of placing life-sentenced prisoners behind the bars of the cell-door during medical consultations with the doctor or in a cage-like cubicle during consultations with the psychiatrist or psychologist

17.4.2 *Women and children*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations

4.2.1 Has your country adopted laws or policies to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor? CEDAW 12, SMR 23, BOP 5(2), R(98)7: 8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	7	3	0	17
Total Europe - %	29	29	13	0	71
Latvia	X	X			

4.2.2 Has your country adopted laws or policies requiring that appropriate care be afforded to all pregnant prisoners and nursing mothers? CEDAW 12(2), SMR 23, R(98)7: 8 & 69, EPR 34.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Latvia	X	X			

Analysis

International instrument compliance

All commitments relating to women's healthcare have been adopted by Latvia including the legally binding commitment requiring that women prisoners have access to a female doctor.

17.4.3 *Mental health care*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.3.1 Has your country adopted laws or policies requiring that prisoners with mental health difficulties be entitled to care appropriate to their circumstances, commensurate to the type of

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care available for people with similar mental health difficulties in the community? SMR 22(1), PPPMI 1 & 20, R(98)7:10, 11 & 52, R(2004)10: 35(1) & (2), EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	4	0	3
Total Europe - %	87	79	17	0	13
Latvia	X	X			

4.3.2 Has your country adopted laws or policies to ensure that prisoners who require psychiatric in-patient care are transferred to a suitable hospital facility of an appropriate security level without undue delay? SMR 22(2), PPPMI 9(1) & 20, R(98)7: 3 & 55, R(2004)10: 8, 9(1) & 35(1), EPR 12(1) & 46(1)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	3	0	6
Total Europe - %	75	71	13	0	25
Latvia	X	X			

Analysis

International instrument compliance

Both commitments relating to the mental health care of prisoners have been incorporated by Latvia.

Situation in practice

See comments in relation to 4.1 above.

17.4.4 Vulnerable prisoners

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.4.1 Has your country adopted laws or policies requiring that prisoners assessed as vulnerable be accommodated in areas of the prison which are most convenient and appropriate for their monitoring and treatment by the medical personnel and other relevant agencies? SMR 22(2) & 62, EPR 12.2, 39, 43.1, 46.2, 47.1 & 47.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	3	0	8
Total Europe - %	67	63	13	0	33
Latvia					X

4.4.2 Has your country adopted laws or policies requiring that prisoners assessed as being at risk of suicide/self-harm be continuously monitored by both medical and prison staff throughout the prisoner's time in custody and that records are kept of such monitoring? R(98)7: 58, EPR 47(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	5	0	14
Total Europe - %	42	29	21	0	58
Latvia					X

4.4.3 Has your country adopted laws or policies requiring that prisoners detained in a special cell be visited daily, and as frequently as is necessary by a doctor who shall, inter alia, monitor his/ her physical and mental health? SMR 25(1) & 32(3), R(98)7: 66, EPR 43.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Latvia					X

Analysis

International instrument compliance

Latvia has not adopted any of the commitments relating to vulnerable prisoners into its national law or policy.

Situation in practice

The UN Committee against Torture expressed serious concerns about the amount of sudden deaths and suicides in Latvian prisons.

17.4.5 *Medical & health care personnel*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.5.1 Has your country adopted laws or policies to ensure that every prisoner has access to appropriately qualified medical personnel in the prison at all times? SMR 24, BOP 24, R(98)7:1, 2 & 4, EPR 41.2 & 41.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Latvia	X	X			

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Analysis

International instrument compliance

Latvian law makes provision for the commitment that every prisoner should have access to appropriately qualified medical personnel at all times.

Situation in practice

The legal framework highlighted above notwithstanding, both the CPT and the European Commissioner for Human Rights both highlighted shortcomings in the availability of medical staff in the Latvian prison system. See comments at 4.1 above and 4.6 below.

17.4.6 Prisoners with addiction problems

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.6.1 Has your country adopted laws or policies to ensure that prisoners with addiction problems have access to appropriate treatment and support services, including those from external agencies? SMR 62, R(98)7: 7, 43, 44, 45, 46 & 47, EPR 42.3.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	8	0	3
Total Europe - %	88	79	33	0	13
Latvia					X

Analysis

International instrument compliance

No provision is made in Latvian law or policy to ensure that prisoners with addiction problems have access to appropriate treatment or support services.

Situation in practice

The European Commissioner for Human Rights highlighted shortcomings in the service provision to prisoners with alcohol and drug problems since there were not enough personnel to assist them

17.4.7 Hunger strikes

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.7.1 Has your country adopted laws or policies forbidding the practice of forced feeding of hunger strikers? DOMHS, R(98)7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	37	21	21	0	63
Latvia					X

Analysis

International instrument compliance

No provision is made in Latvian law or policy to prevent the forced feeding of prisoners on hunger strike.

17.5 Good order

17.5.1 General approaches

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.1.1 Has your country adopted laws or policies requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody? R(82)17: 8, EPR 51.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	0	9
Total Europe - %	62	62	13	0	38
Latvia	X	X			

Analysis

International instrument compliance

The commitment regarding security assessment of prisoners has been adopted by Bulgaria.

Situation in practice

The CPT found that the security restrictions imposed on some life sentence prisoners were unduly restrictive. It recommended that all prisoners serving life sentences should be the subject of a proper risk assessment with the security measures imposed being in line with the outcome of the assessment

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17.5.2 *Safety & Security*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.2.1 Has your country adopted laws or policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat? EPR 51.5, 53.1 & 53.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	63	63	17	0	37
Latvia	X	X			

Analysis

International instrument compliance

The commitment regarding regular reviews of those prisoners placed on protection has been adopted by Latvia.

Situation in practice

The CPT delegation received some allegations of inter-prisoner violence at one prison visited. A juvenile had, furthermore, been killed by fellow inmates. As a result, a special prevention programme was introduced for prison staff in order to identify vulnerable prisoners and provide support to them. Despite this programme the CPT noted that the dormitory-type available accommodation afforded vulnerable juveniles little protection from other prisoners.

17.5.3 *Searching of prisoners*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.3.1 Has your country adopted laws or policies requiring that searches conducted on prisoners be carried out with due regard to the prisoner's dignity? ICCPR 10(1), BPTP 1, EPR 54.3 & 54.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	0	1
Total Europe - %	96	92	13	0	4
Latvia	X	X			

5.3.2 Has your country adopted laws or policies stipulating that prisoners may only be searched by a staff member of the same gender? ICCPR 10(1), BPTP 1, EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	1	0	1
Total Europe - %	96	92	4	0	4
Latvia	X	X			

5.3.3 Has your country adopted laws or policies stipulating that prisoners may only be subjected to a strip search in exceptional circumstances and for good reason and then, only in the presence of two officers in an appropriate place which ensures privacy? ICCPR 10(1), BPTP 1, EPR 54. 3, 54.4 & 54.6, *Van der Van v The Netherlands* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	3	1	13
Total Europe - %	66	54	13	4	54
Latvia					X

Analysis

International instrument compliance

Two out of the three legally binding commitments regarding the searching of prisoners have been adopted by Latvia. All the provisos arising from the ECtHR case *Van der Van v The Netherlands* have not been adopted however.

17.5.4 *Criminal acts, discipline & punishment*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.4.1 Has your country adopted laws or policies stipulating that all inquiries into breach of prison discipline or rules shall be conducted in an independent and impartial manner? ICCPR 14(1), UDHR 10, ECHR 6(1), *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	2	1	8
Total Europe - %	67	63	8	4	33
Latvia					X

5.4.2 Has your country adopted laws or policies requiring that all incidents of bullying/violence/threatening behaviour between prisoners, and any breach of discipline be reported to an officer of a higher rank, duly recorded and properly investigated? EPR 52.2 & 58

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	62	62	17	0	38
Latvia	X	X			

5.4.3 Has your country adopted laws or policies stipulating that when a prisoner has been charged with a disciplinary offence he/she shall be promptly informed of the allegation made against him/her in a language that he/she understands? ICCPR 14(3)(a), CERD 5(a), SMR 30(2), ECHR 6(3)(a), EPR 59.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	3	0	7
Total Europe - %	71	71	13	0	29
Latvia	X	X			

5.4.4 Has your country adopted laws or policies stipulating if an inquiry is being conducted into a breach of prison discipline or rules the prisoner shall have adequate time to prepare his/her defence and/or to receive legal assistance? ICCPR 14(3)(b) & (d), SMR 30(2), ECHR 6(3)(b) & (c), EPR 59.b & 59.c, *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	2	0	9
Total Europe - %	62	58	8	0	38
Latvia					X

5.4.5 Has your country adopted laws or policies stipulating that in any disciplinary proceedings prisoners must understand the proceedings and if necessary, appropriate interpretation facilities must be provided? ICCPR 14(3)(f), SMR 30(3), ECHR 6(3)(e), EPR 59.e

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Latvia					X

5.4.6 Has your country adopted laws or policies stipulating that no prison officer shall impose a punishment/penalty/deprivation on a prisoner without due process and in accordance with law and/or relevant rules or instruments? EPR 57.2.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	2	0	4
Total Europe - %	83	83	8	0	17
Latvia	X	X			

5.4.7 Has your country adopted laws or policies stipulating that if a prisoner is found guilty of a disciplinary offence, he/she shall be entitled to exercise his/her right of appeal to an independent and impartial tribunal established by law? ICCPR 14(5), BOP 30(2), EPR 61

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	1	0	5
Total Europe - %	79	79	4	0	21
Latvia	X	X			

5.4.8 Has your country adopted laws or policies requiring that when a prisoner is detained in any type of special cell (special observation/cladded/strip) he/she shall be regularly monitored by a prison officer? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	3	0	7
Total Europe - %	71	67	13	0	29
Latvia	X	X			

5.4.9 Has your country adopted laws or policies requiring that a detailed record be maintained of, inter alia, the monitoring of such prisoners, their expressed requirements, actions taken in response to such requests and details of visits by officers or others to such prisoners? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	8	8	2	0	16
Total Europe - %	33	33	8	0	67
Latvia	X	X			

5.4.10 Has your country adopted laws or policies to ensure that prisoners in a special cell are able to contact a member of staff at all times, including during the night and that a staff member shall respond without delay? ICCPR 6(1), EPR 18.2.c & 52.4, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	4	0	63
Latvia	X	X			

Analysis

International instrument compliance

Latvia has adopted seven of the ten commitments relating to criminal acts and discipline within the prison. Legally binding commitments requiring that prisoners be promptly informed of the charges against them in a language which they can understand and enabling appeal to an independent and impartial tribunal have been incorporated into Latvian law. Furthermore, the legally binding requirements concerning the requirement to monitor prisoners placed in special cells and to record information relating to the same alongside ensuring that such prisoners are able to contact prison staff at all times have also been incorporated. The legally binding commitments relating to the impartial investigation of breaches of prison discipline, requiring that prisoners have adequate time to prepare their defence and can access interpretation facilities during a hearing if required have not, however been adopted.

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Situation in practice

The CPT was very concerned about the detention conditions in punishment cells. Adult prisoners who were subject to the disciplinary sanction of solitary confinement were not allowed to go outside for an hour. The CPT also heard complaints from some life sentence prisoners concerning indiscriminate use of informal disciplinary sanctions. The prisoners concerned reported that were forced say their name and the crime for which they were sentenced whenever a prison officer opened the door. If this 'rule' was not observed, the prisoners ran the risk of disciplinary sanctions.

17.5.5 Use of force/weapons

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.5.1 Has your country adopted laws or policies stipulating that members of staff will use force only when absolutely necessary and that any force used shall be proportionate to the situation? SMR 54(1), CCLEO 3, BPUF 4, EPR 64 & 6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	4	1	3
Total Europe - %	87	87	17	4	13
Latvia	X	X			

Analysis

International instrument compliance

The commitment relating to proportionate use of force has been adopted by Latvia.

Situation in practice

The CPT emphasised that the practice of using dogs when transporting a life sentence prisoner within the prison should be stopped forthwith.

17.5.6 Requests & complaints

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.6.1 Has your country adopted laws or policies to ensure that prisoners have sufficient opportunity to make requests or complaints to the Governor of the prison or to any other competent authority? SMR 36(1) & (3), BOP 33(1), EPR 70.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	3	0	1
Total Europe - %	96	96	13	0	4
Latvia	X	X			

5.6.2 Has your country adopted laws or policies establishing the right of a prisoner's legal advisor or to make a request or a complaint regarding that prisoner's treatment to the prison authorities, or other relevant authorities? BOP 33 (1) & (2), EPR 70.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	1	0	6
Total Europe - %	75	75	4	0	25
Latvia	X	X			

5.6.3 Has your country adopted laws or policies requiring that all complaints be promptly investigated in accordance with law? SMR 36(4), BOP 33(4)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	2	0	7
Total Europe - %	71	67	8	0	29
Latvia	X	X			

5.6.4 Has your country adopted laws or policies to ensure that where a request is denied or a complaint is rejected, the prisoner is informed promptly as to the reason(s) for such denial or rejection? SMR 36(4), BOP 33(4), EPR 70.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	2	1	7
Total Europe - %	71	63	8	4	29
Latvia	X	X			

5.6.5 Has your country adopted laws or policies to ensure that prisoners are not disadvantaged for exercising their rights to make requests or complaints? BOP 33(4), EPR 70.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	3	0	13
Total Europe - %	46	42	13	0	54
Latvia					X

5.6.6 Has your country adopted laws or policies requiring that complaints made by members of staff against other members of staff be properly recorded and investigated in accordance with the law? EPR 88 & 87.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	11	3	0	11
Total Europe - %	54	46	13	0	46

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Latvia	X	X			

Analysis

International instrument compliance

All commitments relating to prison request and complaints procedures have been adopted by Latvia except that requiring the authorities to ensure that prisoners are not disadvantaged for exercising their rights to make requests and complaints

17.6 Management & Staff

17.6.1 Training of staff

This section focuses on the staff training and prison management. International legal instruments place a series of obligations on States in respect of the training and management of prison staff. The questions in this section are based on these obligations.

6.1.1 Has your country adopted laws or policies to ensure that all prison staff receive appropriate training at regular intervals throughout their career? SMR 47(3), EPR 8, 76 & 81.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	14	7	0	5
Total Europe - %	79	58	29	0	21
Latvia	X	X			

6.1.2 Has your country adopted laws or policies to ensure that members of staff who work with particular groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, receive training particular to their individual work? R(82)17: 10, R(2004)10: 12(1), EPR 81.3, ERJO 129

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	38	21	21	0	62
Latvia					X

Analysis

International instrument compliance

Latvia has adopted one of the two commitments relating to the training of prison management and staff. No provision has therefore been made to ensure that members of staff who work with particular groups of prisoners receive training particular to their individual work

Situation in practice

The CPT highlighted that prison staff working with juveniles at Ilġuciema Prison and Cēsis Correctional Centre did not receive any specialist training to equip them for this task.

17.7 Inspection & Monitoring

17.7.1 Governmental Inspection

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.1.1 Has your country adopted laws or policies requiring that prisons be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law? SMR 55, EPR 92, R(2004)10 36.1, ERJO 125, PPPMI 22

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	19	4	0	4
Total Europe - %	83	79	17	0	17
Latvia	X	X			

Analysis

International instrument compliance

The commitment relating to governmental monitoring of prisons has been adopted by Latvia.

17.7.2 Independent monitoring

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.2.1 Has your country adopted laws or policies requiring that the conditions of detention and the treatment of prisoners shall be also monitored by an independent body or bodies, comprised of qualified experienced personnel, and whose findings shall be made public? OPCAT 3, 17, 18, 19, BOP 29.1, EPR 93.1, R(2004)10 36.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Latvia					X

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7.2.2 Has your country adopted laws or policies granting such an independent body open access to places of detention, to prisoners and others whom it wishes to interview? OPCAT 19, 20, CPT 8,9 BOP 29.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	3	1	9
Total Europe - %	62	58	13	4	38
Latvia					X

7.2.3 Has your country adopted laws or policies encouraging such independent bodies to cooperate with those international agencies that are legally entitled to visit prisons? CPT 2,7 EPR 93.2, ERJO 126.

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	6	1	0	17
Total Europe - %	29	25	4	0	71
Latvia					X

Analysis

International instrument compliance

Latvia has not adopted any of the commitments relating to the independent monitoring of prisons into its law or policy.

Situation in practice

Latvia has not signed the OPCAT. The UN Committee against Torture highlighted in 2007 that Latvia should take the necessary measures to effectively and systematically monitor all places of detention.

17.8 Sentenced Prisoners

This section focuses on the particular provisions relating to convicted prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

8.1.1 Has your country adopted laws or policies requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan? ICCPR 10(3), SMR 80, EPR 6, 103.2 & 103.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	6	2	4
Total Europe - %	83	83	25	8	17
Latvia					X

8.1.2 Has your country adopted laws or policies requiring that a sentence management plan be prepared for each prisoner serving a sentence of 12 months or over as soon as practicable after

their admission? It should provide for, inter alia, the welfare and health needs of the prisoner, training, employment or education needs he/she may have, and include a release plan for the prisoner. This plan shall be reviewed at regular intervals to take into account the changing circumstances of the prisoner. SMR 65, 66 & 69, R(2003)23: 3 & 9, EPR 6, 103 & 104.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	5	0	10
Total Europe - %	58	54	21	0	42
Latvia	X	X			

Analysis

International instrument compliance

Latvia has adopted one of the two commitments relating to sentenced prisoners into its national law. The legally binding commitment requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan has not, however, been adopted.

17.9 Juveniles

This section focuses on the particular provisions relating to juvenile prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

9.1.1 Has your country adopted laws or policies requiring that juveniles be detained separately from adult offenders? ICCPR 10(3), CRC 37(c), BR 26.3, RPJDL 29, EPR 11.1, ERJO 59.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	1	3
Total Europe - %	87	87	13	4	13
Latvia	X	X			

9.1.2 Has your country adopted laws or policies to ensure that, subject to reasonable conditions and restrictions, a sentenced prisoner under the age of 18 shall be entitled to receive a minimum of two weekly visits? CRC 37(c), SMR 37, BOP 19, RPJDL 60, ERJO 83, 84, 85.1 & 85.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	6	3	0	15
Total Europe - %	37	25	13	0	63
Latvia					X

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Analysis

International instrument compliance

The legally binding commitment requiring juvenile prisoners to be housed apart from their adult counterparts has been adopted by Latvia. No provision has, however, been made setting out the minimum number of visits which juvenile prisoners can receive.

Situation in practice

The EU Study on pre-trial detention highlighted that juveniles are not always housed separately from adult offenders in Latvia.

17.10 Sentence Execution Modalities

This section of the questionnaire is designed to collate information on the differing methods by which custodial sentences and measures involving deprivation of liberty are enforced across EU Member States.

10.1.1. Which of the following modalities of prison sentence execution are provided for in the law of your country?

	Weekend detention	Evening detention	Daytime detention	Home detention	
				no electronic monitoring	electronic monitoring
EUROPE	9 = 38%	10 = 42%	3 = 13%	6 = 25%	14 = 58%
Latvia			X		

10.1.2. What is the maximum period for which home detention with electronic monitoring can be imposed?

	Under 12 months	12-24 months	25 months - 36 months	37 months - 50 months	More than 50 months
EUROPE	7 = 29%	4 = 17%	0 = 0%	1 = 4%	2 = 8 %
Latvia					

10.2.1. In which of the following locations can custodial sentences or measures involving deprivation of liberty be imposed?

	Penitentiary institution	Psychiatric institution	Detoxification institution	Educational institution	Home
EUROPE	24 = 100%	20 = 83%	10 = 42%	7 = 29%	12 = 50%
Latvia	X	X		X	

Analysis

Sentence execution modalities

Latvian law provides for one additional sentence execution modality that of daytime detention. Custodial sentences or measures involving deprivation of liberty can be imposed in relation to penitentiary, psychiatric and educational institutions in Latvia.

17.11 Early release from prison, earned remission and suspension of sentence

17.11.1 Early release

Early release means the release of the offender before their prison term is finished. It is possible only while the sentence is still being served. Early release does not include the suspended enforcement of a penalty which is dealt with later in this questionnaire.

11.1.2.1. Has your country adopted laws and regulations under which prisoners are entitled to early release from prison ?

	Yes	No
EUROPE	24 = 100%	0 = 0%
Latvia	X	

11.1.2.2. At what point in a prisoner's sentence do they become eligible for early release?

	One third of sentence or less	One third to one half of a sentence	One half to three quarters of a sentence	More than three quarters of a sentence	Other
EUROPE	2 = 8%	1 = 4%	7 = 29%	0 = 0%	14 = 58%
Latvia					X

11.1.2.2. Does your country have different regulations for the early release of prisoners based on:

	A prisoner's nationality (non-EU citizen)	A prisoner's nationality (EU citizen)	The length of sentence imposed
EUROPE	Yes - 3 = 12% No - 21 = 88%	Yes - 3 = 12% No - 21 = 88%	Yes - 24 = 100% No - 0 = 0%
Latvia	N	N	Y

11.1.2.3. Are provisions governing the early release of prisoners automatic or discretionary?

	Automatic (prisoners are automatically released at a certain point in their sentence)	Discretionary (prisoners are only released following assessment)

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	Automatic (prisoners are automatically released at a certain point in their sentence)	Discretionary (prisoners are only released following assessment)
EUROPE	Yes - 7 = 29% No - 17 = 71%	Yes - 20 = 83% No - 4 = 17%
Latvia	N	Y

11.1.2.4. What factors are taken into consideration when deciding whether a prisoner will be granted early release?

	The circumstances surrounding the crime	Prior criminal record	The offender's progress during imprisonment	Assessment as to whether the prisoner is likely to reoffend	Recommendation from the sentencing judge
EUROPE	Yes - 24 = 50% No - 24 = 50%	Yes - 15 = 63% No - 9 = 37%	Yes - 22 = 92% No - 2 = 8%	Yes - 19 = 79% No - 5 = 21%	Yes - 4 = 17% No - 20 = 83%
Latvia	N	N	Y	Y	N

11.1.3.1. What forms of monitoring and conditions can be applied to prisoners' early release?

1. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
2. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
4. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
5. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
6. Electronic monitoring
7. Weekend/evening /daytime detention
8. Requirement containing limitations on leaving the country
9. Requirement to leave the country
10. Requirement to pay compensation
11. Requirement to undertake community service
12. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	Other
EUROPE	Y - 83 N -	Y - 8 N -	Y - 58 N -	Y - 62 N -	Y - 33 N -	Y - 25 N -	Y - 13 N -	Y - 42 N -	Y - 21 N -	Y - 29 N -	Y - 21 N -	9

	1	2	3	4	5	6	7	8	9	10	11	Other
	17	92	42	38	77	75	87	58	79	71	79	
Latvia	Y	N	Y	Y	Y	N	N	Y	N	Y	N	

17.11.2 Sentence reduction as a result of prison work

11.2.1.1. Can a prisoner earn remission on their sentence as a result of work carried out in prison?

	Yes	No
EUROPE	9= 38%	15 – 62%
Latvia		X

17.11.3 Suspension of sentence enforcement

11.3.1. Does the national law of your country make provision for the further execution of a prison sentence to be suspended during the course of the sentence?

	Yes	No
EUROPE	10=42%	14= 58%
Latvia	X	

11.3.2.1. What factors are taken into consideration when deciding whether a prisoner will have the further execution of their prison sentence suspended?

1. The circumstances surrounding the crime
2. Prior criminal record
3. The offender's progress during imprisonment
4. Assessment as to whether the prisoner is likely to reoffend
5. Recommendation from the sentencing judge
6. Suitability of home circumstances
7. Information from victim(s)
8. Willingness of the prisoner to leave the country upon release
9. The prisoner will be deported upon release
10. Other – please specify

	1	2	3	4	5	6	7	8	9	Other
EUROPE	Y - 8 N - 92	Y - 13 N - 78	Y - 17 N - 83	Y - 21 N - 79	Y - 0 N - 100	Y - 4 N - 96	Y - 0 N - 100	Y - 0 N - 100	Y - 0 N - 100	21
Latvia	N	N	N	N	N	N	N	N	N	X

11.3.3.1. What forms of monitoring and conditions can be applied to prisoners whose further execution of a prison sentence has been suspended?

1. Unconditional supervision
2. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)

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3. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
4. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
5. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
6. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
7. Electronic monitoring
8. Weekend/evening /daytime detention
9. Requirement containing limitations on leaving the country
10. Requirement to leave the country
11. Requirement to pay compensation
12. Requirement to undertake community service
13. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	12	Other
EUROPE	Y - 4	Y - 38	Y - 4	Y - 29	Y - 17	Y - 17	Y - 4	Y - 4	Y - 21	Y - 0	Y - 17	Y - 4	2
	N - 96	N - 62	N - 96	N - 71	N - 83	N - 83	N - 96	N - 96	N - 79	N - 100	N - 83	N - 96	
Latvia	N	Y	N	Y	N	N	N	N	Y	N	N	N	

Analysis

Early release from prison, earned remission and suspension of sentence

In common with all EU countries, Latvia has adopted measures under which prisoners are entitled to early release from prison. According to Section 61 of the Latvian Penal Code a person who has been sentenced to deprivation of liberty may be conditionally released prior to completion of his or her basic sentence, if there is a reason to believe that he or she will be able to adapt in society after release without committing a criminal offence. Conditional release can be granted if the convicted person has actually served: 1) not less than half of the sentence imposed for a criminal violation or a less serious crime committed; 2) not less than two-thirds of the sentence imposed, if it has been imposed for a serious crime, or if the convicted person is a person who previously has been sentenced to deprivation of liberty for an intentional crime and the conviction for this crime has not been set aside or extinguished; or 3) not less than three-quarters of the sentence imposed, if it has been passed for an especially serious crime or if the convicted person is a person who previously had been conditionally released prior to completion of sentence and has recently committed an intentional crime during the period of the un-served sentence; or 4) twenty-five years of a sentence of deprivation of liberty, if the convicted person is a person for whom deprivation of liberty on the basis of clemency or amnesty has been substituted for the death penalty, or a person for whom life imprisonment has been imposed. All early release regulations in Latvia are based around discretionary provisions. Decisions on a prisoner's early release are based on the offender's progress during imprisonment and an assessment as to whether they are likely to re-offend. The court which decides on conditional release may impose certain conditions which remain in force for the period of the un-served

sentence. Dependent on the crime for which the prisoner was convicted, the court can oblige the prisoner to participate in probation programmes in accordance with the instructions of the State Probation Service. This participation is obligatory for persons who are sentenced for serious or especially serious crime. Prisoners in Latvia are not able to earn remission from their sentence as a result of work undertaken in prison. Provision is, however, made for the further execution of a prison sentence to be suspended during the course of the sentence. Three forms of monitoring and supervision can be imposed in such cases: compulsory supervision, compulsory therapeutic intervention and a requirement to leave the country.

18 Lithuania

18.1 Introduction

The questionnaire was completed by Simonas Nikartas researcher and Dr. Algimantas Čepas, Director at the Law Institute, Vilnius

The CPT visited Lithuania in 2008 and 2010. Here, the CPT findings of the 2010 report are used as a basis for the information situation in practice in the prison establishments visited. Amnesty International reported in 2010 on, inter alia, detention conditions. A delegation of the Commissioner for Human Rights' office visited Lithuania in 2006. These reports have been used as a basis for the information on the situation in practice.

Country	LITHUANIA		
Ministry responsible	Ministry of Justice		
Prison administration	Prison Department		
Contact address	L. Sapiegos str.1, LT-10312 Vilnius, Lithuania		
Telephone/fax/website	tel: +370 5 262 6767 or 271 9000 fax: +370 5 275 2778 web: www.kaldep.lt		
Head of prison administration (and title)	Saulius Vitkunas Director General		
Prison population total (including pre-trial detainees / remand prisoners)	9,139 at 1.1.2011 (Statistics Lithuania)		
Prison population rate (per 100,000 of national population)	276 based on an estimated national population of 3.31 million at beginning of 2011 (from Eurostat figures)		
Pre-trial detainees / remand prisoners (percentage of prison population)	13.1% (1.1.2011)		
Female prisoners (percentage of prison population)	4.6% (1.1.2011)		
Juveniles / minors / young prisoners incl. definition (percentage of prison population)	1.7% (1.1.2011 - under 18)		
Foreign prisoners (percentage of prison population)	1.1% (1.1.2011)		
Number of establishments / institutions	15 (2008)		
Official capacity of prison system	9,135 (1.1.2011)		
Occupancy level (based on official capacity)	100% (1.1.2011)		
Recent prison population	1992	9,175	250

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trend (year, prison population total, prison population rate)	1995	12,782	351
	1998	13,628	383
	2001	9,516	273
	2004	8,063	234
	2007	8,079	239
	2010	8,655	260

18.2 Overarching Principles

This section focuses on the overarching principles governing the management of prisons and the treatment of prisoners. International legal instruments place a series of obligations on States in respect of the management of prisons and the treatment of prisoners. The questions in this section are based on these obligations.

2.1.1 Has your country adopted laws or policies specifically requiring that prisoners must be treated with respect for their human rights? ICCPR 10(1), UDHR 1, BOP 1, BPTP 1, EPR 1 & 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	19	7	1	2
Total Europe – %	92	79	29	4	8
Lithuania	X	X			

2.1.2 Has your country adopted laws or policies specifically requiring prisons to be managed in accordance with human rights standards? EPR 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	21	18	4	3	3
Total Europe – %	88	75	16	13	12
Lithuania	X	X			

2.1.3 Has your country adopted laws or policies explicitly prohibiting practices that could constitute torture, inhumane or degrading treatment or punishment of prisoners? ICCPR 7, BOP 6, ECHR 3, *Kalashnikov v Russia* (ECtHR 2003)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	21	1	3	2
Total Europe – %	92	88	4	12	8
Lithuania	X	X			

2.1.4 Has your country adopted laws or policies specifically requiring that prisoners be provided with a range of activities during their sentence (for example - educational, recreational, work/training and welfare programmes)? SMR 77 & 78, BOP 28, BPTP 6 & 8, EPR 25

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	24	23	7	0	0
Total Europe – %	100	96	29	0	0
Lithuania	X	X			

Analysis

International instrument compliance

In common with the majority of EU member states, Lithuania has passed legislation designed to protect the human rights of its prisoners and provide them with a meaningful regime during their time in custody. This legislation includes all of the commitments arising from legally binding international legal instruments.

Situation in practice

Regarding ill-treatment in prisons, the CPT recommends:

“the Lithuanian authorities to draw to the attention of prison officers in Pravieniškės-2 Correction Home No. 3 that the force used to control violent and/or recalcitrant prisoners should be no more than is strictly necessary and that, once prisoners have been brought under control, there can be no justification for striking them (paragraph 37); (...) to deliver the clear message to all prison staff (prison officers and senior management) at Lukiškės Remand Prison, Pravieniškės-2 Correction Home No. 3 and Kaunas Juvenile Remand Prison and Correction Home that all forms of ill-treatment of prisoners (including verbal abuse) are unacceptable and will be dealt with severely (paragraph 37); (...) to take the necessary steps to ensure that, throughout the prison system, investigations into possible ill-treatment by prison staff are no longer conducted by members of staff from the establishment concerned. Such investigations should be conducted by a body independent of the establishments concerned and, preferably, of the prison authorities (paragraph 38); (...) to pursue their efforts to address the problem of inter-prisoner violence in the establishments visited (and, as appropriate, in other prisons in Lithuania). In this context, it is particularly important to ensure that all prisons have adequate levels of properly trained staff (paragraph 41); (...) arrangements to be made at Pravieniškės-2 to ensure that vulnerable prisoners seeking protection are no longer subjected to a disciplinary regime (paragraph 42)”.

18.3 Conditions Of Imprisonment

18.3.1 Admission

This section focuses on the treatment of prisoners upon their admission to prison. International legal instruments place a series of obligations on States in respect of prisoner admission. The questions in this section are based on these obligations.

3.1.1 Has your country adopted laws or policies requiring that all prisoner details are recorded at the time of committal including, inter alia, details of any visible injuries and the prisoner’s personal belongings? SMR 7(1), EPR 15.1, 31.1, 31.2 & 31.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	7	1	7
Total Europe - %	71	63	29	4	29
Lithuania	X	X			

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3.1.2 Has your country adopted laws or policies requiring that upon admission, each prisoner is given a booklet outlining his/her rights, duties, obligations and privileges and the rules and regulations governing the prison which apply to the individual prisoner? The booklet shall be written in a language that the prisoner understands. CERD 7, SMR 35, BOP 13, EPR 30

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	6	1	6
Total Europe - %	63	54	25	4	25
Lithuania	X	X			X

3.1.3 Has your country adopted laws or policies requiring that upon admission, every prisoner shall undergo a medical examination either by a nurse reporting to a doctor or by a doctor? SMR 24, BOP 24, R(98)7: 1, EPR 42.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	20	6	1	1
Total Europe - %	96	83	25	4	4
Lithuania	X	X			

3.1.4 Has your country adopted laws or policies requiring the doctor/nurse to pay particular attention to the detection of injuries, mental illnesses, of withdrawal symptoms resulting from the use of drugs, medication or alcohol, of contagious and chronic conditions, and, to assess the prisoner's suicide/self-harm risk? SMR 24, R(98)7: 1, EPR 42.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	10	8	1	9
Total Europe - %	62	42	33	4	38
Lithuania					X

3.1.5 Has your country adopted laws or policies requiring injuries detected during such an examination to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner? EPR 15.1.e & 42.3.c

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	5	4	1	17
Total Europe - %	29	21	17	4	71
Lithuania					X

3.1.6 Has your country adopted laws or policies requiring upon admission that each prisoner be assessed to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves? ICCPR 6, UDHR 3, ECHR 2, R(2003)23: 12, EPR 52.1, *Keenan v The United Kingdom* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	5	1	13
Total Europe - %	46	42	21	4	54
Lithuania					X

3.1.7 Has your country adopted laws or policies requiring that such risks be managed for the duration of the prisoner's sentence? ICCPR 6, UDHR 3, ECHR 2, EPR 52.2, *Osman v The United Kingdom* (ECtHR 2000)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	3	1	12
Total Europe - %	50	50	13	4	50
Lithuania	X	X			

Analysis

International instrument compliance

Lithuania has adopted 3 commitments out of 7 commitments established by international legal instruments relating to the procedures governing admission of prisoners to custodial institutions: this includes the legally binding commitments relating to the risk management of prisoners throughout the duration of their sentence. Commitments not adopted relate to the need to assess prisoners to see whether they pose a threat to themselves or others, the need to seek a medical opinion on prisoner's injuries in cases where allegations of mistreatment have been made and the provision of a book outlining a prisoner's rights at the time of admission.

See additional comments of SPOC above.

18.3.2 Allocation

This section focuses on the allocation of prisoners to a particular prison. International legal instruments place a series of obligations on States in respect of prisoner allocation. The question in this section is based on these obligations.

3.2.1 Has your country adopted laws or policies requiring prisoners to be assigned to a prison as near to their home area as possible in order to maintain relationships with families and friends, subject to the maintenance of good order and security? BOP 20, EPR 17.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	15	6	1	5
Total Europe - %	79	63	25	4	21
Lithuania					X

Analysis

International instrument compliance

The commitment regarding prisoner allocation has not been adopted in Lithuania. See comments from SPOC over the manner in which prisoner allocation often takes place in practice.

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18.3.3 Accommodation

This section focuses on the living conditions of prisoners. International legal instruments place a series of obligations on States in respect of the accommodation of prisoners. The questions in this section are based on these obligations.

3.3.1 Has your country adopted laws or policies requiring that where possible prisoners should have individual cells to sleep in? SMR 9(1), EPR 18.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	3	0	10
Total Europe - %	58	54	13	0	42
Lithuania					X

3.3.2. Has your country adopted laws or policies stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation? ICCPR 6(1), UDHR 3, SMR 9(2), ECHR 2, EPR 18.6 & 18.7, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	4	0	14
Total Europe - %	42	29	17	0	58
Lithuania					X

3.3.3 Has your country adopted laws or policies requiring that the size of a cell must be suitable for its purpose? The suitability of the cell size should be dependent on the number of hours spent in the cell, the number of prisoners accommodated in the cell and the availability of in-cell-sanitation facilities that ensure privacy. SMR 9, 10, 11 & 12, EPR 18 & 19.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	8	2	1	15
Total Europe - %	37	33	8	4	63
Lithuania					X

3.3.4 Has your country adopted laws or policies requiring that cells should not be used to accommodate more prisoners than the intended design capacity, unless justified in exceptional circumstances? SMR 9(1) & 10, EPR 18.1, 18.3, 18.4 & 18.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Lithuania	X	X			

3.3.5 Has your country adopted laws or policies requiring that cells be suitable for accommodating prisoners in respect of size, lighting, heating, ventilation and fittings? SMR 9, 10, 11, 12 & 13, EPR 18

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	16	4	0	6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	75	67	17	0	25
Lithuania	X	X			

3.3.6 Has your country adopted laws or policies requiring that all prisoners have in-cell access to a working alarm bell that attracts the attention of staff at all times? ICCPR 6(1), UDHR 3, ECHR 2, EPR 18.2.c & 52.4, IPR 18(4), *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	13	2	0	4
Total Europe - %	83	54	8	0	17
Lithuania	X	X			

Analysis

International instrument compliance

Lithuania has incorporated 3 of the 6 commitments relating to accommodation in its law. The commitment based on legally binding international instruments stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation, has not been adopted. However, further information is provided by the SPOC in his comments above.

Situation in practice

The prison population total is 9,100 at 1 January 2011. The imprisonment rate (per 100,000 based on an estimated national population of 3,31 million) at the beginning of 2011 is 276. The occupancy level based on official capacity is, according to the ICPS, 100%. This level has increased since the prison population grew over the last couple of years. The level was around 86% at January 2010, according to the same source.

With regard to conditions of detention for prisoners in general the CPT recommends that it has to be ensured that all persons who are detained at Lukiskes Prison are imprisoned in acceptable detention conditions: they should be detained in well-equipped cells that have furnishings and heating during cold weather also. All prisoners should moreover be provided with sufficient cleaning materials for their cells and have adequate quantities of essential personal hygiene products.

The Commissioner for Human Rights visited two prisons in 2006: Pravienskes Penitentiary No. 3 to the north west of Vilnius and Lukiskes Prison in the capital. He found the conditions to be correct in general. He was however concerned by the limited space in some detention cells and the bad conditions regarding isolation cells.

The Amnesty International 2010 report on Lithuania reiterates the notes of the Committee against Torture that detention conditions are poor, with overcrowding, lack of hygiene and unsuitable infrastructure.

18.3.4 Hygiene & Sanitation

This section focuses on the hygiene and sanitation facilities for prisoners. International legal instruments place a series of obligations on States in respect of hygiene and sanitation. The questions in this section are based on these obligations.

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3.4.1 Has your country adopted laws or policies to ensure that all prisoners have access to adequate and appropriate sanitary and washing facilities that respect their privacy? SMR 12 & 13, EPR 19.3, 19.4 & 19.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	2	0	10
Total Europe - %	58	58	8	0	42
Lithuania					X

3.4.2 Has your country adopted laws or policies requiring that all In-cell sanitation facilities must be adequately screened? ICCPR 10(1), SMR 12, BOP 1, BPTP 1, ECHR 3, EPR 19.3, *Peers v Greece* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	4	1	9
Total Europe - %	62	54	17	4	38
Lithuania	X	X			

Analysis

International instrument compliance

Lithuania has incorporated one of the two commitments concerning hygiene and sanitation into its national law. Comments from the SPOC indicate that sanitation provisions are being complied with in part.

Situation in practice

See 3.3 above

18.3.5 Clothing & Bedding

This section focuses on clothing and bedding provisions for prisoners. International legal instruments place a series of obligations on States in respect of the provision of clothing and bedding. The questions in this section are based on these obligations.

3.5.1 Has your country adopted laws or policies to ensure that prisoners are provided with clothing that is suitable for the climate, is not degrading or humiliating and is age appropriate? SMR 17(1), EPR 20.1 & 20.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	10	0	7
Total Europe - %	71	71	42	0	29
Lithuania					X

3.5.2 Has your country adopted laws or policies requiring each prisoner to be provided with a bed and appropriate bedding and to ensure that all bedding is in good condition, is changed regularly and laundered? SMR 19, EPR 21

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	2	0	6
Total Europe - %	75	71	8	0	25
Lithuania	X	X			

Analysis

International instrument compliance

Lithuania has incorporated one of the two commitments concerning prisoners clothing and bedding into its national law. Comments from the SPOC indicate the clothing provisions are being complied with in part.

18.3.6 Nutrition

This section focuses on the nutrition requirements of prisoners. International legal instruments place a series of obligations on States in respect of prisoner's nutrition. The questions in this section are based on these obligations.

3.6.1 Has your country adopted laws or policies to ensure that prisoners are provided with a sufficient quantity of nutritious food taking into account their health, physical condition, special dietary requirements, religion and culture? SMR 20(1), EPR 22.1 & 22.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	5	1	4
Total Europe - %	83	83	21	4	17
Lithuania					X

3.6.2 Has your country adopted laws or policies to ensure that prisoners have access to clean drinking water? SMR 20(2), EPR 22.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	16	5	1	5
Total Europe - %	79	67	21	4	21
Lithuania	X	X			

Analysis

International instrument compliance

The commitment to ensure that prisoners are provided with a sufficient quantity of nutritious food taking into account the prisoner's background, has not been adopted. However, the SPOC points out the existence of several provisions within that commitment.

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18.3.7 *Legal advice, info & rights*

This section focuses on the entitlement of prisoners to legal advice and information. International legal instruments place a series of obligations on States in respect of access to legal advice and information. The questions in this section are based on these obligations.

3.7.1 Has your country adopted laws or policies requiring that adequate time and facilities be provided to prisoners to receive professional visits from their legal advisers? BOP 18(2), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	4	1	2
Total Europe - %	92	92	17	4	8
Lithuania	X	X			

3.7.2 Has your country adopted laws or policies establishing the right of prisoners to communicate with their legal advisers by telephone and by letter? BOP 18(1), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	3	3	3
Total Europe - %	87	83	13	13	13
Lithuania					X

3.7.3 Has your country adopted laws or policies requiring that communications between a prisoner and his/her legal adviser remain confidential and can only be restricted by law or judicial authority? ICCPR 17, BOP 18(3) & (4), ECHR 8, EPR 23.4 & 23.5, *Campbell v The United Kingdom* (ECtHR 1992)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	3	1	2
Total Europe - %	92	92	13	4	8
Lithuania	X	X			

Analysis

International instrument compliance

Two out of three commitments regarding legal advice, information and rights of prisoners have been adopted, including the legally binding one requiring that communications between a prisoner and his/her legal adviser remain confidential and can only be restricted by law or judicial authority.

18.3.8 Contact with the outside world

18.3.8.1 Visits

This section focuses on the entitlement of prisoners to maintain contacts with the outside world. International legal instruments place a series of obligations on states in respect of prisoners' on-going contact with the outside world. The questions in this section are based on these obligations.

3.8.1.1 Has your country adopted laws or policies establishing the right of prisoners to communicate with their family and friends by correspondence and by receiving visits, subject to reasonable conditions/restrictions imposed by law or another authority? ICCPR 23(1), UDHR 16(3), SMR 37, BOP 15 & 19, EPR 24.1 & 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	2	0
Total Europe - %	100	96	29	8	0
Lithuania	X	X			

3.8.1.2 Has your country adopted laws or policies requiring that visits take place in an environment that enables prisoners to maintain and develop family and other relationships in as normal a manner as is possible subject to the maintenance of good order and security in the prison? SMR 79, EPR 24.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	6	0	2
Total Europe - %	92	88	25	0	8
Lithuania	X	X			

18.3.8.2 Searching of visitors

3.8.2.1 Has your country adopted laws or policies requiring that searching procedures for visitors be undertaken in a manner that respects a person's dignity? SMR 27, BOP 19, EPR 54.1.c, 54.3, 54.4 & 54.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	4	0	7
Total Europe - %	71	63	17	0	29
Lithuania					X

3.8.2.2 Has your country adopted laws or policies requiring that prison officers only be permitted to search visitors of the same gender? EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	9	1	0	12
Total Europe - %	50	38	4	0	50
Lithuania					X

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18.3.8.3 *Restrictions on visits*

3.8.3.1 Has your country adopted laws or policies requiring the authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party(ies) and to review these circumstances on a regular basis? SMR 27, 79 & 80, EPR 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	0	0	63
Lithuania					X

3.8.3.2 Has your country adopted laws or policies preventing the withdrawal of contact for female prisoners with their children as a disciplinary action except in exceptional circumstances? SMR 27, 79 & 80, EPR 24.2 & 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	2	0	12
Total Europe - %	50	50	8	0	50
Lithuania	X	X			

18.3.8.4 *Death, illness & transfer*

3.8.4.1 Has your country adopted laws or policies requiring that prisoners be informed of the death/serious illness of a close relative/ friend without delay? SMR 44(2), EPR 24.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	2	0	13
Total Europe - %	46	42	8	0	54
Lithuania	X	X			

3.8.4.2 Has your country adopted laws or policies allowing a prisoner to leave the prison to visit a sick relative/friend, attend a funeral or for other humanitarian reasons? SMR 44(2), EPR 24.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Lithuania	X	X			

3.8.4.3 Has your country adopted laws or policies ensuring that prisoners are allowed to inform their families or other nominated persons without delay of their imprisonment, transfer to another institution or of any serious illness that they may suffer from? SMR 44(1) & (3), BOP 16(1), EPR 24.8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Lithuania					X

3.8.4.4 Has your country adopted laws or policies requiring the prison authorities to immediately inform the spouse or the nearest relative to the prisoner (or any other person previously nominated), if the prisoner dies in custody, is removed to a hospital or suffers a serious injury/illness? SMR 44(1), EPR 24.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	3	0	6
Total Europe - %	75	75	13	0	25
Lithuania					X

18.3.8.5 Telephone and letters

3.8.5.1 Has your country adopted laws or policies preventing the monitoring or censoring of telephone calls unless the prisoner or the recipient of the call is informed of the possibility of such monitoring or, such monitoring has been agreed by any lawful authority? ICCPR 17, UDHR 12, SMR 37, BOP 19, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	3	1	5
Total Europe - %	79	79	13	4	21
Lithuania	X	X			

3.8.5.2 Has your country adopted laws or policies permitting prisoners to send a minimum of 7 letters a week free of charge and more if he/she can afford it, and to receive as many letters as are sent to him/her? SMR 37, BOP 19, EPR 24.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	11	1	0	12
Total Europe - %	50	46	4	0	50
Lithuania	X	X			

3.8.5.3 Has your country adopted laws or policies preventing the prison authorities from opening prisoners' private correspondence subject to the maintenance of good order and safe and secure custody in the prison? ICCPR 17, UDHR 12, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	1	9
Total Europe - %	62	62	13	4	38
Lithuania					X

18.3.8.6 Media

3.8.6.1 Has your country adopted laws or policies entitling prisoners to be kept informed of current affairs and other developments outside the prison by reading newspapers and

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periodicals and by listening to radio or television broadcasts (subject to the maintenance of good order and safe and secure custody)? SMR 39, BOP 28, EPR 24.10

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	1	1
Total Europe - %	96	92	21	4	4
Lithuania	X	X			

Analysis

International instrument compliance

8 of the 14 commitments relating to prisoner's contact to the outside world have been incorporated. These include the legally binding commitments relating to prisoners' rights to maintain contact with family and friends by means of visits or letters and the circumstances in which prisoners' telephone and written correspondence can be legitimately monitored. The commitment based on legally binding international instruments preventing the prison authorities from opening prisoners' private correspondence. Provisions relating to the searching of prisoners have not, however, been incorporated.

Situation in practice

The delegation of the Commissioner that visited Lithuania heard from several national NGO's that there is a problem regards the censorship of the prisoners' correspondence and notes that the European Court of Human Rights found a violation of art. 8 ECHR (*Karalevičius v. Lithuania*). Although the national legislation does prohibit such a censorship, it appears from this case (and other case law; see in this respect Morgenstern in the EU-study on the law and practice of pre-trial detention (2009) in the report on Lithuania) that there is a gap between law in the books and in reality.

The delegation concludes by noting that 'the right to private life in Lithuania imposes on the authorities of this country the obligation to ensure in practice that its officials respect the prohibition of censorship in the daily life of Lithuanian prisoners'.

18.3.9 Work

This section focuses on work in prison. International legal instruments place a series of obligations on States in respect of work in prison. The questions in this section are based on these obligations.

3.9.1 Has your country adopted laws or policies requiring work to be incorporated as a positive aspect of prison regimes and prohibiting its use as a form of punishment? SMR 71(1), EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Lithuania					X

3.9.2 Has your country adopted laws or policies requiring that prison work provided should prepare prisoners for worthwhile work on their release and facilitate their reintegration into the workforce? SMR 71(3) & (4), BPTP 8, EPR 26.3 & 26.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	18	7	0	4
Total Europe - %	83	75	29	0	17
Lithuania	X	X			

3.9.3 Has your country adopted laws or policies entitling prisoners to be remunerated in respect of prison work carried out? ICESCR 7(a), UDHR 23, SMR 76(1), BPTP 8, EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	1	1
Total Europe - %	96	92	13	4	4
Lithuania	X	X			

Analysis

International instrument compliance

Two out of the three commitments relating to prison work arising from international legal instruments have been incorporated into Lithuanian law including the legally binding commitment entitling prisoners to be remunerated for work undertaken.

Situation in practice

According to the CPT steps should be taken to ensure that all sentenced prisoners in Pravieniškės-2 Correction Home No. 3, including those in the arrest section, are able to spend a reasonable part of the day outside their cells. Moreover, they should be enabled to engaged in purposeful activities of a varied nature (work, preferably with vocational value, education, sport and recreation), including group association activities.

18.3.10 Exercise & recreation

This section focuses on facilities for exercise and recreation in prison. International legal instruments place a series of obligations on States in respect of exercise and recreational facilities. The questions in this section are based on these obligations.

3.10.1 Has your country adopted laws or policies ensuring that, subject to the constraints of the particular prison and the maintenance of good order and security, prisoners shall be entitled to spend as much time out of their cells as is possible? EPR 25(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Lithuania	X	X			

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3.10.2 Has your country adopted laws or policies ensuring that prisoners receive at least one hours exercise each day in the open air, weather permitting? SMR 21, EPR 27.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	2	1
Total Europe - %	96	92	21	8	4
Lithuania	X	X			

3.10.3 Has your country adopted laws or policies ensuring that prisoners shall have access to a well-stocked library at least once a week (subject to the maintenance of good order and safe and secure custody)? R(89)12: 10, EPR 28.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	13	0	0	11
Total Europe - %	54	54	0	0	46
Lithuania					X

Analysis

International instrument compliance

All commitments relating to exercise and recreation have been incorporated into Lithuanian law except the provision regarding weekly access to a library.

Situation in practice

See 3.9 above.

18.3.11 Education

This section focuses on facilities for education in prison. International legal instruments place a series of obligations on States in respect of prison education facilities. The questions in this section are based on these obligations.

3.11.1 Has your country adopted laws or policies requiring, as far as practicable, that prisoners have access to educational programmes that can meet their individual needs? ICESCR 13, UDHR 26, SMR 77(1), BPTP 6, R(89)12: 1, EPR 28.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	5	1	1
Total Europe - %	96	96	21	4	4
Lithuania	X	X			

3.11.2 Has your country adopted laws or policies requiring that education provided in prisons shall be integrated, in so far as is practicable, with national educational systems/programmes enabling prisoners to continue their education following their release? SMR 77(2), R(89)12: 16, EPR 28.7.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	5	0	3
Total Europe - %	87	75	21	0	13
Lithuania	X	X			

3.11.3 Has your country adopted laws or policies requiring that vocational training be available for those prisoners who are able to benefit from it, particularly young prisoners? SMR 71(5), BPTP 8, R(89)12: 9, EPR 26.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	20	5	0	2
Total Europe - %	92	83	21	0	8
Lithuania	X	X			

Analysis

International instrument compliance

All commitments relating to education have been incorporated into Lithuanian law including the legally binding commitment regarding access to education as set out in question 3.11.1.

18.3.12 Freedom of thought, conscience & religion

3.12.1 Has your country adopted laws or policies ensuring that prisoners have the opportunity to practice their religion and to follow their beliefs whilst in custody? ICCPR 18(1), CERD 5 (d) (vii), UDHR 18, SMR 42, BPTP 3, EPR 29.1 & 29.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	5	0	0
Total Europe - %	100	96	21	0	0
Lithuania	X	X			

Analysis

International instrument compliance

In common with all the other EU Member States, Lithuania has passed legislation to protect the freedom of thought, conscience and religion of its prisoners.

18.4 Health

18.4.1 Core principles

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

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4.1.1 Has your country adopted laws or policies requiring that primary healthcare services to meet the needs of all prisoners be provided in each prison to a standard equivalent to that available to the community in general? ICESCR 12(1), SMR 22(1), PME 1, R(98)7: 10, 11, 12 & 19, EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	6	0	1
Total Europe - %	96	92	25	0	4
Lithuania	X	X			

4.1.2 Has your country adopted laws or policies to ensure that where a sick prisoner requires treatment that cannot be provided by the medical staff in the prison he/she shall be transferred to an appropriate hospital without undue delay? SMR 22(2), BPTP 9, R(98)7: 3, EPR 46.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	3	1	2
Total Europe - %	92	88	13	4	8
Lithuania	X	X			

4.1.3 Has your country adopted laws or policies requiring that medical records be created and accurately maintained on all prisoners and that such records be treated as confidential? BOP 26, R(98)7: 13, EPR 42.3.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	5	0	3
Total Europe - %	87	83	21	0	13
Lithuania					X

Analysis

International instrument compliance

Two of the three commitments relating to the core principles of prison health care have been incorporated into Lithuanian law including the legally binding commitment regarding the need to ensure that prisoners have access to health care of an equivalent standard to that available in the community in general.

Situation in practice

The CPT recommends at Kaunas Juvenile Remand Prison and Correction Home (and, where appropriate, in other prison establishments in Lithuania), steps to be taken to ensure that prison officers do not filter prisoners' requests to see medical staff and that prisoners who wish to do so are able to contact health-care staff directly, without going through prison officers. Moreover, the CPT mentions that steps be taken to ensure that, at Lukiškės and Kaunas (and, where appropriate, in other prison establishments in Lithuania), medical consultations/examinations of prisoners are conducted out of the hearing and – unless the doctor concerned specifically requests otherwise in a particular case – out of the sight of non-medical staff. Furthermore, the

CPT noted that the equipment (in particular, the X-ray machines) should be replaced as soon as possible at Lukiškės Remand Prison and Pravieniškės-2 Correction Home No. 3.

18.4.2 *Women and children*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations

4.2.1 Has your country adopted laws or policies to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor? CEDAW 12, SMR 23, BOP 5(2), R(98)7: 8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	7	3	0	17
Total Europe - %	29	29	13	0	71
Lithuania					X

4.2.2 Has your country adopted laws or policies requiring that appropriate care be afforded to all pregnant prisoners and nursing mothers? CEDAW 12(2), SMR 23, R(98)7: 8 & 69, EPR 34.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Lithuania	X	X			

Analysis

International instrument compliance

The legally binding commitment to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor, has not been incorporated.

18.4.3 *Mental health care*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.3.1 Has your country adopted laws or policies requiring that prisoners with mental health difficulties be entitled to care appropriate to their circumstances, commensurate to the type of care available for people with similar mental health difficulties in the community? SMR 22(1), PPPMI 1 & 20, R(98)7:10, 11 & 52, R(2004)10: 35(1) & (2), EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	4	0	3
Total Europe - %	87	79	17	0	13
Lithuania					X

4.3.2 Has your country adopted laws or policies to ensure that prisoners who require psychiatric in-patient care are transferred to a suitable hospital facility of an appropriate security level without undue delay? SMR 22(2), PPPMI 9(1) & 20, R(98)7: 3 & 55, R(2004)10: 8, 9(1) & 35(1), EPR 12(1) & 46(1)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	3	0	6
Total Europe - %	75	71	13	0	25
Lithuania	X	X			

Analysis

International instrument compliance

One of the two commitments regarding mental health care is incorporated in Lithuanian law.

Situation in practice

CPT recommends that the necessary steps be taken to fill the vacant psychiatrist's post at Kaunas Juvenile Remand Prison and Correction Home.

18.4.4 Vulnerable prisoners

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.4.1 Has your country adopted laws or policies requiring that prisoners assessed as vulnerable be accommodated in areas of the prison which are most convenient and appropriate for their monitoring and treatment by the medical personnel and other relevant agencies? SMR 22(2) & 62, EPR 12.2, 39, 43.1, 46.2, 47.1 & 47.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	3	0	8
Total Europe - %	67	63	13	0	33
Lithuania					X

4.4.2 Has your country adopted laws or policies requiring that prisoners assessed as being at risk of suicide/self-harm be continuously monitored by both medical and prison staff throughout the prisoner's time in custody and that records are kept of such monitoring? R(98)7: 58, EPR 47(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	5	0	14
Total Europe - %	42	29	21	0	58
Lithuania					X

4.4.3 Has your country adopted laws or policies requiring that prisoners detained in a special cell be visited daily, and as frequently as is necessary by a doctor who shall, inter alia, monitor his/ her physical and mental health? SMR 25(1) & 32(3), R(98)7: 66, EPR 43.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Lithuania					X

Analysis

International instrument compliance

Neither of the three commitments relating to vulnerable prisoners have been adopted.

18.4.5 *Medical & health care personnel*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.5.1 Has your country adopted laws or policies to ensure that every prisoner has access to appropriately qualified medical personnel in the prison at all times? SMR 24, BOP 24, R(98)7:1, 2 & 4, EPR 41.2 & 41.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Lithuania	X	X			

Analysis

International instrument compliance

In common with the majority of the other EU Member States, Lithuania has adopted the commitment ensuring that every prisoner has access to appropriately qualified medical staff in prison.

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18.4.6 Prisoners with addiction problems

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.6.1 Has your country adopted laws or policies to ensure that prisoners with addiction problems have access to appropriate treatment and support services, including those from external agencies? SMR 62, R(98)7: 7, 43, 44, 45, 46 & 47, EPR 42.3.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	8	0	3
Total Europe - %	88	79	33	0	13
Lithuania	X	X			

Analysis

International instrument compliance

Lithuania has adopted a commitment relating to prisoners with addiction problems. See further comments of the SPOC above.

Situation in practice

The CPT indicates that the approach taken to the prevention of drug abuse and the management of drug-addicted prisoners should to be reviewed

18.4.7 Hunger strikes

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.7.1 Has your country adopted laws or policies forbidding the practice of forced feeding of hunger strikers? DOMHS, R(98)7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	37	21	21	0	63
Lithuania	X	X			

Analysis

International instrument compliance

Lithuania has incorporated in its national law, a commitment that forbids the forced feeding of hunger strikers.

18.5 Good order

18.5.1 General approaches

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.1.1 Has your country adopted laws or policies requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody? R(82)17: 8, EPR 51.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	0	9
Total Europe - %	62	62	13	0	38
Lithuania					X

Analysis

International instrument compliance

This commitment has not been incorporated into Lithuanian law

18.5.2 Safety & Security

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.2.1 Has your country adopted laws or policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat? EPR 51.5, 53.1 & 53.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	63	63	17	0	37
Lithuania					X

Analysis

International instrument compliance

The commitment relating to the placement of prisoners on protection has not been incorporated.

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18.5.3 Searching of prisoners

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.3.1 Has your country adopted laws or policies requiring that searches conducted on prisoners be carried out with due regard to the prisoner's dignity? ICCPR 10(1), BPTP 1, EPR 54.3 & 54.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	0	1
Total Europe - %	96	92	13	0	4
Lithuania	X	X			

5.3.2 Has your country adopted laws or policies stipulating that prisoners may only be searched by a staff member of the same gender? ICCPR 10(1), BPTP 1, EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	1	0	1
Total Europe - %	96	92	4	0	4
Lithuania	X	X			

5.3.3 Has your country adopted laws or policies stipulating that prisoners may only be subjected to a strip search in exceptional circumstances and for good reason and then, only in the presence of two officers in an appropriate place which ensures privacy? ICCPR 10(1), BPTP 1, EPR 54. 3, 54.4 & 54.6, *Van der Van v The Netherlands* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	3	1	13
Total Europe - %	66	54	13	4	54
Lithuania					X

Analysis

International instrument compliance

Two of the three legally binding commitments relating to the searching of prisoners have been adopted. The omission pertains to the strict legal circumstances in which a strip search must take place.

18.5.4 Criminal acts, discipline & punishment

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

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5.4.1 Has your country adopted laws or policies stipulating that all inquiries into breach of prison discipline or rules shall be conducted in an independent and impartial manner? ICCPR 14(1), UDHR 10, ECHR 6(1), *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	2	1	8
Total Europe - %	67	63	8	4	33
Lithuania	X	X			

5.4.2 Has your country adopted laws or policies requiring that all incidents of bullying/violence/threatening behaviour between prisoners, and any breach of discipline be reported to an officer of a higher rank, duly recorded and properly investigated? EPR 52.2 & 58

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	62	62	17	0	38
Lithuania					X

5.4.3 Has your country adopted laws or policies stipulating that when a prisoner has been charged with a disciplinary offence he/she shall be promptly informed of the allegation made against him/her in a language that he/she understands? ICCPR 14(3)(a), CERD 5(a), SMR 30(2), ECHR 6(3)(a), EPR 59.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	3	0	7
Total Europe - %	71	71	13	0	29
Lithuania					X

5.4.4 Has your country adopted laws or policies stipulating if an inquiry is being conducted into a breach of prison discipline or rules the prisoner shall have adequate time to prepare his/her defence and/or to receive legal assistance? ICCPR 14(3)(b) & (d), SMR 30(2), ECHR 6(3)(b) & (c), EPR 59.b & 59.c, *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	2	0	9
Total Europe - %	62	58	8	0	38
Lithuania					X

5.4.5 Has your country adopted laws or policies stipulating that in any disciplinary proceedings prisoners must understand the proceedings and if necessary, appropriate interpretation facilities must be provided? ICCPR 14(3)(f), SMR 30(3), ECHR 6(3)(e), EPR 59.e

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Lithuania					X

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5.4.6 Has your country adopted laws or policies stipulating that no prison officer shall impose a punishment/penalty/deprivation on a prisoner without due process and in accordance with law and/or relevant rules or instruments? EPR 57.2.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	2	0	4
Total Europe - %	83	83	8	0	17
Lithuania	X	X			

5.4.7 Has your country adopted laws or policies stipulating that if a prisoner is found guilty of a disciplinary offence, he/she shall be entitled to exercise his/her right of appeal to an independent and impartial tribunal established by law? ICCPR 14(5), BOP 30(2), EPR 61

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	1	0	5
Total Europe - %	79	79	4	0	21
Lithuania	X	X			

5.4.8 Has your country adopted laws or policies requiring that when a prisoner is detained in any type of special cell (special observation/cladded/strip) he/she shall be regularly monitored by a prison officer? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	3	0	7
Total Europe - %	71	67	13	0	29
Lithuania	X	X			

5.4.9 Has your country adopted laws or policies requiring that a detailed record be maintained of, inter alia, the monitoring of such prisoners, their expressed requirements, actions taken in response to such requests and details of visits by officers or others to such prisoners? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	8	8	2	0	16
Total Europe - %	33	33	8	0	67
Lithuania	X	X			

5.4.10 Has your country adopted laws or policies to ensure that prisoners in a special cell are able to contact a member of staff at all times, including during the night and that a staff member shall respond without delay? ICCPR 6(1), EPR 18.2.c & 52.4, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	4	0	63
Lithuania					X

Analysis

International instrument compliance

Lithuania has adopted four of the ten commitments arising from international legal instruments which relate to prison disciplinary procedures. This includes the legally binding commitments relating to the monitoring of prisoners in special cells and the commitment stipulating that if a prisoner is found guilty of a disciplinary offence, he/she shall be entitled to exercise his/her right of appeal to an independent and impartial tribunal established by law.

Situation in practice

The problem of inter prisoner-violence should be addressed as soon as possible. At Pravieniškės-2, the CPT found vulnerable prisoners to be subject to a disciplinary regime. This practice should be stopped immediately.

Furthermore it is necessary to take steps to ensure that, throughout the prison system, investigations into possible ill-treatment by prison staff are no longer conducted by members of staff from the establishment concerned. Such investigations should be conducted by a body independent of the establishments concerned and, preferably, of the prison authorities.

18.5.5 Use of force/weapons

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.5.1 Has your country adopted laws or policies stipulating that members of staff will use force only when absolutely necessary and that any force used shall be proportionate to the situation? SMR 54(1), CCLEO 3, BPUF 4, EPR 64 & 6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	4	1	3
Total Europe - %	87	87	17	4	13
Lithuania	X	X			

Analysis

International instrument compliance

In common with the majority of other EU Member States, Lithuania has adopted a law relating to the use of force and weapons.

Situation in practice

The CPT points out to the Lithuanian authorities to draw to the attention of prison officers in Pravieniškės-2 Correction Home No. 3 that the force used to control violent and/or recalcitrant prisoners should be no more than is strictly necessary and that, once prisoners have been brought under control, there can be no justification for striking them; (...) to deliver the clear message to all prison staff (prison officers and senior management) at Lukiškės Remand Prison,

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Pravieniškės-2 Correction Home No. 3 and Kaunas Juvenile Remand Prison and Correction Home that all forms of ill-treatment of prisoners (including verbal abuse) are unacceptable and will be dealt with severely.

18.5.6 Requests & complaints

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.6.1 Has your country adopted laws or policies to ensure that prisoners have sufficient opportunity to make requests or complaints to the Governor of the prison or to any other competent authority? SMR 36(1) & (3), BOP 33(1), EPR 70.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	3	0	1
Total Europe - %	96	96	13	0	4
Lithuania	X	X			

5.6.2 Has your country adopted laws or policies establishing the right of a prisoner's legal advisor or to make a request or a complaint regarding that prisoner's treatment to the prison authorities, or other relevant authorities? BOP 33 (1) & (2), EPR 70.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	1	0	6
Total Europe - %	75	75	4	0	25
Lithuania					X

5.6.3 Has your country adopted laws or policies requiring that all complaints be promptly investigated in accordance with law? SMR 36(4), BOP 33(4)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	2	0	7
Total Europe - %	71	67	8	0	29
Lithuania	X	X			

5.6.4 Has your country adopted laws or policies to ensure that where a request is denied or a complaint is rejected, the prisoner is informed promptly as to the reason(s) for such denial or rejection? SMR 36(4), BOP 33(4), EPR 70.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	2	1	7
Total Europe - %	71	63	8	4	29
Lithuania					X

5.6.5 Has your country adopted laws or policies to ensure that prisoners are not disadvantaged for exercising their rights to make requests or complaints? BOP 33(4), EPR 70.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	3	0	13
Total Europe - %	46	42	13	0	54
Lithuania	X	X			

5.6.6 Has your country adopted laws or policies requiring that complaints made by members of staff against other members of staff be properly recorded and investigated in accordance with the law? EPR 88 & 87.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	11	3	0	11
Total Europe - %	54	46	13	0	46
Lithuania					X

Analysis

International instrument compliance

Lithuania has adopted three of the six commitments relating to prison requests and complaints. Omissions are the obligation to investigate complaints made by members of staff against other members of staff in accordance with the law, the right of a prisoner's legal advisor to make a request or a complaint regarding that prisoner's treatment to the prison authorities and non-discrimination protection to be afforded to prisoners who complain

18.6 Management & Staff

18.6.1 *Training of staff*

This section focuses on the staff training and prison management. International legal instruments place a series of obligations on States in respect of the training and management of prison staff. The questions in this section are based on these obligations.

6.1.1 Has your country adopted laws or policies to ensure that all prison staff receive appropriate training at regular intervals throughout their career? SMR 47(3), EPR 8, 76 & 81.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	14	7	0	5
Total Europe - %	79	58	29	0	21
Lithuania	X	X			

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6.1.2 Has your country adopted laws or policies to ensure that members of staff who work with particular groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, receive training particular to their individual work? R(82)17: 10, R(2004)10: 12(1), EPR 81.3, ERJO 129

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	38	21	21	0	62
Lithuania					X

Analysis

International instrument compliance

The commitment regarding specialist training for staff has not been incorporated

Situation in practice

The CPT recommends “the Lithuanian authorities to pursue their efforts to fill all the vacant prison officers’ posts in prison establishments; (...) to accord a high priority to both the initial and ongoing training of prison staff (of all grades). In this context, steps should be taken to increase the length of initial training and enhance training (initial and in-service) relating to the acquisition and development of skills for establishing relations with prisoners. Further, staff required to work in establishments for juveniles should receive special training for dealing with persons of this age”. All Lithuanian prisons should have adequate levels of properly trained staff.

18.7 Inspection & Monitoring

18.7.1 Governmental Inspection

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.1.1 Has your country adopted laws or policies requiring that prisons be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law? SMR 55, EPR 92, R(2004)10 36.1, ERJO 125, PPPMI 22

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	19	4	0	4
Total Europe - %	83	79	17	0	17
Lithuania	X	X			

Analysis

International instrument compliance

Commitment relating to governmental monitoring has been incorporated. See additional comments of the SPOC above.

18.7.2 Independent monitoring

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.2.1 Has your country adopted laws or policies requiring that the conditions of detention and the treatment of prisoners shall be also monitored by an independent body or bodies, comprised of qualified experienced personnel, and whose findings shall be made public? OPCAT 3, 17, 18, 19, BOP 29.1, EPR 93.1, R(2004)10 36.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Lithuania					X

7.2.2 Has your country adopted laws or policies granting such an independent body open access to places of detention, to prisoners and others whom it wishes to interview? OPCAT 19, 20, CPT 8,9 BOP 29.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	3	1	9
Total Europe - %	62	58	13	4	38
Lithuania					X

7.2.3 Has your country adopted laws or policies encouraging such independent bodies to cooperate with those international agencies that are legally entitled to visit prisons? CPT 2,7 EPR 93.2, ERJO 126.

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	6	1	0	17
Total Europe - %	29	25	4	0	71
Lithuania					X

Analysis

International instrument compliance

None of the commitments relating to independent monitoring have been adopted, two of which are based on legally binding international instruments

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Situation in practice

From the follow-up visit of the Commissioner for Human Rights (in 2006) we learn that the Lithuanian parliament Ombudsmen (Seimas) have the right to visit detention places 24/7, to meet prisoners without obstructions, to have access to all necessary document and to interview officials.

18.8 Sentenced Prisoners

This section focuses on the particular provisions relating to convicted prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

8.1.1 Has your country adopted laws or policies requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan? ICCPR 10(3), SMR 80, EPR 6, 103.2 & 103.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	6	2	4
Total Europe - %	83	83	25	8	17
Lithuania	X	X			

8.1.2 Has your country adopted laws or policies requiring that a sentence management plan be prepared for each prisoner serving a sentence of 12 months or over as soon as practicable after their admission? It should provide for, inter alia, the welfare and health needs of the prisoner, training, employment or education needs he/she may have, and include a release plan for the prisoner. This plan shall be reviewed at regular intervals to take into account the changing circumstances of the prisoner. SMR 65, 66 & 69, R(2003)23: 3 & 9, EPR 6, 103 & 104.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	5	0	10
Total Europe - %	58	54	21	0	42
Lithuania					X

Analysis

International instrument compliance

Lithuania has complied with one of the two commitments relating to the sentence objective.

Situation in practice

Especially regards detention conditions of life sentenced prisoners the CPT mentioned and recommends that: "the Lithuanian authorities to pursue their efforts to develop the regime applicable to life-sentenced prisoners, taking account of Recommendation Rec(2003)23 of the Committee of Ministers of the Council of Europe on the management by prison administrations of life sentence and other long-term prisoners. The relevant legislation should be amended accordingly

18.9 Juveniles

This section focuses on the particular provisions relating to juvenile prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

9.1.1 Has your country adopted laws or policies requiring that juveniles be detained separately from adult offenders? ICCPR 10(3), CRC 37(c), BR 26.3, RPJDL 29, EPR 11.1, ERJO 59.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	1	3
Total Europe - %	87	87	13	4	13
Lithuania	X	X			

9.1.2 Has your country adopted laws or policies to ensure that, subject to reasonable conditions and restrictions, a sentenced prisoner under the age of 18 shall be entitled to receive a minimum of two weekly visits? CRC 37(c), SMR 37, BOP 19, RPJDL 60, ERJO 83, 84, 85.1 & 85.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	6	3	0	15
Total Europe - %	37	25	13	0	63
Lithuania					X

Analysis

International instrument compliance

The commitment ensuring a minimum of two weekly visits for juveniles has not been incorporated.

18.10 Sentence Execution Modalities

This section of the questionnaire is designed to collate information on the differing methods by which custodial sentences and measures involving deprivation of liberty are enforced across EU Member States.

10.1.1. Which of the following modalities of prison sentence execution are provided for in the law of your country?

	Weekend detention	Evening detention	Daytime detention	Home detention	
				no electronic monitoring	electronic monitoring
EUROPE	9 = 38%	10 = 42%	3 = 13%	6 = 25%	14 = 58%
Lithuania	X			X	

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10.1.2. What is the maximum period for which home detention with electronic monitoring can be imposed?

	Under 12 months	12-24 months	25 months - 36 months	37 months - 50 months	More than 50 months
EUROPE	7 = 29%	4 = 17%	0=0%	1 = 4%	2 = 8 %
Lithuania					

10.2.1. In which of the following locations can custodial sentences or measures in-volving deprivation of liberty be imposed?

	Penitentiary institution	Psychiatric institution	Detoxification institution	Educational institution	Home
EUROPE	24 = 100%	20 = 83%	10 = 42%	7 = 29%	12 = 50%
Lithuania	X				X

Analysis

Sentence execution modalities

In Lithuania, the available additional sentence execution modalities are weekend detention and home detention without electronic monitoring. Custodial sentences or measures involving deprivation of liberty can be imposed in relation to penitentiary institutions, arrest houses and at home.

18.11 Early release from prison, earned remission and suspension of sentence

18.11.1 Early release

Early release means the release of the offender before their prison term is finished. It is possible only while the sentence is still being served. Early release does not include the suspended enforcement of a penalty which is dealt with later in this questionnaire.

11.1.2.1. Has your country adopted laws and regulations under which prisoners are entitled to early release from prison ?

	Yes	No
EUROPE	24 = 100%	0 = 0%
Lithuania	X	

11.1.2.2. At what point in a prisoner's sentence do they become eligible for early release?

	One third of sentence or less	One third to one half of a sentence	One half to three quarters of a sentence	More than three quarters of a sentence	Other

	One third of sentence or less	One third to one half of a sentence	One half to three quarters of a sentence	More than three quarters of a sentence	Other
EUROPE	2 = 8%	1 = 4%	7 = 29%	0 = 0%	14 = 58%
Lithuania					X

11.1.2.2. Does your country have different regulations for the early release of prisoners based on:

	A prisoner's nationality (non-EU citizen)	A prisoner's nationality (EU citizen)	The length of sentence imposed
EUROPE	Yes - 3 = 12% No - 21 = 88%	Yes - 3 = 12% No - 21 = 88%	Yes - 24 = 100% No - 0 = 0%
Lithuania	N	N	Y

11.1.2.3. Are provisions governing the early release of prisoners automatic or discretionary?

	Automatic (prisoners are automatically released at a certain point in their sentence)	Discretionary (prisoners are only released following assessment)
EUROPE	Yes - 7 = 29% No - 17 = 71%	Yes - 20 = 83% No - 4 = 17%
Lithuania	N	Y

11.1.2.4. What factors are taken into consideration when deciding whether a prisoner will be granted early release?

	The circumstances surrounding the crime	Prior criminal record	The offender's progress during imprisonment	Assessment as to whether the prisoner is likely to reoffend	Recommendation from the sentencing judge
EUROPE	Yes - 24 = 50% No - 24 = 50%	Yes - 15 = 63% No - 9 = 37%	Yes - 22 = 92% No - 2 = 8%	Yes - 19 = 79% No - 5 = 21%	Yes - 4 = 17% No - 20 = 83%
Lithuania	N	Y	Y	Y	N

11.1.3.1. What forms of monitoring and conditions can be applied to prisoners' early release?

1. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
2. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
4. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)

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5. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
6. Electronic monitoring
7. Weekend/evening /daytime detention
8. Requirement containing limitations on leaving the country
9. Requirement to leave the country
10. Requirement to pay compensation
11. Requirement to undertake community service
12. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	Other
EUROPE	Y - 83 N - 17	Y - 8 N - 92	Y - 58 N - 42	Y - 62 N - 38	Y - 33 N - 77	Y - 25 N - 75	Y - 13 N - 87	Y - 42 N - 58	Y - 21 N - 79	Y - 29 N - 71	Y - 21 N - 79	9
Lithuania	Y	N	N	N	Y	N	N	Y	N	N	N	X

18.11.2 Sentence reduction as a result of prison work

11.2.1.1. Can a prisoner earn remission on their sentence as a result of work carried out in prison?

	Yes	No
EUROPE	9= 38%	15 – 62%
Lithuania	X	

18.11.3 Suspension of sentence enforcement

11.3.1. Does the national law of your country make provision for the further execution of a prison sentence to be suspended during the course of the sentence?

	Yes	No
EUROPE	10=42%	14= 58%
Lithuania	X	

11.3.2.1. What factors are taken into consideration when deciding whether a prisoner will have the further execution of their prison sentence suspended?

1. The circumstances surrounding the crime
2. Prior criminal record
3. The offender's progress during imprisonment
4. Assessment as to whether the prisoner is likely to reoffend
5. Recommendation from the sentencing judge
6. Suitability of home circumstances
7. Information from victim(s)
8. Willingness of the prisoner to leave the country upon release
9. The prisoner will be deported upon release
10. Other – please specify

	1	2	3	4	5	6	7	8	9	Other
EUROPE	Y - 8 N - 92	Y - 13 N - 78	Y - 17 N - 83	Y - 21 N - 79	Y - 0 N - 100	Y - 4 N - 96	Y - 0 N - 100	Y - 0 N - 100	Y - 0 N - 100	21
Lithuania	N	Y	Y	Y	N	N	N	N	N	

11.3.3.1. What forms of monitoring and conditions can be applied to prisoners whose further execution of a prison sentence has been suspended?

1. Unconditional supervision
2. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
4. Compulsory therapeutic interventions (*e.g.* drug/alcohol counselling, anger management courses etc.)
5. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
6. Compulsory access and contact restrictions (*e.g.* an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
7. Electronic monitoring
8. Weekend/evening /daytime detention
9. Requirement containing limitations on leaving the country
10. Requirement to leave the country
11. Requirement to pay compensation
12. Requirement to undertake community service
13. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	12	Other
EUROPE	Y - 4 N - 96	Y - 38 N - 62	Y - 4 N - 96	Y - 29 N - 71	Y - 17 N - 83	Y - 17 N - 83	Y - 4 N - 96	Y - 4 N - 96	Y - 21 N - 79	Y - 0 N - 100	Y - 17 N - 83	Y - 4 N - 96	2
Lithuania	N	Y	N	Y	Y	Y	N	N	Y	N	Y	N	

Analysis

Early release from prison, earned remission and suspension of sentence

In common with all EU countries, Lithuania has adopted measures under which prisoners are entitled to early release from prison. Prisoners become eligible for early release after one third to three quarters of their sentence depending on the length of sentence imposed. The Lithuanian early release system is based on discretionary provisions. Decisions on a prisoner's early release are based on four of the ten criteria identified. Once a prisoner is granted early release, four different forms of monitoring or conditions can be attached. No possibility exists in Lithuanian

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law for prisoners to be granted remission as a result of work carried out in prison. Provisions are made for the further execution of a prison sentence to be suspended during the course of the sentence. Four of the ten factors identified, are taken into consideration when deciding on suspension on a prisoner's further execution of a prison sentence. In case of suspension, seven out of thirteen forms of monitoring and conditions can be applied.

In general probation plays a role in supervising conditions. The Commissioner of Human Rights' delegation discovered (in 2006) that Lithuanian authorities are further developing a probation system in order to make sure that alternatives to imprisonment could be applied. This could also be a positive development with regard to the role that probation plays with regard to supervising conditions.

Appendix

1. Administrative Case No. A63/429/2009
2. Code of execution of penalties of the Republic of Lithuania
3. Constitution of the Republic of Lithuania
4. Criminal Code of Lithuania
5. Description of order of granting of long lasting meetings with cohabitants
6. Description of order of work of psychological services operating in places of deprivation of liberty
7. Description of structure, number of staff and order of work of the services of health supervision working in prisons
8. Instruction of securing and supervision of places of deprivation of liberty
9. Internal rules of arrest houses
10. Internal rules of pre-trial isolators
11. Internal rules of the penitentiary institutions (1)
12. Internal rules of the penitentiary institutions (2)
13. Lithuanian Norm of Hygiene HN.24.2003. Requirements of safety and quality of drinking water
14. Lithuanian Norm of Hygiene HN.76.2010
15. Lithuanian Norm of Hygiene HN.76.1999
16. On organization of general education and career education of persons on pre-trial detention and persons serving sentences of deprivation of liberty
17. Order of treatment of the sentenced persons with addictive disorders in the places of deprivation of liberty
18. Statute of the Ministry of Justice of the Republic of Lithuania
19. Statute of the Service in the Department of Prisons
20. The Constitution of the Republic of Lithuania came into force on 2 November 1992
21. The Law of the Republic of Lithuania on Advocacy
22. The Law of the republic of Lithuania on Execution of Pre-Trial Detention (1)
23. The Law of the Republic of Lithuania on Execution of Pre-Trial Detention (2)
24. The Law of the Republic of Lithuania on State-guaranteed Legal Aid
25. The Law of the Republic of Lithuania on the State Control
26. The Penal Procedure Code of the Republic of Lithuania
27. The Law of Ombudsman of the Seimas
28. The Law on Public Administration

19 Malta

19.1 Introduction

The questionnaire was completed by Dr. Sandra Scicluna, lecturer at the Institute of Forensic Studies, University of Malta.

Malta has been visited twice by the Committee for the Prevention of Torture in the last five years (2005 and 2008) and was the subject of a report from the European Commissioner for Human Rights in 2006. The 2005 CPT report focuses solely on issues relating to the treatment of irregular migrants held in administrative detention and thus falls outwith the scope of this study. Additional information was sourced from the 2009 UNHCR Country Report on Human Rights Practices for Malta (drawing on source material provided by the US Department of State), the International Centre for Prison Studies and the visit of the Commissioner for Human Rights to Malta in 2005 (which was published in 2006).

Country	MALTA
Ministry responsible	Ministry for Justice and Home Affairs
Prison administration	Department of Correctional Services
Contact address	Corradino Correctional Facility, Valletta Road, Paola, Malta CMR 02
Telephone/fax/website	tel: +356 21 695 026 +356 21 695 026 fax: +356 21 697?599 Web: www.mjha.gov.mt
Head of prison administration (and title)	Abraham Zammit Acting Director
Prison population total (including pre-trial detainees / remand prisoners)	583 at April 2010 (Minister of Justice)
Prison population rate (per 100,000 of national population)	140 based on an estimated national population of 417,800 at April 2010 (from Eurostat figures)
Pre-trial detainees / remand prisoners (percentage of prison population)	64.0% (1.9.2009 Council of Europe – Annual Penal Statistics)
Female prisoners (percentage of prison population)	7.2% (April 2010)
Juveniles / minors / young prisoners incl. definition (percentage of prison population)	3.4% (1.9.2009 - under 18)
Foreign prisoners (percentage of prison population)	40.1% (November 2009)
Number of establishments / institutions	1 (2009)

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Official capacity of prison system	480 (1.9.2009)
Occupancy level (based on official capacity)	102.9% (1.9.2009)
Recent prison population trend (year, prison population total, prison population rate)	1992 169 (47)
	1995 196 (53)
	1998 260 (69)
	2001 257 (65)
	2004 277 (69)
	2007 387 (95)

19.2 Overarching Principles

This section focuses on the overarching principles governing the management of prisons and the treatment of prisoners. International legal instruments place a series of obligations on States in respect of the management of prisons and the treatment of prisoners. The questions in this section are based on these obligations.

2.1.1 Has your country adopted laws or policies specifically requiring that prisoners must be treated with respect for their human rights? ICCPR 10(1), UDHR 1, BOP 1, BPTP 1, EPR 1 & 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	19	7	1	2
Total Europe – %	92	79	29	4	8
Malta	X	X			

2.1.2 Has your country adopted laws or policies specifically requiring prisons to be managed in accordance with human rights standards? EPR 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	21	18	4	3	3
Total Europe – %	88	75	16	13	12
Malta	X	X			

2.1.3 Has your country adopted laws or policies explicitly prohibiting practices that could constitute torture, inhumane or degrading treatment or punishment of prisoners? ICCPR 7, BOP 6, ECHR 3, *Kalashnikov v Russia* (ECtHR 2003)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	21	1	3	2
Total Europe – %	92	88	4	12	8
Malta	X	X			

2.1.4 Has your country adopted laws or policies specifically requiring that prisoners be provided with a range of activities during their sentence (for example - educational, recreational, work/training and welfare programmes)? SMR 77 & 78, BOP 28, BPTP 6 & 8, EPR 25

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	0	0
Total Europe - %	100	96	29	0	0
Malta	X	X			

Analysis

International instrument compliance

In common with the majority of EU member states, Malta has passed legislation designed to protect the human rights of its prisoners and provide them with a meaningful regime during their time in custody. This legislation includes all of the commitments arising from legally binding international legal instruments.

19.3 Conditions Of Imprisonment

19.3.1 Admission

This section focuses on the treatment of prisoners upon their admission to prison. International legal instruments place a series of obligations on States in respect of prisoner admission. The questions in this section are based on these obligations.

3.1.1 Has your country adopted laws or policies requiring that all prisoner details are recorded at the time of committal including, inter alia, details of any visible injuries and the prisoner's personal belongings? SMR 7(1), EPR 15.1, 31.1, 31.2 & 31.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	7	1	7
Total Europe - %	71	63	29	4	29
Malta	X	X			

3.1.2 Has your country adopted laws or policies requiring that upon admission, each prisoner is given a booklet outlining his/her rights, duties, obligations and privileges and the rules and regulations governing the prison which apply to the individual prisoner? The booklet shall be written in a language that the prisoner understands. CERD 7, SMR 35, BOP 13, EPR 30

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	6	1	6
Total Europe - %	63	54	25	4	25
Malta	X	X			

3.1.3 Has your country adopted laws or policies requiring that upon admission, every prisoner shall undergo a medical examination either by a nurse reporting to a doctor or by a doctor? SMR 24, BOP 24, R(98)7: 1, EPR 42.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	20	6	1	1
Total Europe - %	96	83	25	4	4
Malta	X	X			

3.1.4 Has your country adopted laws or policies requiring the doctor/nurse to pay particular attention to the detection of injuries, mental illnesses, of withdrawal symptoms resulting from the use of drugs, medication or alcohol, of contagious and chronic conditions, and, to assess the prisoner's suicide/self-harm risk? SMR 24, R(98)7: 1, EPR 42.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	10	8	1	9
Total Europe - %	62	42	33	4	38
Malta	X	X			

3.1.5 Has your country adopted laws or policies requiring injuries detected during such an examination to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner? EPR 15.1.e & 42.3.c

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	5	4	1	17
Total Europe - %	29	21	17	4	71
Malta					X

3.1.6 Has your country adopted laws or policies requiring upon admission that each prisoner be assessed to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves? ICCPR 6, UDHR 3, ECHR 2, R(2003)23: 12, EPR 52.1, *Keenan v The United Kingdom* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	5	1	13
Total Europe - %	46	42	21	4	54
Malta	X	X			

3.1.7 Has your country adopted laws or policies requiring that such risks be managed for the duration of the prisoner's sentence? ICCPR 6, UDHR 3, ECHR 2, EPR 52.2, *Osman v The United Kingdom* (ECtHR 2000)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	3	1	12
Total Europe - %	50	50	13	4	50
Malta	X	X			

Analysis

International instrument compliance

Malta has adopted all of the commitments relating to the admission of prisoners save for that relating to the need for an external medical opinion in cases where a prisoner alleges that their injuries may have arisen through ill-treatment.

Situation in practice

The legal framework highlighted above notwithstanding, significant concerns were raised by the CPT following its 2008 visit, that no proper classification and allocation system had been established despite the Committee itself raising concerns about this issue as long ago as 1995. The efforts of the Maltese authorities to address this deficiency by establishing a "Vulnerable Offenders" unit were deemed insufficient by the CPT.

19.3.2 Allocation

This section focuses on the allocation of prisoners to a particular prison. International legal instruments place a series of obligations on States in respect of prisoner allocation. The question in this section is based on these obligations.

3.2.1 Has your country adopted laws or policies requiring prisoners to be assigned to a prison as near to their home area as possible in order to maintain relationships with families and friends, subject to the maintenance of good order and security? BOP 20, EPR 17.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	15	6	1	5
Total Europe - %	79	63	25	4	21
Malta					X

Analysis

International instrument compliance

Commitment not adopted as there is only one prison in Malta.

19.3.3 Accommodation

This section focuses on the living conditions of prisoners. International legal instruments place a series of obligations on States in respect of the accommodation of prisoners. The questions in this section are based on these obligations.

3.3.1 Has your country adopted laws or policies requiring that where possible prisoners should have individual cells to sleep in? SMR 9(1), EPR 18.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	3	0	10

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	58	54	13	0	42
Malta	X	X			

3.3.2. Has your country adopted laws or policies stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation? ICCPR 6(1), UDHR 3, SMR 9(2), ECHR 2, EPR 18.6 & 18.7, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	4	0	14
Total Europe - %	42	29	17	0	58
Malta	X	X			

3.3.3 Has your country adopted laws or policies requiring that the size of a cell must be suitable for its purpose? The suitability of the cell size should be dependent on the number of hours spent in the cell, the number of prisoners accommodated in the cell and the availability of in-cell-sanitation facilities that ensure privacy. SMR 9, 10, 11 & 12, EPR 18 & 19.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	8	2	1	15
Total Europe - %	37	33	8	4	63
Malta	X	X			

3.3.4 Has your country adopted laws or policies requiring that cells should not be used to accommodate more prisoners than the intended design capacity, unless justified in exceptional circumstances? SMR 9(1) & 10, EPR 18.1, 18.3, 18.4 & 18.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Malta	X	X			

3.3.5 Has your country adopted laws or policies requiring that cells be suitable for accommodating prisoners in respect of size, lighting, heating, ventilation and fittings? SMR 9, 10, 11, 12 & 13, EPR 18

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	16	4	0	6
Total Europe - %	75	67	17	0	25
Malta	X	X			

3.3.6 Has your country adopted laws or policies requiring that all prisoners have in-cell access to a working alarm bell that attracts the attention of staff at all times? ICCPR 6(1), UDHR 3, ECHR 2, EPR 18.2.c & 52.4, IPR 18(4), *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	13	2	0	4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	83	54	8	0	17
Malta	X	X			

Analysis

International instrument compliance

Malta has incorporated all commitments relating to accommodation into its national law. This includes the legally binding commitments relating the assessment of prisoners before they are required to share a cell and the need for all prison cells to have access to a working alarm bell that can attract the attention of staff at all times.

Situation in practice

Malta has only one prison, the Corradino Correctional Facility (CCF). The CPT highlighted that male adult prisoners were held one to a cell throughout the differing units within the establishment. Female prisoners were held in either cells or small dormitories. Male juvenile detainees were accommodated in a special unit (YOURS) with female minors being housed alongside adults in dormitory accommodation. Material detention conditions had generally improved as a result of extensive renovation work although the Committee highlighted the lack of privacy in the women's dormitories and problems with light, ventilation and dilapidated infrastructure in the cell-based unit housing women prisoners. Furthermore the unit used to house medium security male prisoners was also run-down raising concerns about basic hygiene. Material detention conditions for vulnerable prisoners were also found to be unsatisfactory with the Committee raising concerns that the unit was not conducive to the safety of prisoners. The CPT also highlighted that no cell alarms system had been installed in the unit housing high security prisoners and those undergoing disciplinary punishment.

The legal framework highlighted above notwithstanding, during his visit to Malta in 2005 the European Commissioner for Human Rights met prisoners who complained of the constant humidity in their cells and one prisoner in particular with breathing problems who said that he was badly affected by the temperature and humidity in his cell, which made his condition more painful. The heating problems were made worse by the fact that the cells had no windows so that all circulation of air was prevented.

During his initial 2003 visit to Corradino Prison, the European Commissioner for Human Rights found that sexual offenders and homosexual prisoners were being kept in a separate wing so as to avert any risk of attack or violence from other prisoners. That building, the former women's section, had cells which received no direct light and were extremely damp. In his report, the Commissioner recommended transferring those prisoners to a vacant part of the prison offering better detention conditions.

The follow-up delegation from the Commissioner's Office found, generally speaking, the situation at Corradino quite satisfactory with relatively new premises, clean and well-equipped cells. However the situation of prisoners requiring special attention remained unchanged in spite of the fact that the prison had nearly 100 places available. This small group of prisoners continue to live separately from the other prisoners in a kind of community where only a few of them have opportunities to work. The prisoners met by the delegation complained of the constant humidity and one prisoner with breathing problems said he was badly affected by the temperature and humidity in his cell, which made his condition more painful. The heating problems were made worse by the fact that the cells have no windows so that all circulation of air is prevented. The delegation also highlighted that these prisoners were

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mostly serving relatively long sentences and the conditions made their detention doubly difficult for them.

The International Centre for Prison Studies reported that the prison system in Malta was operating at 103% of design capacity as of December 2009. According to the same source there were approximately 580 detainees at April 2010. If we look at the table of the ICPS and the prison trend we see an increase in the prison population. In 2008, the CPT for its part noted that despite the significant increases in the Maltese prison population, the construction of new facilities had increased the capacity of the Maltese prison system to 444. At the time of its inspection, the Committee noted that 417 inmates were being housed (an occupancy rate of 94%).

19.3.4 *Hygiene & Sanitation*

This section focuses on the hygiene and sanitation facilities for prisoners. International legal instruments place a series of obligations on States in respect of hygiene and sanitation. The questions in this section are based on these obligations.

3.4.1 Has your country adopted laws or policies to ensure that all prisoners have access to adequate and appropriate sanitary and washing facilities that respect their privacy? SMR 12 & 13, EPR 19.3, 19.4 & 19.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	2	0	10
Total Europe - %	58	58	8	0	42
Malta	X	X			

3.4.2 Has your country adopted laws or policies requiring that all In-cell sanitation facilities must be adequately screened? ICCPR 10(1), SMR 12, BOP 1, BPTP 1, ECHR 3, EPR 19.3, *Peers v Greece* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	4	1	9
Total Europe - %	62	54	17	4	38
Malta					X

Analysis

International instrument compliance

The legally binding commitment relating the screening of in-cell sanitation facilities has not been adopted by Malta.

19.3.5 *Clothing & Bedding*

This section focuses on clothing and bedding provisions for prisoners. International legal instruments place a series of obligations on States in respect of the provision of clothing and bedding. The questions in this section are based on these obligations.

3.5.1 Has your country adopted laws or policies to ensure that prisoners are provided with clothing that is suitable for the climate, is not degrading or humiliating and is age appropriate? SMR 17(1), EPR 20.1 & 20.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	10	0	7
Total Europe - %	71	71	42	0	29
Malta	X	X			

3.5.2 Has your country adopted laws or policies requiring each prisoner to be provided with a bed and appropriate bedding and to ensure that all bedding is in good condition, is changed regularly and laundered? SMR 19, EPR 21

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	2	0	6
Total Europe - %	75	71	8	0	25
Malta	X	X			

Analysis

International instrument compliance

All commitments relating a prisoner's clothing and bedding have been incorporated into Maltese law. See comments from SPOC above.

19.3.6 Nutrition

This section focuses on the nutrition requirements of prisoners. International legal instruments place a series of obligations on States in respect of prisoner's nutrition. The questions in this section are based on these obligations.

3.6.1 Has your country adopted laws or policies to ensure that prisoners are provided with a sufficient quantity of nutritious food taking into account their health, physical condition, special dietary requirements, religion and culture? SMR 20(1), EPR 22.1 & 22.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	5	1	4
Total Europe - %	83	83	21	4	17
Malta	X	X			

3.6.2 Has your country adopted laws or policies to ensure that prisoners have access to clean drinking water? SMR 20(2), EPR 22.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	16	5	1	5
Total Europe - %	79	67	21	4	21
Malta	X	X			

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Analysis

International instrument compliance

All commitments relating to prison nutrition have been adopted by Malta.

Situation in practice

The CPT found that levels of food hygiene in the prison kitchens left a lot to be desired an impression confirmed by an internal inspection from the Maltese Department of Public Health.

19.3.7 Legal advice, info & rights

This section focuses on the entitlement of prisoners to legal advice and information. International legal instruments place a series of obligations on States in respect of access to legal advice and information. The questions in this section are based on these obligations.

3.7.1 Has your country adopted laws or policies requiring that adequate time and facilities be provided to prisoners to receive professional visits from their legal advisers? BOP 18(2), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	4	1	2
Total Europe - %	92	92	17	4	8
Malta	X	X			

3.7.2 Has your country adopted laws or policies establishing the right of prisoners to communicate with their legal advisers by telephone and by letter? BOP 18(1), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	3	3	3
Total Europe - %	87	83	13	13	13
Malta	X	X			

3.7.3 Has your country adopted laws or policies requiring that communications between a prisoner and his/her legal adviser remain confidential and can only be restricted by law or judicial authority? ICCPR 17, BOP 18(3) & (4), ECHR 8, EPR 23.4 & 23.5, *Campbell v The United Kingdom* (ECtHR 1992)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	3	1	2
Total Europe - %	92	92	13	4	8
Malta	X	X			

Analysis

International instrument compliance

All commitments relating to prisoners' legal rights have been adopted in Malta including the legally binding guarantee of confidentiality for a prisoners correspondence with their legal advisor.

19.3.8 Contact with the outside world*19.3.8.1 Visits*

This section focuses on the entitlement of prisoners to maintain contacts with the outside world. International legal instruments place a series of obligations on states in respect of prisoners' on-going contact with the outside world. The questions in this section are based on these obligations.

3.8.1.1 Has your country adopted laws or policies establishing the right of prisoners to communicate with their family and friends by correspondence and by receiving visits, subject to reasonable conditions/restrictions imposed by law or another authority? ICCPR 23(1), UDHR 16(3), SMR 37, BOP 15 & 19, EPR 24.1 & 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	2	0
Total Europe - %	100	96	29	8	0
Malta	X	X			

3.8.1.2 Has your country adopted laws or policies requiring that visits take place in an environment that enables prisoners to maintain and develop family and other relationships in as normal a manner as is possible subject to the maintenance of good order and security in the prison? SMR 79, EPR 24.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	6	0	2
Total Europe - %	92	88	25	0	8
Malta	X	X			

19.3.8.2 Searching of visitors

3.8.2.1 Has your country adopted laws or policies requiring that searching procedures for visitors be undertaken in a manner that respects a person's dignity? SMR 27, BOP 19, EPR 54.1.c, 54.3, 54.4 & 54.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	4	0	7
Total Europe - %	71	63	17	0	29
Malta	X	X			

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3.8.2.2 Has your country adopted laws or policies requiring that prison officers only be permitted to search visitors of the same gender? EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	9	1	0	12
Total Europe - %	50	38	4	0	50
Malta	X	X			

19.3.8.3 *Restrictions on visits*

3.8.3.1 Has your country adopted laws or policies requiring the authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party(ies) and to review these circumstances on a regular basis? SMR 27, 79 & 80, EPR 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	0	0	63
Malta					X

3.8.3.2 Has your country adopted laws or policies preventing the withdrawal of contact for female prisoners with their children as a disciplinary action except in exceptional circumstances? SMR 27, 79 & 80, EPR 24.2 & 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	2	0	12
Total Europe - %	50	50	8	0	50
Malta					X

19.3.8.4 *Death, illness & transfer*

3.8.4.1 Has your country adopted laws or policies requiring that prisoners be informed of the death/serious illness of a close relative/ friend without delay? SMR 44(2), EPR 24.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	2	0	13
Total Europe - %	46	42	8	0	54
Malta	X	X			

3.8.4.2 Has your country adopted laws or policies allowing a prisoner to leave the prison to visit a sick relative/friend, attend a funeral or for other humanitarian reasons? SMR 44(2), EPR 24.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Malta	X	X			

3.8.4.3 Has your country adopted laws or policies ensuring that prisoners are allowed to inform their families or other nominated persons without delay of their imprisonment, transfer to another institution or of any serious illness that they may suffer from? SMR 44(1) & (3), BOP 16(1), EPR 24.8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Malta	X	X			

3.8.4.4 Has your country adopted laws or policies requiring the prison authorities to immediately inform the spouse or the nearest relative to the prisoner (or any other person previously nominated), if the prisoner dies in custody, is removed to a hospital or suffers a serious injury/illness? SMR 44(1), EPR 24.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	3	0	6
Total Europe - %	75	75	13	0	25
Malta	X	X			

19.3.8.5 Telephone and letters

3.8.5.1 Has your country adopted laws or policies preventing the monitoring or censoring of telephone calls unless the prisoner or the recipient of the call is informed of the possibility of such monitoring or, such monitoring has been agreed by any lawful authority? ICCPR 17, UDHR 12, SMR 37, BOP 19, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	3	1	5
Total Europe - %	79	79	13	4	21
Malta	X	X			

3.8.5.2 Has your country adopted laws or policies permitting prisoners to send a minimum of 7 letters a week free of charge and more if he/she can afford it, and to receive as many letters as are sent to him/her? SMR 37, BOP 19, EPR 24.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	11	1	0	12
Total Europe - %	50	46	4	0	50
Malta					X

3.8.5.3 Has your country adopted laws or policies preventing the prison authorities from opening prisoners' private correspondence subject to the maintenance of good order and safe and secure custody in the prison? ICCPR 17, UDHR 12, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	1	9
Total Europe - %	62	62	13	4	38

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Malta	X	X			

19.3.8.6 *Media*

3.8.6.1 Has your country adopted laws or policies entitling prisoners to be kept informed of current affairs and other developments outside the prison by reading newspapers and periodicals and by listening to radio or television broadcasts (subject to the maintenance of good order and safe and secure custody)? SMR 39, BOP 28, EPR 24.10

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	1	1
Total Europe - %	96	92	21	4	4
Malta	X	X			

Analysis

International instrument compliance

Malta has incorporated ten of the fourteen commitments relating to prisoners' contact with the outside world into its national law. These include the legally binding commitments establishing a prisoner's right to communicate with and receive visits from friends and family and defining (thus restricting) the circumstances whereby the authorities can monitor a prisoner's telephone conversations. Commitments not incorporated relate to closed visits, the prohibition of withdrawal of contact for female prisoners with their children as a disciplinary measure, the ability of prisoners to send up to seven letters a week and the legally binding commitment defining (and thus limiting) the circumstances in which a prisoner's mail can be opened by the authorities.

19.3.9 *Work*

This section focuses on work in prison. International legal instruments place a series of obligations on States in respect of work in prison. The questions in this section are based on these obligations.

3.9.1 Has your country adopted laws or policies requiring work to be incorporated as a positive aspect of prison regimes and prohibiting its use as a form of punishment? SMR 71(1), EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Malta	X	X			

3.9.2 Has your country adopted laws or policies requiring that prison work provided should prepare prisoners for worthwhile work on their release and facilitate their reintegration into the workforce? SMR 71(3) & (4), BPTP 8, EPR 26.3 & 26.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	18	7	0	4
Total Europe - %	83	75	29	0	17
Malta	X	X			

3.9.3 Has your country adopted laws or policies entitling prisoners to be remunerated in respect of prison work carried out? ICESCR 7(a), UDHR 23, SMR 76(1), BPTP 8, EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	1	1
Total Europe - %	96	92	13	4	4
Malta	X	X			

Analysis

International instrument compliance

All commitments relating prison work have been incorporated into Maltese law including the legally binding commitment entitling prisoners to be remunerated for work undertaken in prison.

Situation in practice

Whilst noting that work opportunities were offered to over 50% of the inmate population, the CPT highlighted that given the increase in the overall prison population, this constituted an overall reduction in the number of prisoners working at the prison. Furthermore, women prisoners were offered a more limited selection of work activities compared to their male counterparts.

19.3.10 Exercise & recreation

This section focuses on facilities for exercise and recreation in prison. International legal instruments place a series of obligations on States in respect of exercise and recreational facilities. The questions in this section are based on these obligations.

3.10.1 Has your country adopted laws or policies ensuring that, subject to the constraints of the particular prison and the maintenance of good order and security, prisoners shall be entitled to spend as much time out of their cells as is possible? EPR 25(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Malta	X	X			

3.10.2 Has your country adopted laws or policies ensuring that prisoners receive at least one hours exercise each day in the open air, weather permitting? SMR 21, EPR 27.1

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	2	1
Total Europe - %	96	92	21	8	4
Malta	X	X			

3.10.3 Has your country adopted laws or policies ensuring that prisoners shall have access to a well-stocked library at least once a week (subject to the maintenance of good order and safe and secure custody)? R(89)12: 10, EPR 28.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	13	0	0	11
Total Europe - %	54	54	0	0	46
Malta					X

Analysis

International instrument compliance

All commitments relating to exercise and leisure adopted save for that guaranteeing weekly access to the library.

19.3.11 Education

This section focuses on facilities for education in prison. International legal instruments place a series of obligations on States in respect of prison education facilities. The questions in this section are based on these obligations.

3.11.1 Has your country adopted laws or policies requiring, as far as practicable, that prisoners have access to educational programmes that can meet their individual needs? ICESCR 13, UDHR 26, SMR 77(1), BPTP 6, R(89)12: 1, EPR 28.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	5	1	1
Total Europe - %	96	96	21	4	4
Malta	X	X			

3.11.2 Has your country adopted laws or policies requiring that education provided in prisons shall be integrated, in so far as is practicable, with national educational systems/programmes enabling prisoners to continue their education following their release? SMR 77(2), R(89)12: 16, EPR 28.7.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	5	0	3
Total Europe - %	87	75	21	0	13
Malta					X

3.11.3 Has your country adopted laws or policies requiring that vocational training be available for those prisoners who are able to benefit from it, particularly young prisoners? SMR 71(5), BPTP 8, R(89)12: 9, EPR 26.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	20	5	0	2
Total Europe - %	92	83	21	0	8
Malta	X	X			

Analysis

International instrument compliance

Two of the three commitments relating prison education have been adopted by Malta including the legally binding obligation relating to prisoners' access to education programmes that meet their individual needs.

Situation in practice

Comments from the SPOC indicate that the commitment set out at 3.11.2 above is being implemented in practice.

19.3.12 Freedom of thought, conscience & religion

3.12.1 Has your country adopted laws or policies ensuring that prisoners have the opportunity to practice their religion and to follow their beliefs whilst in custody? ICCPR 18(1), CERD 5 (d) (vii), UDHR 18, SMR 42, BPTP 3, EPR 29.1 & 29.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	5	0	0
Total Europe - %	100	96	21	0	0
Malta	X	X			

Analysis

International instrument compliance

Legally binding commitment relating to freedom of thought, conscience and religion adopted.

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19.4 Health

19.4.1 Core principles

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.1.1 Has your country adopted laws or policies requiring that primary healthcare services to meet the needs of all prisoners be provided in each prison to a standard equivalent to that available to the community in general? ICESCR 12(1), SMR 22(1), PME 1, R(98)7: 10, 11, 12 & 19, EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	6	0	1
Total Europe - %	96	92	25	0	4
Malta	X	X			

4.1.2 Has your country adopted laws or policies to ensure that where a sick prisoner requires treatment that cannot be provided by the medical staff in the prison he/she shall be transferred to an appropriate hospital without undue delay? SMR 22(2), BPTP 9, R(98)7: 3, EPR 46.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	3	1	2
Total Europe - %	92	88	13	4	8
Malta	X	X			

4.1.3 Has your country adopted laws or policies requiring that medical records be created and accurately maintained on all prisoners and that such records be treated as confidential? BOP 26, R(98)7: 13, EPR 42.3.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	5	0	3
Total Europe - %	87	83	21	0	13
Malta	X	X			

Analysis

International instrument compliance

All commitments relating to the core principles underpinning prison health care have been incorporated into Maltese law including that requiring health services to be provided to a standard equivalent to that in the community.

Situation in practice

The CPT highlighted that a prison health-care service - as usually understood - does not exist in the Corradino correctional facility. In the Committee's opinion, the current system which is based around medical consultations provided by several external contractors acting

independently of each other did not amount to a well-established and organised health-care service. They emphasised that the smooth operation of such a service presupposes that doctors and nursing staff are able to meet regularly and form a working team under the authority of a senior doctor in charge of the service. The CPT recommended therefore that the Maltese authorities re-organise the provision of healthcare at the CCF in the light of the above remarks.

The CPT was also highly critical of the steps taken to safeguard confidential medical information noting that medical files were kept unlocked in a room which was accessible at all times to prison officers. The latter were also able to enter data directly into the health service computer.

19.4.2 Women and children

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations

4.2.1 Has your country adopted laws or policies to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor? CEDAW 12, SMR 23, BOP 5(2), R(98)7: 8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	7	3	0	17
Total Europe - %	29	29	13	0	71
Malta					X

4.2.2 Has your country adopted laws or policies requiring that appropriate care be afforded to all pregnant prisoners and nursing mothers? CEDAW 12(2), SMR 23, R(98)7: 8 & 69, EPR 34.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Malta	X	X			

Analysis

International instrument compliance

The legally binding commitment relating to women's health care and access to a female doctor has not been adopted by Malta.

19.4.3 Mental health care

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

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4.3.1 Has your country adopted laws or policies requiring that prisoners with mental health difficulties be entitled to care appropriate to their circumstances, commensurate to the type of care available for people with similar mental health difficulties in the community? SMR 22(1), PPPMI 1 & 20, R(98)7:10, 11 & 52, R(2004)10: 35(1) & (2), EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	4	0	3
Total Europe - %	87	79	17	0	13
Malta	X	X			

4.3.2 Has your country adopted laws or policies to ensure that prisoners who require psychiatric in-patient care are transferred to a suitable hospital facility of an appropriate security level without undue delay? SMR 22(2), PPPMI 9(1) & 20, R(98)7: 3 & 55, R(2004)10: 8, 9(1) & 35(1), EPR 12(1) & 46(1)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	3	0	6
Total Europe - %	75	71	13	0	25
Malta	X	X			

Analysis

International instrument compliance

All commitments relating to the mental health care of prisoners have been adopted by Malta.

Situation in practice

The CPT emphasised that the presence of the prison psychiatrist (because of the need to combine his prison work with that in external hospitals) was limited and needed to be considerably increased.

19.4.4 Vulnerable prisoners

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.4.1 Has your country adopted laws or policies requiring that prisoners assessed as vulnerable be accommodated in areas of the prison which are most convenient and appropriate for their monitoring and treatment by the medical personnel and other relevant agencies? SMR 22(2) & 62, EPR 12.2, 39, 43.1, 46.2, 47.1 & 47.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	3	0	8
Total Europe - %	67	63	13	0	33
Malta	X	X			

4.4.2 Has your country adopted laws or policies requiring that prisoners assessed as being at risk of suicide/self-harm be continuously monitored by both medical and prison staff throughout the prisoner's time in custody and that records are kept of such monitoring? R(98)7: 58, EPR 47(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	5	0	14
Total Europe - %	42	29	21	0	58
Malta					X

4.4.3 Has your country adopted laws or policies requiring that prisoners detained in a special cell be visited daily, and as frequently as is necessary by a doctor who shall, inter alia, monitor his/ her physical and mental health? SMR 25(1) & 32(3), R(98)7: 66, EPR 43.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Malta	X	X			

Analysis

International instrument compliance

Two out of the three commitments relating to vulnerable prisoners have been incorporated into Maltese law. The omission relates to the requirement to consistently assess, monitor and keep records on vulnerable prisoners throughout their period in custody.

Situation in practice

The CPT highlighted shortcomings in relation the use of the “suicide watch” cell where prisoners could be placed after having attempted suicide or after displaying auto-aggressive behaviour. Such prisoners could be held there naked for a period of up to two weeks albeit under close supervision. The CPT delegation was of the opinion that the practice of keeping a prisoner naked in a cell could be considered to amount to degrading treatment and requested the Maltese authorities to discontinue this practice immediately indicating that prisoners at risk of suicide should instead benefit from clothing appropriate to their specific needs.

19.4.5 *Medical & health care personnel*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.5.1 Has your country adopted laws or policies to ensure that every prisoner has access to appropriately qualified medical personnel in the prison at all times? SMR 24, BOP 24, R(98)7:1, 2 & 4, EPR 41.2 & 41.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	87	87	13	0	13
Malta	X	X			

Analysis

International instrument compliance

Commitment relating to medical and health care personnel adopted.

Situation in practice

The CPT highlighted that health care staffing levels at the prison left much to be desired. The presence of three general practitioners, all part time and covering a total of 5 hours a day, was not sufficient to meet the needs of the prison population. Indeed, many prisoners interviewed complained of the difficulty in gaining access to a doctor. The medical team was seconded by a nursing pool (provided by an external private contractor), ensuring the presence of three nurses on the morning shift, two on the afternoon shift and two on the evening shift. Such a level of presence was also deemed by the Committee to be unsatisfactory in view of the significant growth in the inmate population. Complaints were also received by prisoners concerning long delays in gaining access to dental care.

19.4.6 Prisoners with addiction problems

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.6.1 Has your country adopted laws or policies to ensure that prisoners with addiction problems have access to appropriate treatment and support services, including those from external agencies? SMR 62, R(98)7: 7, 43, 44, 45, 46 & 47, EPR 42.3.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	8	0	3
Total Europe - %	88	79	33	0	13
Malta	X	X			

Analysis

International instrument compliance

Commitment relating to prisoners with addiction problems adopted.

Situation in practice

See comments from SPOC above. Given that drug-related problems concerned some 60 to 70% of the inmates at the CCF, the CPT emphasised that the establishment's drug policy was of particular importance. Despite noting some positive developments, the CPT delegation also highlighted that that the response to drug-related behaviour within the prison was rather

stereotyped and lacked an individual approach. Furthermore, the current absence of an effective disciplinary system had been interpreted by the prisoners as an “open door” to drug trafficking and drug consumption. The Committee also noted the importance of providing prisoners with adequate health and drug information given the high number of hepatitis C cases within the prison.

19.4.7 *Hunger strikes*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.7.1 Has your country adopted laws or policies forbidding the practice of forced feeding of hunger strikers? DOMHS, R(98)7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	37	21	21	0	63
Malta					X

Analysis

International instrument compliance

Commitment relating to hunger strikes has not been adopted.

19.5 Good order

19.5.1 *General approaches*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.1.1 Has your country adopted laws or policies requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner’s time in custody? R(82)17: 8, EPR 51.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	0	9
Total Europe - %	62	62	13	0	38
Malta					X

MALTA

Analysis

International instrument compliance

Commitment relating to security classification of prisoners has not been adopted.

19.5.2 Safety & Security

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.2.1 Has your country adopted laws or policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat? EPR 51.5, 53.1 & 53.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	63	63	17	0	37
Malta					X

Analysis

International instrument compliance

Commitment relating to prisoners on protection has not been adopted by Malta.

Situation in practice

During his initial 2003 visit to Corradino Prison, the European Commissioner for Human Rights found that sexual offenders and homosexual prisoners were being kept in a separate wing so as to avert any risk of attack or violence from other prisoners. That building, the former women's section, had cells which received no direct light and were extremely damp. In his report, the Commissioner recommended transferring those prisoners to a vacant part of the prison offering better detention conditions. The follow-up delegation from the Commissioner's Office found, generally speaking, the situation at Corradino quite satisfactory with relatively new premises, clean and well-equipped cells. However the situation of prisoners requiring special attention remained unchanged in spite of the fact that the prison had nearly 100 places available. This small group of prisoners continue to live separately from the other prisoners in a kind of community where only a few of them have opportunities to work. The prisoners met by the delegation complained of the constant humidity and one prisoner with breathing problems said he was badly affected by the temperature and humidity in his cell, which made his condition more painful. The heating problems were made worse by the fact that the cells have no windows so that all circulation of air is prevented. The delegation also highlighted that these prisoners were mostly serving relatively long sentences and the conditions made their detention doubly difficult for them.

19.5.3 *Searching of prisoners*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.3.1 Has your country adopted laws or policies requiring that searches conducted on prisoners be carried out with due regard to the prisoner's dignity? ICCPR 10(1), BPTP 1, EPR 54.3 & 54.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	0	1
Total Europe - %	96	92	13	0	4
Malta	X	X			

5.3.2 Has your country adopted laws or policies stipulating that prisoners may only be searched by a staff member of the same gender? ICCPR 10(1), BPTP 1, EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	1	0	1
Total Europe - %	96	92	4	0	4
Malta	X	X			

5.3.3 Has your country adopted laws or policies stipulating that prisoners may only be subjected to a strip search in exceptional circumstances and for good reason and then, only in the presence of two officers in an appropriate place which ensures privacy? ICCPR 10(1), BPTP 1, EPR 54. 3, 54.4 & 54.6, *Van der Van v The Netherlands* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	3	1	13
Total Europe - %	66	54	13	4	54
Malta	X	X			

Analysis

International instrument compliance

All commitments (both legally binding and voluntary) relating to the searching of prisoners have been incorporated into Maltese law.

19.5.4 *Criminal acts, discipline & punishment*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

MALTA

5.4.1 Has your country adopted laws or policies stipulating that all inquiries into breach of prison discipline or rules shall be conducted in an independent and impartial manner? ICCPR 14(1), UDHR 10, ECHR 6(1), *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	2	1	8
Total Europe - %	67	63	8	4	33
Malta	X	X			

5.4.2 Has your country adopted laws or policies requiring that all incidents of bullying/violence/threatening behaviour between prisoners, and any breach of discipline be reported to an officer of a higher rank, duly recorded and properly investigated? EPR 52.2 & 58

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	62	62	17	0	38
Malta					X

5.4.3 Has your country adopted laws or policies stipulating that when a prisoner has been charged with a disciplinary offence he/she shall be promptly informed of the allegation made against him/her in a language that he/she understands? ICCPR 14(3)(a), CERD 5(a), SMR 30(2), ECHR 6(3)(a), EPR 59.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	3	0	7
Total Europe - %	71	71	13	0	29
Malta	X	X			

5.4.4 Has your country adopted laws or policies stipulating if an inquiry is being conducted into a breach of prison discipline or rules the prisoner shall have adequate time to prepare his/her defence and/or to receive legal assistance? ICCPR 14(3)(b) & (d), SMR 30(2), ECHR 6(3)(b) & (c), EPR 59.b & 59.c, *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	2	0	9
Total Europe - %	62	58	8	0	38
Malta					X

5.4.5 Has your country adopted laws or policies stipulating that in any disciplinary proceedings prisoners must understand the proceedings and if necessary, appropriate interpretation facilities must be provided? ICCPR 14(3)(f), SMR 30(3), ECHR 6(3)(e), EPR 59.e

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Malta	X	X			

5.4.6 Has your country adopted laws or policies stipulating that no prison officer shall impose a punishment/penalty/deprivation on a prisoner without due process and in accordance with law and/or relevant rules or instruments? EPR 57.2.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	2	0	4
Total Europe - %	83	83	8	0	17
Malta	X	X			

5.4.7 Has your country adopted laws or policies stipulating that if a prisoner is found guilty of a disciplinary offence, he/she shall be entitled to exercise his/her right of appeal to an independent and impartial tribunal established by law? ICCPR 14(5), BOP 30(2), EPR 61

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	1	0	5
Total Europe - %	79	79	4	0	21
Malta	X	X			

5.4.8 Has your country adopted laws or policies requiring that when a prisoner is detained in any type of special cell (special observation/cladded/strip) he/she shall be regularly monitored by a prison officer? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	3	0	7
Total Europe - %	71	67	13	0	29
Malta	X	X			

5.4.9 Has your country adopted laws or policies requiring that a detailed record be maintained of, inter alia, the monitoring of such prisoners, their expressed requirements, actions taken in response to such requests and details of visits by officers or others to such prisoners? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	8	8	2	0	16
Total Europe - %	33	33	8	0	67
Malta					X

5.4.10 Has your country adopted laws or policies to ensure that prisoners in a special cell are able to contact a member of staff at all times, including during the night and that a staff member shall respond without delay? ICCPR 6(1), EPR 18.2.c & 52.4, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	4	0	63
Malta	X	X			

MALTA

Analysis

International instrument compliance

Malta has incorporated seven of the ten commitments relating to criminal acts, discipline and punishment. Omissions relate to the legally binding obligations to ensure that prisoners charged with disciplinary offences have time to prepare their defence and receive legal assistance and, the requirement to monitor prisoners placed in special cells and record the actions taken in respect of the same.

Situation in practice

Following its 2008 visit, the CPT described the situation regarding prison discipline as chaotic with much room left for arbitrariness. There seemed to be several reasons for this situation, including serious staff negligence. Some 300 disciplinary files were pending at the time of the visit, some of which dating back months. The delegation even found cases where the prisoners concerned had left the CCF before their disciplinary proceedings had been concluded. The Committee highlighted a number of consequences arising from this state of affairs. Certain inmates who were well aware of the situation were trying to gain power whilst some prison officers were reluctant to file a disciplinary report, knowing that it would serve no purpose in the immediate or immediate or medium future. Furthermore, "unofficial" systems were starting to develop, replacing the formal disciplinary system to the detriment of all concerned.

19.5.5 Use of force/weapons

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.5.1 Has your country adopted laws or policies stipulating that members of staff will use force only when absolutely necessary and that any force used shall be proportionate to the situation? SMR 54(1), CCLEO 3, BPUF 4, EPR 64 & 6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	4	1	3
Total Europe - %	87	87	17	4	13
Malta	X	X			

Analysis

International instrument compliance

Commitment relating to use of force has been incorporated by Malta.

Situation in practice

The CPT highlighted that the vast majority of prisoners interviewed during its 2008 visit, made no allegations of deliberate physical ill-treatment by prison officers (or police officers

carrying out custodial duties) employed at the establishment; indeed, many prisoners described the officers' conduct as correct. These observations notwithstanding, the Committee received detailed information concerning the ill-treatment of a foreign prisoner upon his return to Corradino prison following an escape. This incident resulted in four prison officers being remanded in custody having been charged with beating up the prisoner concerned. The CPT also raised concerns about inter-prisoner violence which it attributed to staff shortages resulting in the development of informal power structures in the prison. This placed numerous inmates in a submissive position vis a vis gang activities and allowed for a considerable amount of drug-trafficking to take place within the establishment.

19.5.6 Requests & complaints

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.6.1 Has your country adopted laws or policies to ensure that prisoners have sufficient opportunity to make requests or complaints to the Governor of the prison or to any other competent authority? SMR 36(1) & (3), BOP 33(1), EPR 70.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	3	0	1
Total Europe - %	96	96	13	0	4
Malta	X	X			

5.6.2 Has your country adopted laws or policies establishing the right of a prisoner's legal advisor or to make a request or a complaint regarding that prisoner's treatment to the prison authorities, or other relevant authorities? BOP 33 (1) & (2), EPR 70.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	1	0	6
Total Europe - %	75	75	4	0	25
Malta	X	X			

5.6.3 Has your country adopted laws or policies requiring that all complaints be promptly investigated in accordance with law? SMR 36(4), BOP 33(4)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	2	0	7
Total Europe - %	71	67	8	0	29
Malta	X	X			

5.6.4 Has your country adopted laws or policies to ensure that where a request is denied or a complaint is rejected, the prisoner is informed promptly as to the reason(s) for such denial or rejection? SMR 36(4), BOP 33(4), EPR 70.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	2	1	7
Total Europe - %	71	63	8	4	29
Malta	X	X			

5.6.5 Has your country adopted laws or policies to ensure that prisoners are not disadvantaged for exercising their rights to make requests or complaints? BOP 33(4), EPR 70.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	3	0	13
Total Europe - %	46	42	13	0	54
Malta	X	X			

5.6.6 Has your country adopted laws or policies requiring that complaints made by members of staff against other members of staff be properly recorded and investigated in accordance with the law? EPR 88 & 87.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	11	3	0	11
Total Europe - %	54	46	13	0	46
Malta	X	X			

Analysis

International instrument compliance

All commitments relating to prison requests and complaints procedures have been incorporated into Maltese law.

19.6 Management & Staff

19.6.1 Training of staff

This section focuses on the staff training and prison management. International legal instruments place a series of obligations on States in respect of the training and management of prison staff. The questions in this section are based on these obligations.

6.1.1 Has your country adopted laws or policies to ensure that all prison staff receive appropriate training at regular intervals throughout their career? SMR 47(3), EPR 8, 76 & 81.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	14	7	0	5
Total Europe - %	79	58	29	0	21
Malta	X	X			

6.1.2 Has your country adopted laws or policies to ensure that members of staff who work with particular groups of prisoners, such as foreign nationals, women, juveniles or mentally ill

prisoners, receive training particular to their individual work? R(82)17: 10, R(2004)10: 12(1), EPR 81.3, ERJO 129

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	38	21	21	0	62
Malta	X	X			

Analysis

International instrument compliance

All commitments relating to prison staff have been incorporated into Maltese law.

19.7 Inspection & Monitoring

19.7.1 Governmental Inspection

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.1.1 Has your country adopted laws or policies requiring that prisons be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law? SMR 55, EPR 92, R(2004)10 36.1, ERJO 125, PPPMI 22

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	19	4	0	4
Total Europe - %	83	79	17	0	17
Malta	X	X			

Analysis

International instrument compliance

Commitments relating to governmental inspection have been incorporated into Maltese law.

Situation in practice

At the time of the visit, the members of the Prison Board of Visitors had recently resigned en bloc after having fulfilled their mandate for many years. The former members of the Prison Board had been active within the CCF and the inmates spoken to clearly trusted the Board to protect their fundamental rights.

MALTA

19.7.2 Independent monitoring

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.2.1 Has your country adopted laws or policies requiring that the conditions of detention and the treatment of prisoners shall be also monitored by an independent body or bodies, comprised of qualified experienced personnel, and whose findings shall be made public? OPCAT 3, 17, 18, 19, BOP 29.1, EPR 93.1, R(2004)10 36.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Malta					X

7.2.2 Has your country adopted laws or policies granting such an independent body open access to places of detention, to prisoners and others whom it wishes to interview? OPCAT 19, 20, CPT 8,9 BOP 29.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	3	1	9
Total Europe - %	62	58	13	4	38
Malta					X

7.2.3 Has your country adopted laws or policies encouraging such independent bodies to cooperate with those international agencies that are legally entitled to visit prisons? CPT 2,7 EPR 93.2, ERJO 126.

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	6	1	0	17
Total Europe - %	29	25	4	0	71
Malta					X

Analysis

International instrument compliance

In spite the SPOC's assessment, Malta has signed and ratified the OP-CAT.

Situation in practice

Two bodies have been designated as the National Preventive Mechanism under the provisions of the Optional Protocol: the Board of Visitors for the Prisons and the Board of Visitors for Detained Persons.

19.8 Sentenced Prisoners

This section focuses on the particular provisions relating to convicted prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

8.1.1 Has your country adopted laws or policies requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan? ICCPR 10(3), SMR 80, EPR 6, 103.2 & 103.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	6	2	4
Total Europe - %	83	83	25	8	17
Malta	X	X			

8.1.2 Has your country adopted laws or policies requiring that a sentence management plan be prepared for each prisoner serving a sentence of 12 months or over as soon as practicable after their admission? It should provide for, inter alia, the welfare and health needs of the prisoner, training, employment or education needs he/she may have, and include a release plan for the prisoner. This plan shall be reviewed at regular intervals to take into account the changing circumstances of the prisoner. SMR 65, 66 & 69, R(2003)23: 3 & 9, EPR 6, 103 & 104.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	5	0	10
Total Europe - %	58	54	21	0	42
Malta					X

Analysis

International instrument compliance

Malta has incorporated one of the two commitments relating to sentenced prisoners into its national law.

Situation in practice

Comments from the SPOC indicate that the provisos of the second commitment are in fact being carried out in practice albeit that there is no legal obligation so to do. These comments notwithstanding, the CPT raised concerns concerning the situation of prisoners serving long sentences and, in particular, the situation of the eight prisoners serving a life sentence. These prisoners were accommodated throughout the prison and were not receiving any specific attention: in particular, their needs in terms of activities and social interventions were not being met. The Committee emphasised that long-term imprisonment can have a number of de-socialising effects upon inmates.

It noted that the regimes which are offered to such prisoners should seek to compensate for these effects in a positive and proactive way. The prisoners concerned should have access to a wide range of purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association). Moreover, they should be able to exercise a degree of choice over the manner in which their time is spent, thus fostering a sense of autonomy and personal responsibility. Additional steps should be taken to lend meaning to their period of

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imprisonment; in particular, the provision of individualised custody plans and appropriate psycho-social support are important elements in assisting such prisoners to come to terms with their period of incarceration and, when the time comes, to prepare for release. None of these elements were found by the Committee to be present within the Maltese prison regime. It noted that the regimes which are offered to such prisoners should seek to compensate for these effects in a positive and proactive way. The prisoners concerned should have access to a wide range of purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association). Moreover, they should be able to exercise a degree of choice over the manner in which their time is spent, thus fostering a sense of autonomy and personal responsibility. Additional steps should be taken to lend meaning to their period of imprisonment; in particular, the provision of individualised custody plans and appropriate psycho-social support are important elements in assisting such prisoners to come to terms with their period of incarceration and, when the time comes, to prepare for release. None of these elements were found by the Committee to be present within the Maltese prison regime.

19.9 Juveniles

This section focuses on the particular provisions relating to juvenile prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

9.1.1 Has your country adopted laws or policies requiring that juveniles be detained separately from adult offenders? ICCPR 10(3), CRC 37(c), BR 26.3, RPJDL 29, EPR 11.1, ERJO 59.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	1	3
Total Europe - %	87	87	13	4	13
Malta	X	X			

9.1.2 Has your country adopted laws or policies to ensure that, subject to reasonable conditions and restrictions, a sentenced prisoner under the age of 18 shall be entitled to receive a minimum of two weekly visits? CRC 37(c), SMR 37, BOP 19, RPJDL 60, ERJO 83, 84, 85.1 & 85.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	6	3	0	15
Total Europe - %	37	25	13	0	63
Malta					X

Analysis

International instrument compliance

The legally binding commitment to house juvenile prisoners apart from adult prisoners has been adopted by Malta.

Situation in practice

See comments from SPOC regarding the interpretation of this proviso in practice. The CPT also highlighted concerns that very young inmates (children of less than 16 years of age) were

being held within the Corradino Correctional Facility. It noted that it was not exceptional for female minors to be housed with adult female prisoners. Whilst the policy for male minors was that they should be housed only with “young adults”, in practice this entailed children having to share accommodation with adults up to 25 years of age.

19.10 Sentence Execution Modalities

This section of the questionnaire is designed to collate information on the differing methods by which custodial sentences and measures involving deprivation of liberty are enforced across EU Member States.

10.1.1. Which of the following modalities of prison sentence execution are provided for in the law of your country?

	Weekend detention	Evening detention	Daytime detention	Home detention	
				no electronic monitoring	electronic monitoring
EUROPE	9 = 38%	10 = 42%	3 = 13%	6 = 25%	14 = 58%
Malta			X		

10.1.2. What is the maximum period for which home detention with electronic monitoring can be imposed?

	Under 12 months	12-24 months	25 months - 36 months	37 months - 50 months	More than 50 months
EUROPE	7 = 29%	4 = 17%	0 = 0%	1 = 4%	2 = 8%
Malta					

10.2.1. In which of the following locations can custodial sentences or measures involving deprivation of liberty be imposed?

	Penitentiary institution	Psychiatric institution	Detoxification institution	Educational institution	Home
EUROPE	24 = 100%	20 = 83%	10 = 42%	7 = 29%	12 = 50%
Malta	X	X	X		

Analysis

Sentence execution modalities

Maltese law does not provide for any additional sentence execution modalities. Custodial sentences or measures involving deprivation of liberty can be imposed in relation to penitentiary, psychiatric and detoxification institutions.

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19.11 Early release from prison, earned remission and suspension of sentence

19.11.1 Early release

Early release means the release of the offender before their prison term is finished. It is possible only while the sentence is still being served. Early release does not include the suspended enforcement of a penalty which is dealt with later in this questionnaire.

11.1.2.1. Has your country adopted laws and regulations under which prisoners are entitled to early release from prison ?

	Yes	No
EUROPE	24 = 100%	0 = 0%
Malta	X	

11.1.2.2. At what point in a prisoner's sentence do they become eligible for early release?

	One third of sentence or less	One third to one half of a sentence	One half to three quarters of a sentence	More than three quarters of a sentence	Other
EUROPE	2 = 8%	1 = 4%	7 = 29%	0 = 0%	14 = 58%
Malta					X

11.1.2.2. Does your country have different regulations for the early release of prisoners based on:

	A prisoner's nationality (non-EU citizen)	A prisoner's nationality (EU citizen)	The length of sentence imposed
EUROPE	Yes - 3 = 12% No - 21 = 88%	Yes - 3 = 12% No - 21 = 88%	Yes - 24 = 100% No - 0 = 0%
Malta	N	N	Y

11.1.2.3. Are provisions governing the early release of prisoners automatic or discretionary?

	Automatic (prisoners are automatically released at a certain point in their sentence)	Discretionary (prisoners are only released following assessment)
EUROPE	Yes - 7 = 29% No - 17 = 71%	Yes - 20 = 83% No - 4 = 17%
Malta	Y	Y

11.1.2.4. What factors are taken into consideration when deciding whether a prisoner will be granted early release?

	The circumstances surrounding the crime	Prior criminal record	The offender's progress during imprisonment	Assessment as to whether the prisoner is likely to reoffend	Recommendation from the sentencing judge
EUROPE	Yes - 24 = 50% No - 24 = 50%	Yes - 15 = 63% No - 9 = 37%	Yes - 22 = 92% No - 2 = 8%	Yes - 19 = 79% No - 5 = 21%	Yes - 4 = 17% No - 20 = 83%
Malta	N	N	N	N	N

11.1.3.1. What forms of monitoring and conditions can be applied to prisoners' early release?

1. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
2. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
4. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
5. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
6. Electronic monitoring
7. Weekend/evening /daytime detention
8. Requirement containing limitations on leaving the country
9. Requirement to leave the country
10. Requirement to pay compensation
11. Requirement to undertake community service
12. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	Other
EUROPE	Y - 83 N - 17	Y - 8 N - 92	Y - 58 N - 42	Y - 62 N - 38	Y - 33 N - 77	Y - 25 N - 75	Y - 13 N - 87	Y - 42 N - 58	Y - 21 N - 79	Y - 29 N - 71	Y - 21 N - 79	9
Malta	N	N	N	N	N	N	N	N	N	N	N	X

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19.11.2 Sentence reduction as a result of prison work

11.2.1.1. Can a prisoner earn remission on their sentence as a result of work carried out in prison?

	Yes	No
EUROPE	9= 38%	15 – 62%
Malta	X	

19.11.3 Suspension of sentence enforcement

11.3.1. Does the national law of your country make provision for the further execution of a prison sentence to be suspended during the course of the sentence?

	Yes	No
EUROPE	10=42%	14= 58%
Malta		X

11.3.2.1. What factors are taken into consideration when deciding whether a prisoner will have the further execution of their prison sentence suspended?

1. The circumstances surrounding the crime
2. Prior criminal record
3. The offender's progress during imprisonment
4. Assessment as to whether the prisoner is likely to reoffend
5. Recommendation from the sentencing judge
6. Suitability of home circumstances
7. Information from victim(s)
8. Willingness of the prisoner to leave the country upon release
9. The prisoner will be deported upon release
10. Other – please specify

	1	2	3	4	5	6	7	8	9	Other
EUROPE	Y - 8 N - 92	Y - 13 N - 78	Y - 17 N - 83	Y - 21 N - 79	Y - 0 N - 100	Y - 4 N - 96	Y - 0 N - 100	Y - 0 N - 100	Y - 0 N - 100	21
Malta	N	N	N	N	N	N	N	N	N	

11.3.3.1. What forms of monitoring and conditions can be applied to prisoners whose further execution of a prison sentence has been suspended?

1. Unconditional supervision
2. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
4. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)

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5. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
6. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
7. Electronic monitoring
8. Weekend/evening /daytime detention
9. Requirement containing limitations on leaving the country
10. Requirement to leave the country
11. Requirement to pay compensation
12. Requirement to undertake community service
13. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	12	Other
EUROPE	Y - 4 N - 96	Y - 38 N - 62	Y - 4 N - 96	Y - 29 N - 71	Y - 17 N - 83	Y - 17 N - 83	Y - 4 N - 96	Y - 4 N - 96	Y - 21 N - 79	Y - 0 N - 100	Y - 17 N - 83	Y - 4 N - 96	2
Malta	N	N	N	N	N	N	N	N	N	N	N	N	

Analysis

Early release from prison, earned remission and suspension of sentence

In common with all EU countries, Malta has adopted measures under which prisoners are entitled to early release from prison. Prisoners in Malta can become eligible for early release between two thirds of the way through their sentence albeit that differing regulations apply depending on the length of sentence imposed. The early release system in Malta is based around automatic provisions. Monitoring and conditions are not normally applied to a prisoner granted early release. Prisoners in Malta are able to earn remission from their sentence as a result of work undertaken in prison. No provision is made, however, for the further execution of a prison sentence to be suspended during the course of the sentence.

Situation in practice

The European Commissioner's delegation noted that apart from presidential pardon, there was no provision for early or conditional release of life prisoners. At the time of the follow-up visit in 2005, there were eight prisoners serving life sentences. During the CPT's visit in 2008, this position was unchanged albeit that the Maltese Minister for Justice and Home Affairs had announced his intention to introduce proposals concerning the release of prisoners on parole.

Appendix

1. Prisons Act (1976)
2. Prison Regulations (1995)

20 Netherlands

20.1 Introduction

The questionnaire was completed by Professor Dr. Anton van Kalmthout, emeritus professor in criminal law and member of the CPT.

The Netherlands was last visited by the CPT last in June 2007. The European Commissioner for Human Rights visited the Netherlands in 2008. The situation in practice findings are drawn primarily from these sources with some additional information being sourced an earlier EU-study on pre-trial detention (Van Kalmthout, Knapen and Morgenstern - Pre-trial Detention in the EU, Nijmegen: WLP 2009) and the International Centre for Prison Studies.

Country	NETHERLANDS
Ministry responsible	Ministry of Justice
Prison administration	National Agency of Correctional Institutions (NACI)
Contact address	P.O. Box 30132, NL-2500 GC, THE HAGUE, Netherlands
Telephone/fax/website	tel: +31 70 370 2771 +31 70 370 2771 fax: +31 70 370 2910 Web: www.gevangenis.nl
Head of prison administration (and title)	Gijs Wouters General Director of NACI (Director of Prison Service: Peter van der Sande)
Prison population total (including pre-trial detainees / remand prisoners)	15,604 at 30.4.2010 (national prison administration - comprising 11,371 in adult prisons, 719 in juvenile institutions, 2,002 in TBS clinics, 1,512 in institutions for illegal aliens)
Prison population rate (per 100,000 of national population)	94 based on an estimated national population of 16.61 million at end of April 2010 (from Eurostat figures)
Pre-trial detainees / remand prisoners (percentage of prison population)	36.3% (30.4.2010)
Female prisoners (percentage of prison population)	7.4% (30.4.2010)
Juveniles / minors / young prisoners incl. definition (percentage of prison population)	4.7% (30.4.2010 - under 18)
Foreign prisoners (percentage of prison population)	27.7% (30.4.2010)
Number of establishments / institutions	90 (2010 - 57 prisons for adults, 14 institutions for juveniles, 6

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	for illegal aliens and 13 TBS clinics)		
Official capacity of prison system	18,064 (30.4.2010)		
Occupancy level (based on official capacity)	86.4% (30.4.2010)		
Recent prison population trend (year, prison population total, prison population rate)	1992	7,397	49
	1995	10,249	66
	1998	13,333	85
	2001	15,246	95
	2004	20,075	123
	2007	18,103	110

20.2 Overarching Principles

This section focuses on the overarching principles governing the management of prisons and the treatment of prisoners. International legal instruments place a series of obligations on States in respect of the management of prisons and the treatment of prisoners. The questions in this section are based on these obligations.

2.1.1 Has your country adopted laws or policies specifically requiring that prisoners must be treated with respect for their human rights? ICCPR 10(1), UDHR 1, BOP 1, BPTP 1, EPR 1 & 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	19	7	1	2
Total Europe – %	92	79	29	4	8
Netherlands					X

2.1.2 Has your country adopted laws or policies specifically requiring prisons to be managed in accordance with human rights standards? EPR 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	21	18	4	3	3
Total Europe – %	88	75	16	13	12
Netherlands					X

2.1.3 Has your country adopted laws or policies explicitly prohibiting practices that could constitute torture, inhumane or degrading treatment or punishment of prisoners? ICCPR 7, BOP 6, ECHR 3, *Kalashnikov v Russia* (ECtHR 2003)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	21	1	3	2
Total Europe – %	92	88	4	12	8
Netherlands					X

2.1.4 Has your country adopted laws or policies specifically requiring that prisoners be provided with a range of activities during their sentence (for example - educational, recreational, work/training and welfare programmes)? SMR 77 & 78, BOP 28, BPTP 6 & 8, EPR 25

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	0	0
Total Europe - %	100	96	29	0	0
Netherlands	X	X			

Analysis

International instrument compliance

The Netherlands is unusual amongst European Union member states in that it has not adopted any of the commitments requiring prisoners to be treated with respect for their human rights or that its prisons should be run in accordance with international human rights standards. Similarly, no provisions have been adopted forbidding conduct which could constitute torture, inhumane or degrading treatment or punishment of prisoners.

20.3 Conditions Of Imprisonment

20.3.1 Admission

This section focuses on the treatment of prisoners upon their admission to prison. International legal instruments place a series of obligations on States in respect of prisoner admission. The questions in this section are based on these obligations.

3.1.1 Has your country adopted laws or policies requiring that all prisoner details are recorded at the time of committal including, inter alia, details of any visible injuries and the prisoner's personal belongings? SMR 7(1), EPR 15.1, 31.1, 31.2 & 31.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	7	1	7
Total Europe - %	71	63	29	4	29
Netherlands	X	X			

3.1.2 Has your country adopted laws or policies requiring that upon admission, each prisoner is given a booklet outlining his/her rights, duties, obligations and privileges and the rules and regulations governing the prison which apply to the individual prisoner? The booklet shall be written in a language that the prisoner understands. CERD 7, SMR 35, BOP 13, EPR 30

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	6	1	6
Total Europe - %	63	54	25	4	25
Netherlands	X	X			

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3.1.3 Has your country adopted laws or policies requiring that upon admission, every prisoner shall undergo a medical examination either by a nurse reporting to a doctor or by a doctor? SMR 24, BOP 24, R(98)7: 1, EPR 42.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	20	6	1	1
Total Europe - %	96	83	25	4	4
Netherlands	X	X	X	X	

3.1.4 Has your country adopted laws or policies requiring the doctor/nurse to pay particular attention to the detection of injuries, mental illnesses, of withdrawal symptoms resulting from the use of drugs, medication or alcohol, of contagious and chronic conditions, and, to assess the prisoner's suicide/self-harm risk? SMR 24, R(98)7: 1, EPR 42.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	10	8	1	9
Total Europe - %	62	42	33	4	38
Netherlands	X	X	X	X	

3.1.5 Has your country adopted laws or policies requiring injuries detected during such an examination to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner? EPR 15.1.e & 42.3.c

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	5	4	1	17
Total Europe - %	29	21	17	4	71
Netherlands	X	X	X	X	

3.1.6 Has your country adopted laws or policies requiring upon admission that each prisoner be assessed to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves? ICCPR 6, UDHR 3, ECHR 2, R(2003)23: 12, EPR 52.1, *Keenan v The United Kingdom* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	5	1	13
Total Europe - %	46	42	21	4	54
Netherlands	X	X	X	X	

3.1.7 Has your country adopted laws or policies requiring that such risks be managed for the duration of the prisoner's sentence? ICCPR 6, UDHR 3, ECHR 2, EPR 52.2, *Osman v The United Kingdom* (ECtHR 2000)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	3	1	12
Total Europe - %	50	50	13	4	50
Netherlands	X	X	X	X	

Analysis

International instrument compliance

The Netherlands has adopted all of the seven commitments relating to prison admissions including the legally binding commitments stipulating that prisoners must be given a booklet outlining their rights and the rules of the institutions in which they will be housed, requiring that prisoners must be assessed to ascertain if they pose a risk either to themselves or to others and requiring such risks to be managed for the duration of a prisoner's sentence.

20.3.2 Allocation

This section focuses on the allocation of prisoners to a particular prison. International legal instruments place a series of obligations on States in respect of prisoner allocation. The question in this section is based on these obligations.

3.2.1 Has your country adopted laws or policies requiring prisoners to be assigned to a prison as near to their home area as possible in order to maintain relationships with families and friends, subject to the maintenance of good order and security? BOP 20, EPR 17.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	15	6	1	5
Total Europe - %	79	63	25	4	21
Netherlands	X	X	X		

Analysis

International instrument compliance

The Netherlands has adopted the commitment requiring prisoners to be assigned to a prison as near to their home as possible. This proviso has a basis in both law and policy.

20.3.3 Accommodation

This section focuses on the living conditions of prisoners. International legal instruments place a series of obligations on States in respect of the accommodation of prisoners. The questions in this section are based on these obligations.

3.3.1 Has your country adopted laws or policies requiring that where possible prisoners should have individual cells to sleep in? SMR 9(1), EPR 18.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	3	0	10
Total Europe - %	58	54	13	0	42
Netherlands					X

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3.3.2. Has your country adopted laws or policies stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation? ICCPR 6(1), UDHR 3, SMR 9(2), ECHR 2, EPR 18.6 & 18.7, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	4	0	14
Total Europe - %	42	29	17	0	58
Netherlands					X

3.3.3 Has your country adopted laws or policies requiring that the size of a cell must be suitable for its purpose? The suitability of the cell size should be dependent on the number of hours spent in the cell, the number of prisoners accommodated in the cell and the availability of in-cell-sanitation facilities that ensure privacy. SMR 9, 10, 11 & 12, EPR 18 & 19.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	8	2	1	15
Total Europe - %	37	33	8	4	63
Netherlands					X

3.3.4 Has your country adopted laws or policies requiring that cells should not be used to accommodate more prisoners than the intended design capacity, unless justified in exceptional circumstances? SMR 9(1) & 10, EPR 18.1, 18.3, 18.4 & 18.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Netherlands					X

3.3.5 Has your country adopted laws or policies requiring that cells be suitable for accommodating prisoners in respect of size, lighting, heating, ventilation and fittings? SMR 9, 10, 11, 12 & 13, EPR 18

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	16	4	0	6
Total Europe - %	75	67	17	0	25
Netherlands					X

3.3.6 Has your country adopted laws or policies requiring that all prisoners have in-cell access to a working alarm bell that attracts the attention of staff at all times? ICCPR 6(1), UDHR 3, ECHR 2, EPR 18.2.c & 52.4, IPR 18(4), *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	13	2	0	4
Total Europe - %	83	54	8	0	17
Netherlands					X

Analysis

International instrument compliance

The Netherlands has not incorporated any of the six commitments regarding the accommodation of prisoners. There is no provision in Dutch law requiring that prisoners be accommodated in individual cells. The legally binding commitments requiring prisoners to be assessed as suitable for sharing accommodation and requiring all cells to have working alarm have not been adopted.

Situation in practice

The International Centre for Prison Studies reported that the Dutch prison population rate (per 100,000 of an estimated national prison population of 16,61 million) at the end of April 2010 is 94. Previous problems regarding overcrowding were addressed by building many new prisons and increasing cell capacity at the beginning of the 21st century. More recently, in 2010 some prisons in the east and north of the country were being closed down. According to the ICPS, the prison occupancy rate was 86.4% as of 30 April 2010. The prison in Tilburg currently houses convicted Belgian prisoners; an arrangement underpinned by a treaty between the two countries and designed to ease the situation of overcrowding in the Belgian prison system. Until 2002, the Dutch prison system applied the concept of multi occupancy cells only in detention centres for irregular migrants. Single cells were the principle in prisons and remand prisons. Since 2002 the concept of double and multi occupancy cells is well-accepted.

In 2007, the CPT was especially interested in the terrorist departments at De Schie Prison and Vught Prisons. It highlighted that improvements needed to be made with respect to the ventilation and lighting arrangements in the cells of the Vught prison terrorist department.

Regarding the detention conditions for remand prisoners the relevant part of the EU-study on pre-trial detention can be cited: "One major problem with the execution of pre-trial detention is the frequent use in practice of the possibility, intended as an exception, of carrying out the first ten days of pre-trial detention at a police station, before transferring the pre-trial detainee to a remand house. However, during its last visit to the Netherlands in 2007, the Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment noted "that a significant number of persons spent between 10 and 14 days detained in a police cell. This appeared particularly to be the case for juveniles between 16 and 18 years of age; apparently this was due to capacity problems in juvenile detention facilities." According to the opinion of the CPT's delegation, the findings "suggest that police cells are being used as surplus capacity for remand prisons and alien holding facilities. The CPT notes that a shortage of remand capacity, combined with a policy of keeping prison occupation rates below 100% (...) may encourage prolonged detention in police facilities. However, the fact remains that police facilities do not offer suitable accommodation for lengthy periods of detention, particularly as concerns juveniles." For that reason, "the CPT recommends once again that the Netherlands authorities take appropriate measures to minimize the time detained persons have to spend in police cells. Moreover, particular efforts should be made to ensure that juveniles are not detained in police cells for prolonged periods and are transferred to appropriate juvenile detention facilities expeditiously."

20.3.4 Hygiene & Sanitation

This section focuses on the hygiene and sanitation facilities for prisoners. International legal instruments place a series of obligations on States in respect of hygiene and sanitation. The questions in this section are based on these obligations.

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3.4.1 Has your country adopted laws or policies to ensure that all prisoners have access to adequate and appropriate sanitary and washing facilities that respect their privacy? SMR 12 & 13, EPR 19.3, 19.4 & 19.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	2	0	10
Total Europe - %	58	58	8	0	42
Netherlands	X	X			

3.4.2 Has your country adopted laws or policies requiring that all In-cell sanitation facilities must be adequately screened? ICCPR 10(1), SMR 12, BOP 1, BPTP 1, ECHR 3, EPR 19.3, *Peers v Greece* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	4	1	9
Total Europe - %	62	54	17	4	38
Netherlands					X

Analysis

International instrument compliance

The Netherlands has adopted the commitment requiring it to provide all prisoners with access to adequate and appropriate sanitary and washing facilities that respect their privacy. The legally binding commitment that all in-cell sanitation facilities should be adequately screened has not been incorporated.

20.3.5 Clothing & Bedding

This section focuses on clothing and bedding provisions for prisoners. International legal instruments place a series of obligations on States in respect of the provision of clothing and bedding. The questions in this section are based on these obligations.

3.5.1 Has your country adopted laws or policies to ensure that prisoners are provided with clothing that is suitable for the climate, is not degrading or humiliating and is age appropriate? SMR 17(1), EPR 20.1 & 20.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	10	0	7
Total Europe - %	71	71	42	0	29
Netherlands	X	X			

3.5.2 Has your country adopted laws or policies requiring each prisoner to be provided with a bed and appropriate bedding and to ensure that all bedding is in good condition, is changed regularly and laundered? SMR 19, EPR 21

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	2	0	6
Total Europe - %	75	71	8	0	25
Netherlands	X	X			

Analysis

International instrument compliance

Both commitments relating to prisoners' clothing and bedding have been adopted by the Netherlands.

20.3.6 Nutrition

This section focuses on the nutrition requirements of prisoners. International legal instruments place a series of obligations on States in respect of prisoner's nutrition. The questions in this section are based on these obligations.

3.6.1 Has your country adopted laws or policies to ensure that prisoners are provided with a sufficient quantity of nutritious food taking into account their health, physical condition, special dietary requirements, religion and culture? SMR 20(1), EPR 22.1 & 22.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	5	1	4
Total Europe - %	83	83	21	4	17
Netherlands	X	X			

3.6.2 Has your country adopted laws or policies to ensure that prisoners have access to clean drinking water? SMR 20(2), EPR 22.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	16	5	1	5
Total Europe - %	79	67	21	4	21
Netherlands					X

Analysis

International instrument compliance

Dutch law includes provisions requiring the authorities to ensure that prisoners are provided with a sufficient quantity of nutritious food taking into account their health, physical condition, special dietary requirements, religion and culture. No provision exists guaranteeing that prisoners have access to clean drinking water.

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20.3.7 *Legal advice, info & rights*

This section focuses on the entitlement of prisoners to legal advice and information. International legal instruments place a series of obligations on States in respect of access to legal advice and information. The questions in this section are based on these obligations.

3.7.1 Has your country adopted laws or policies requiring that adequate time and facilities be provided to prisoners to receive professional visits from their legal advisers? BOP 18(2), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	4	1	2
Total Europe - %	92	92	17	4	8
Netherlands	X	X			

3.7.2 Has your country adopted laws or policies establishing the right of prisoners to communicate with their legal advisers by telephone and by letter? BOP 18(1), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	3	3	3
Total Europe - %	87	83	13	13	13
Netherlands	X	X			

3.7.3 Has your country adopted laws or policies requiring that communications between a prisoner and his/her legal adviser remain confidential and can only be restricted by law or judicial authority? ICCPR 17, BOP 18(3) & (4), ECHR 8, EPR 23.4 & 23.5, *Campbell v The United Kingdom* (ECtHR 1992)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	3	1	2
Total Europe - %	92	92	13	4	8
Netherlands	X	X			

Analysis

International instrument compliance

All commitments relating to prisoners' access to legal information and advice have been adopted by the Netherlands including the legally binding commitment protecting the confidentiality of a prisoner's correspondence with their legal advisor.

Situation in practice

During its 2007 visit to the terrorist units at De Schie Prison and Vught Prisons, the CPT highlighted that security measures needed to be reviewed with respect to contact between prisoners and their lawyers in order to ensure that they did not have an unduly negative impact on the quality of a prisoner's legal defence.

20.3.8 Contact with the outside world

20.3.8.1 Visits

This section focuses on the entitlement of prisoners to maintain contacts with the outside world. International legal instruments place a series of obligations on states in respect of prisoners' on-going contact with the outside world. The questions in this section are based on these obligations.

3.8.1.1 Has your country adopted laws or policies establishing the right of prisoners to communicate with their family and friends by correspondence and by receiving visits, subject to reasonable conditions/restrictions imposed by law or another authority? ICCPR 23(1), UDHR 16(3), SMR 37, BOP 15 & 19, EPR 24.1 & 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	2	0
Total Europe - %	100	96	29	8	0
Netherlands	X	X			

3.8.1.2 Has your country adopted laws or policies requiring that visits take place in an environment that enables prisoners to maintain and develop family and other relationships in as normal a manner as is possible subject to the maintenance of good order and security in the prison? SMR 79, EPR 24.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	6	0	2
Total Europe - %	92	88	25	0	8
Netherlands	X	X			

20.3.8.2 Searching of visitors

3.8.2.1 Has your country adopted laws or policies requiring that searching procedures for visitors be undertaken in a manner that respects a person's dignity? SMR 27, BOP 19, EPR 54.1.c, 54.3, 54.4 & 54.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	4	0	7
Total Europe - %	71	63	17	0	29
Netherlands	X	X			

3.8.2.2 Has your country adopted laws or policies requiring that prison officers only be permitted to search visitors of the same gender? EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	9	1	0	12
Total Europe - %	50	38	4	0	50
Netherlands					X

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20.3.8.3 *Restrictions on visits*

3.8.3.1 Has your country adopted laws or policies requiring the authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party(ies) and to review these circumstances on a regular basis? SMR 27, 79 & 80, EPR 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	0	0	63
Netherlands	X	X			

3.8.3.2 Has your country adopted laws or policies preventing the withdrawal of contact for female prisoners with their children as a disciplinary action except in exceptional circumstances? SMR 27, 79 & 80, EPR 24.2 & 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	2	0	12
Total Europe - %	50	50	8	0	50
Netherlands					X

20.3.8.4 *Death, illness & transfer*

3.8.4.1 Has your country adopted laws or policies requiring that prisoners be informed of the death/serious illness of a close relative/ friend without delay? SMR 44(2), EPR 24.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	2	0	13
Total Europe - %	46	42	8	0	54
Netherlands					X

3.8.4.2 Has your country adopted laws or policies allowing a prisoner to leave the prison to visit a sick relative/friend, attend a funeral or for other humanitarian reasons? SMR 44(2), EPR 24.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Netherlands	X	X			

3.8.4.3 Has your country adopted laws or policies ensuring that prisoners are allowed to inform their families or other nominated persons without delay of their imprisonment, transfer to another institution or of any serious illness that they may suffer from? SMR 44(1) & (3), BOP 16(1), EPR 24.8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Netherlands					X

3.8.4.4 Has your country adopted laws or policies requiring the prison authorities to immediately inform the spouse or the nearest relative to the prisoner (or any other person previously nominated), if the prisoner dies in custody, is removed to a hospital or suffers a serious injury/illness? SMR 44(1), EPR 24.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	3	0	6
Total Europe - %	75	75	13	0	25
Netherlands					X

20.3.8.5 Telephone and letters

3.8.5.1 Has your country adopted laws or policies preventing the monitoring or censoring of telephone calls unless the prisoner or the recipient of the call is informed of the possibility of such monitoring or, such monitoring has been agreed by any lawful authority? ICCPR 17, UDHR 12, SMR 37, BOP 19, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	3	1	5
Total Europe - %	79	79	13	4	21
Netherlands	X	X			

3.8.5.2 Has your country adopted laws or policies permitting prisoners to send a minimum of 7 letters a week free of charge and more if he/she can afford it, and to receive as many letters as are sent to him/her? SMR 37, BOP 19, EPR 24.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	11	1	0	12
Total Europe - %	50	46	4	0	50
Netherlands	X	X			

3.8.5.3 Has your country adopted laws or policies preventing the prison authorities from opening prisoners' private correspondence subject to the maintenance of good order and safe and secure custody in the prison? ICCPR 17, UDHR 12, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	1	9
Total Europe - %	62	62	13	4	38
Netherlands					X

20.3.8.6 Media

3.8.6.1 Has your country adopted laws or policies entitling prisoners to be kept informed of current affairs and other developments outside the prison by reading newspapers and

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periodicals and by listening to radio or television broadcasts (subject to the maintenance of good order and safe and secure custody)? SMR 39, BOP 28, EPR 24.10

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	1	1
Total Europe - %	96	92	21	4	4
Netherlands	X	X			

Analysis

International instrument compliance

The Netherlands has incorporated eight of the fourteen commitments relating to prisoners' contact with the outside world into its national law. Dutch legislation reflects the legally binding commitments establishing the right of prisoners to communicate with and receive visits from friends and relatives and defining the circumstances (and thus restricting) in which a prisoner's telephone calls may be monitored by the authorities. The legally binding commitment defining (and thus restricting) the circumstances in which a prisoner's mail may be opened by the authorities has not been adopted however. Furthermore, the Netherlands has not adopted measures to comply with the provisions of international legal instruments relating to the searching of visitors by prison officers of the same gender or prohibiting the withdrawal of contact between a female prisoner and her children as a disciplinary measure. Similarly no provision exists guaranteeing prisoners the right to be informed of the death or illness of a relative or close friend without delay, to inform relatives and friends of their imprisonment, illness and transfer to another institution or requiring the authorities to inform relatives or another nominated person if a prisoner becomes ill or dies in custody.

20.3.9 Work

This section focuses on work in prison. International legal instruments place a series of obligations on States in respect of work in prison. The questions in this section are based on these obligations.

3.9.1 Has your country adopted laws or policies requiring work to be incorporated as a positive aspect of prison regimes and prohibiting its use as a form of punishment? SMR 71(1), EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Netherlands					X

3.9.2 Has your country adopted laws or policies requiring that prison work provided should prepare prisoners for worthwhile work on their release and facilitate their reintegration into the workforce? SMR 71(3) & (4), BPTP 8, EPR 26.3 & 26.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	18	7	0	4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	83	75	29	0	17
Netherlands					X

3.9.3 Has your country adopted laws or policies entitling prisoners to be remunerated in respect of prison work carried out? ICESCR 7(a), UDHR 23, SMR 76(1), BPTP 8, EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	1	1
Total Europe - %	96	92	13	4	4
Netherlands					X

Analysis

International instrument compliance

None of the commitments arising from international legal instruments relating to prison work are reflected in Dutch policy or law. The legally binding commitment requiring that prisoners should be remunerated for work carried out in prison has also not been adopted.

20.3.10 Exercise & recreation

This section focuses on facilities for exercise and recreation in prison. International legal instruments place a series of obligations on States in respect of exercise and recreational facilities. The questions in this section are based on these obligations.

3.10.1 Has your country adopted laws or policies ensuring that, subject to the constraints of the particular prison and the maintenance of good order and security, prisoners shall be entitled to spend as much time out of their cells as is possible? EPR 25(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Netherlands					X

3.10.2 Has your country adopted laws or policies ensuring that prisoners receive at least one hours exercise each day in the open air, weather permitting? SMR 21, EPR 27.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	2	1
Total Europe - %	96	92	21	8	4
Netherlands	X	X			

3.10.3 Has your country adopted laws or policies ensuring that prisoners shall have access to a well-stocked library at least once a week (subject to the maintenance of good order and safe and secure custody)? R(89)12: 10, EPR 28.5

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	13	0	0	11
Total Europe - %	54	54	0	0	46
Netherlands	X	X			

Analysis

International instrument compliance

Two of the three commitments relating to prisoners' exercise and recreation have been adopted by the Netherlands. No commitment exists requiring the authorities to allow prisoners to spend as much time out of their cell as possible.

Situation in practice

One of the most important starting points in Dutch penal law is the principle of minimal restrictions, which has its roots in the Constitution. Besides this principle, the penitentiary law is based on the starting point that prisoners should – unless they are serving life sentences – be prepared for their return into society. However, budgetary restrictions and the increase of prisoners in the period after 2000 resulted in a reduction in the day programmes to a strict minimum. In most of the penitentiary institutions the evening programmes have also been abolished and the prisoners have to stay in their cells from 17.00 PM until the next morning. Also in the weekends the only outdoor activities often consist of a 1 hour stay in the open air and the ability to take part in religious services.

With regard to the youth detention facilities visited in 2007, the CPT recommended that the outdoor exercise yard of the isolation department at the De Hartelborgt Centre should be redesigned and that the Netherlands authorities should take the necessary measures to improve the regime afforded to juveniles on the De Talie Unit.

20.3.11 Education

This section focuses on facilities for education in prison. International legal instruments place a series of obligations on States in respect of prison education facilities. The questions in this section are based on these obligations.

3.11.1 Has your country adopted laws or policies requiring, as far as practicable, that prisoners have access to educational programmes that can meet their individual needs? ICESCR 13, UDHR 26, SMR 77(1), BPTP 6, R(89)12: 1, EPR 28.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	5	1	1
Total Europe - %	96	96	21	4	4
Netherlands	X	X			

3.11.2 Has your country adopted laws or policies requiring that education provided in prisons shall be integrated, in so far as is practicable, with national educational systems/programmes enabling prisoners to continue their education following their release? SMR 77(2), R(89)12: 16, EPR 28.7.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	5	0	3
Total Europe - %	87	75	21	0	13
Netherlands					X

3.11.3 Has your country adopted laws or policies requiring that vocational training be available for those prisoners who are able to benefit from it, particularly young prisoners? SMR 71(5), BPTP 8, R(89)12: 9, EPR 26.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	20	5	0	2
Total Europe - %	92	83	21	0	8
Netherlands					X

Analysis

International instrument compliance

The Netherlands has incorporated measures requiring that prisoners have access to educational programmes which meet their individual needs into its national law. The two other commitments – requiring prison education to be integrated with that provided in the community and requiring prison authorities to provide appropriate vocational training – have not been adopted however.

20.3.12 Freedom of thought, conscience & religion

3.12.1 Has your country adopted laws or policies ensuring that prisoners have the opportunity to practice their religion and to follow their beliefs whilst in custody? ICCPR 18(1), CERD 5 (d) (vii), UDHR 18, SMR 42, BPTP 3, EPR 29.1 & 29.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	5	0	0
Total Europe - %	100	96	21	0	0
Netherlands	X	X			

Analysis

International instrument compliance

The legally binding commitment requiring the authorities to ensure that prisoners are able to practice their religion whilst in custody has been adopted by the Netherlands.

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20.4 Health

20.4.1 Core principles

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.1.1 Has your country adopted laws or policies requiring that primary healthcare services to meet the needs of all prisoners be provided in each prison to a standard equivalent to that available to the community in general? ICESCR 12(1), SMR 22(1), PME 1, R(98)7: 10, 11, 12 & 19, EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	6	0	1
Total Europe - %	96	92	25	0	4
Netherlands	X	X			

4.1.2 Has your country adopted laws or policies to ensure that where a sick prisoner requires treatment that cannot be provided by the medical staff in the prison he/she shall be transferred to an appropriate hospital without undue delay? SMR 22(2), BPTP 9, R(98)7: 3, EPR 46.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	3	1	2
Total Europe - %	92	88	13	4	8
Netherlands	X	X			

4.1.3 Has your country adopted laws or policies requiring that medical records be created and accurately maintained on all prisoners and that such records be treated as confidential? BOP 26, R(98)7: 13, EPR 42.3.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	5	0	3
Total Europe - %	87	83	21	0	13
Netherlands	X	X			

Analysis

International instrument compliance

All of the three commitments relating to the core principles of prison health care have been adopted by the Netherlands including the legally binding commitment requiring that primary health care for prisoners be provided at a standard equivalent to that provided in the community.

Situation in practice

Following its 2007 visit, the CPT recommended that the manner in which medical care is delivered to inmates held in terrorist departments be reviewed. More specifically, it highlighted

that all medical examinations should be conducted out of the hearing and - unless the doctor concerned requests otherwise in a given case - out of the sight of prison officers. The Committee also recommended that the Netherlands' authorities cease handcuffing prisoners during medical examinations outside their cells. Shortcomings were also highlighted by the CPT in the system of medical record keeping at the De Hartelborg youth detention facility.

20.4.2 Women and children

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations

4.2.1 Has your country adopted laws or policies to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor? CEDAW 12, SMR 23, BOP 5(2), R(98)7: 8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	7	3	0	17
Total Europe - %	29	29	13	0	71
Netherlands					X

4.2.2 Has your country adopted laws or policies requiring that appropriate care be afforded to all pregnant prisoners and nursing mothers? CEDAW 12(2), SMR 23, R(98)7: 8 & 69, EPR 34.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Netherlands					X

Analysis

International instrument compliance

Neither of the commitments relating to health care for women prisoners have been adopted by the Netherlands including the legally binding commitment requiring the authorities to guarantee women prisoners access to a female doctor.

20.4.3 Mental health care

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.3.1 Has your country adopted laws or policies requiring that prisoners with mental health difficulties be entitled to care appropriate to their circumstances, commensurate to the type of care available for people with similar mental health difficulties in the community? SMR 22(1), PPPMI 1 & 20, R(98)7:10, 11 & 52, R(2004)10: 35(1) & (2), EPR 40

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	4	0	3
Total Europe - %	87	79	17	0	13
Netherlands	X	X			

4.3.2 Has your country adopted laws or policies to ensure that prisoners who require psychiatric in-patient care are transferred to a suitable hospital facility of an appropriate security level without undue delay? SMR 22(2), PPPMI 9(1) & 20, R(98)7: 3 & 55, R(2004)10: 8, 9(1) & 35(1), EPR 12(1) & 46(1)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	3	0	6
Total Europe - %	75	71	13	0	25
Netherlands	X	X			

Analysis

International instrument compliance

Both of the commitments relating to the mental health care of prisoners have been adopted by the Netherlands.

20.4.4 Vulnerable prisoners

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.4.1 Has your country adopted laws or policies requiring that prisoners assessed as vulnerable be accommodated in areas of the prison which are most convenient and appropriate for their monitoring and treatment by the medical personnel and other relevant agencies? SMR 22(2) & 62, EPR 12.2, 39, 43.1, 46.2, 47.1 & 47.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	3	0	8
Total Europe - %	67	63	13	0	33
Netherlands	X	X			

4.4.2 Has your country adopted laws or policies requiring that prisoners assessed as being at risk of suicide/self-harm be continuously monitored by both medical and prison staff throughout the prisoner's time in custody and that records are kept of such monitoring? R(98)7: 58, EPR 47(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	5	0	14
Total Europe - %	42	29	21	0	58
Netherlands	X	X			

4.4.3 Has your country adopted laws or policies requiring that prisoners detained in a special cell be visited daily, and as frequently as is necessary by a doctor who shall, inter alia, monitor his/ her physical and mental health? SMR 25(1) & 32(3), R(98)7: 66, EPR 43.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Netherlands	X	X			

Analysis

International instrument compliance

Dutch law reflects the requirements of international legal instruments relating to vulnerable prisoners.

20.4.5 Medical & health care personnel

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.5.1 Has your country adopted laws or policies to ensure that every prisoner has access to appropriately qualified medical personnel in the prison at all times? SMR 24, BOP 24, R(98)7:1, 2 & 4, EPR 41.2 & 41.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Netherlands	X	X			

Analysis

International instrument compliance

Dutch law requires the authorities to ensure that every prisoner has access to appropriately qualified medical personnel in the prison at all times.

20.4.6 Prisoners with addiction problems

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.6.1 Has your country adopted laws or policies to ensure that prisoners with addiction problems have access to appropriate treatment and support services, including those from external agencies? SMR 62, R(98)7: 7, 43, 44, 45, 46 & 47, EPR 42.3.d

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	8	0	3
Total Europe - %	88	79	33	0	13
Netherlands	X		X		

Analysis

International instrument compliance

The commitment requiring the authorities to ensure that prisoners with addiction problems have access to appropriate treatment and support services has been adopted as a policy regulation in the Netherlands.

20.4.7 Hunger strikes

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.7.1 Has your country adopted laws or policies forbidding the practice of forced feeding of hunger strikers? DOMHS, R(98)7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	37	21	21	0	63
Netherlands	X		X		

Analysis

International instrument compliance

The force feeding of hunger strikers is forbidden in the Netherlands albeit that this stipulation has no basis in the law.

20.5 Good order

20.5.1 General approaches

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.1.1 Has your country adopted laws or policies requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody? R(82)17: 8, EPR 51.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	0	9
Total Europe - %	62	62	13	0	38
Netherlands					X

Analysis

International instrument compliance

The commitment requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody has not been adopted by the Netherlands.

Situation in practice

During its 2007 inspection of the terrorist departments at De Schie Prison and Vught Prisons, the CPT highlighted that it should only be possible to place prisoners in a "terrorist regime" based upon criteria which are laid down in law. With regard to these above-mentioned departments the CPT further recommended that a regular review of placement in a terrorist department should be introduced based upon criteria clearly laid down in law and that a comprehensive risk assessment process be introduced as the basis for placement in a terrorist department. The Committee also highlighted that the Netherlands' authorities should take measures to ensure that prisoners were not, by default, kept in conditions equivalent to isolation.

20.5.2 *Safety & Security*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.2.1 Has your country adopted laws or policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat? EPR 51.5, 53.1 & 53.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	63	63	17	0	37
Netherlands					X

Analysis

International instrument compliance

The commitment policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat has not been adopted by the Netherlands.

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20.5.3 Searching of prisoners

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.3.1 Has your country adopted laws or policies requiring that searches conducted on prisoners be carried out with due regard to the prisoner's dignity? ICCPR 10(1), BPTP 1, EPR 54.3 & 54.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	0	1
Total Europe - %	96	92	13	0	4
Netherlands	X	X			

5.3.2 Has your country adopted laws or policies stipulating that prisoners may only be searched by a staff member of the same gender? ICCPR 10(1), BPTP 1, EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	1	0	1
Total Europe - %	96	92	4	0	4
Netherlands	X	X			

5.3.3 Has your country adopted laws or policies stipulating that prisoners may only be subjected to a strip search in exceptional circumstances and for good reason and then, only in the presence of two officers in an appropriate place which ensures privacy? ICCPR 10(1), BPTP 1, EPR 54. 3, 54.4 & 54.6, *Van der Van v The Netherlands* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	3	1	13
Total Europe - %	66	54	13	4	54
Netherlands					X

Analysis

International instrument compliance

Two out of the three commitments relating to searching of prisoners have been incorporated into Dutch national law. All provisos arising from the ECtHR case *Van der Van v The Netherlands* (2004) have not, however, been adopted, despite the case being brought by a prisoner against the Netherlands itself.

20.5.4 Criminal acts, discipline & punishment

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.4.1 Has your country adopted laws or policies stipulating that all inquiries into breach of prison discipline or rules shall be conducted in an independent and impartial manner? ICCPR 14(1), UDHR 10, ECHR 6(1), *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	2	1	8
Total Europe - %	67	63	8	4	33
Netherlands	X	X			

5.4.2 Has your country adopted laws or policies requiring that all incidents of bullying/violence/threatening behaviour between prisoners, and any breach of discipline be reported to an officer of a higher rank, duly recorded and properly investigated? EPR 52.2 & 58

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	62	62	17	0	38
Netherlands	X	X			

5.4.3 Has your country adopted laws or policies stipulating that when a prisoner has been charged with a disciplinary offence he/she shall be promptly informed of the allegation made against him/her in a language that he/she understands? ICCPR 14(3)(a), CERD 5(a), SMR 30(2), ECHR 6(3)(a), EPR 59.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	3	0	7
Total Europe - %	71	71	13	0	29
Netherlands	X	X			

5.4.4 Has your country adopted laws or policies stipulating if an inquiry is being conducted into a breach of prison discipline or rules the prisoner shall have adequate time to prepare his/her defence and/or to receive legal assistance? ICCPR 14(3)(b) & (d), SMR 30(2), ECHR 6(3)(b) & (c), EPR 59.b & 59.c, *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	2	0	9
Total Europe - %	62	58	8	0	38
Netherlands	X	X			

5.4.5 Has your country adopted laws or policies stipulating that in any disciplinary proceedings prisoners must understand the proceedings and if necessary, appropriate interpretation facilities must be provided? ICCPR 14(3)(f), SMR 30(3), ECHR 6(3)(e), EPR 59.e

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Netherlands	X	X			

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5.4.6 Has your country adopted laws or policies stipulating that no prison officer shall impose a punishment/penalty/deprivation on a prisoner without due process and in accordance with law and/or relevant rules or instruments? EPR 57.2.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	2	0	4
Total Europe - %	83	83	8	0	17
Netherlands	X	X			

5.4.7 Has your country adopted laws or policies stipulating that if a prisoner is found guilty of a disciplinary offence, he/she shall be entitled to exercise his/her right of appeal to an independent and impartial tribunal established by law? ICCPR 14(5), BOP 30(2), EPR 61

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	1	0	5
Total Europe - %	79	79	4	0	21
Netherlands	X	X			

5.4.8 Has your country adopted laws or policies requiring that when a prisoner is detained in any type of special cell (special observation/cladded/strip) he/she shall be regularly monitored by a prison officer? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	3	0	7
Total Europe - %	71	67	13	0	29
Netherlands					X

5.4.9 Has your country adopted laws or policies requiring that a detailed record be maintained of, inter alia, the monitoring of such prisoners, their expressed requirements, actions taken in response to such requests and details of visits by officers or others to such prisoners? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	8	8	2	0	16
Total Europe - %	33	33	8	0	67
Netherlands	X	X			

5.4.10 Has your country adopted laws or policies to ensure that prisoners in a special cell are able to contact a member of staff at all times, including during the night and that a staff member shall respond without delay? ICCPR 6(1), EPR 18.2.c & 52.4, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	4	0	63
Netherlands					X

Analysis

International instrument compliance

The Netherlands has adopted eight of the ten commitments relating to criminal acts, discipline and punishment: this includes the legally binding commitments requiring that breaches of prison discipline are investigated in an impartial manner, the right of prisoners to be given information about the charges in a language they can understand and their ability to access interpretation facilities during a hearing. Furthermore, the commitments requiring the authorities to ensure that prisoners have time to prepare their defence and can appeal to an independent and impartial tribunal have also been incorporated. Legally binding requirements concerning the requirement to record regularly monitor prisoners held in special cells alongside ensuring that such prisoners are able to contact prison staff at all times have not been incorporated.

Situation in practice

Commenting after its visits to youth detention facilities in 2007, the CPT highlighted that operational guidelines needed be drafted to ensure that there was a clear distinction between the application of an order measure and a disciplinary sanction. It also recommended that measures be taken in De Hartelborgt to ensure that staff remain actively involved with juveniles placed in isolation. The Committee also emphasised that the Netherlands' authorities should send a clear message to the staff at De Hartelborgt that disciplinary sanctions or order measures other than those described in the house rules and relevant legislation are not permitted alongside the need to provide clear instructions about the proper application of a time-out. The authorities were also asked to review the systematic use of handcuffs for all transfers to the isolation unit with the Committee noting that their application should in each case be based upon a risk assessment.

20.5.5 Use of force/weapons

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.5.1 Has your country adopted laws or policies stipulating that members of staff will use force only when absolutely necessary and that any force used shall be proportionate to the situation? SMR 54(1), CCLEO 3, BPUF 4, EPR 64 & 6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	4	1	3
Total Europe - %	87	87	17	4	13
Netherlands	X	X			

Analysis

International instrument compliance

The commitment regarding proportionate use of force has been adopted by the Netherlands.

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Situation in practice

Commenting after its visits to youth detention facilities in 2007, the CPT highlighted that the regulation on the use of mechanical means of restraint on juveniles needed to be reviewed and that a special register on the application of mechanical restraints to be introduced at the De Hartelborgt centre.

20.5.6 Requests & complaints

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.6.1 Has your country adopted laws or policies to ensure that prisoners have sufficient opportunity to make requests or complaints to the Governor of the prison or to any other competent authority? SMR 36(1) & (3), BOP 33(1), EPR 70.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	3	0	1
Total Europe - %	96	96	13	0	4
Netherlands	X	X			

5.6.2 Has your country adopted laws or policies establishing the right of a prisoner’s legal advisor or to make a request or a complaint regarding that prisoner’s treatment to the prison authorities, or other relevant authorities? BOP 33 (1) & (2), EPR 70.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	1	0	6
Total Europe - %	75	75	4	0	25
Netherlands	X	X			

5.6.3 Has your country adopted laws or policies requiring that all complaints be promptly investigated in accordance with law? SMR 36(4), BOP 33(4)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	2	0	7
Total Europe - %	71	67	8	0	29
Netherlands	X	X			

5.6.4 Has your country adopted laws or policies to ensure that where a request is denied or a complaint is rejected, the prisoner is informed promptly as to the reason(s) for such denial or rejection? SMR 36(4), BOP 33(4), EPR 70.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	2	1	7
Total Europe - %	71	63	8	4	29
Netherlands	X	X			

5.6.5 Has your country adopted laws or policies to ensure that prisoners are not disadvantaged for exercising their rights to make requests or complaints? BOP 33(4), EPR 70.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	3	0	13
Total Europe - %	46	42	13	0	54
Netherlands					X

5.6.6 Has your country adopted laws or policies requiring that complaints made by members of staff against other members of staff be properly recorded and investigated in accordance with the law? EPR 88 & 87.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	11	3	0	11
Total Europe - %	54	46	13	0	46
Netherlands	X	X			

Analysis

International instrument compliance

All commitments relating to prison requests and complaints have been adopted by the Netherlands except that requiring the authorities ensure that prisoners are not disadvantaged for exercising their rights to make requests or complaints.

20.6 Management & Staff

20.6.1 *Training of staff*

This section focuses on the staff training and prison management. International legal instruments place a series of obligations on States in respect of the training and management of prison staff. The questions in this section are based on these obligations.

6.1.1 Has your country adopted laws or policies to ensure that all prison staff receive appropriate training at regular intervals throughout their career? SMR 47(3), EPR 8, 76 & 81.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	14	7	0	5
Total Europe - %	79	58	29	0	21
Netherlands					X

6.1.2 Has your country adopted laws or policies to ensure that members of staff who work with particular groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, receive training particular to their individual work? R(82)17: 10, R(2004)10: 12(1), EPR 81.3, ERJO 129

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	38	21	21	0	62
Netherlands					X

Analysis

International instrument compliance

Neither of the commitments arising from international legal instruments relating to the training of prison management and staff have been adopted by the Netherlands.

Situation in practice

The CPT highlighted a number of issues relating to management and staff in its report following the 2007 visit to the Netherlands . The Committee noted that the budget of the prison service had not increased proportionately with the growth in cell capacity and that accordingly, the Dutch National Agency for Correctional Institutions (NACI) had been forced to make significant economies, primarily by reducing activities and work for inmates and by cutting staff costs. It noted further that budgetary restraints combined with the expansion of the prison estate, within a context of public pressure to reduce the rate of prisoner reoffending, had resulted in the Dutch prison service going through a period of ongoing transformation, through which more efficient and effective forms of detention were being sought. In practice budgetary reasons had also led to a reorganisation of prison management, the involvement of private security companies in prisons, a reduction of labour facilities and a more sober prison regime.

20.7 Inspection & Monitoring

20.7.1 Governmental Inspection

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.1.1 Has your country adopted laws or policies requiring that prisons be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law? SMR 55, EPR 92, R(2004)10 36.1, ERJO 125, PPPMI 22

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	19	4	0	4
Total Europe - %	83	79	17	0	17
Netherlands	X	X			

Analysis

International instrument compliance

The Netherlands has adopted measures to comply with the stipulations of international legal instruments concerning the governmental monitoring of prisons.

Situation in practice

In the Netherlands, an independent supervisory body is attached to every penitentiary institution. Basically this body consists of qualified persons (e.g. a judge, a doctor, a lawyer) and a number of ordinary citizens. This supervisory committee also deals with complaints brought by prisoners. At a central level, the Council for the Administration of Criminal Justice and Protection of Juveniles has also been established. The Council has 60 members: specialists in prison law, juvenile and family law, the behavioural sciences, members of the judiciary and the legal profession, public administration officials, and a number of physicians. The Council is an independent body; members, who are Crown-appointed, are not associated with the Ministry of Justice or other organisations active within the Council's remit. This council acts as appeal instance for complaints dealt with by the local supervisory boards. An independent prison inspectorate has also been established (the Inspectorate for the Application of Sanctions (IST)).

20.7.2 Independent monitoring

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.2.1 Has your country adopted laws or policies requiring that the conditions of detention and the treatment of prisoners shall be also monitored by an independent body or bodies, comprised of qualified experienced personnel, and whose findings shall be made public? OPCAT 3, 17, 18, 19, BOP 29.1, EPR 93.1, R(2004)10 36.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Netherlands	X	X			

7.2.2 Has your country adopted laws or policies granting such an independent body open access to places of detention, to prisoners and others whom it wishes to interview? OPCAT 19, 20, CPT 8,9 BOP 29.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	3	1	9
Total Europe - %	62	58	13	4	38
Netherlands	X	X			

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7.2.3 Has your country adopted laws or policies encouraging such independent bodies to cooperate with those international agencies that are legally entitled to visit prisons? CPT 2,7 EPR 93.2, ERJO 126.

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	6	1	0	17
Total Europe - %	29	25	4	0	71
Netherlands	X	X			

Analysis

International instrument compliance

The Netherlands has adopted measures to comply with the stipulations of international legal instruments concerning independent monitoring of prisons.

Situation in practice

The Netherlands have ratified the OPCAT (as of 28 September 2010), but have not yet designated a NPM.

20.8 Sentenced Prisoners

This section focuses on the particular provisions relating to convicted prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

8.1.1 Has your country adopted laws or policies requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan? ICCPR 10(3), SMR 80, EPR 6, 103.2 & 103.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	6	2	4
Total Europe - %	83	83	25	8	17
Netherlands					X

8.1.2 Has your country adopted laws or policies requiring that a sentence management plan be prepared for each prisoner serving a sentence of 12 months or over as soon as practicable after their admission? It should provide for, inter alia, the welfare and health needs of the prisoner, training, employment or education needs he/she may have, and include a release plan for the prisoner. This plan shall be reviewed at regular intervals to take into account the changing circumstances of the prisoner. SMR 65, 66 & 69, R(2003)23: 3 & 9, EPR 6, 103 & 104.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	5	0	10
Total Europe - %	58	54	21	0	42
Netherlands					X

Analysis

International instrument compliance

Neither of the commitments relating to sentenced prisoners has been incorporated into Dutch law or policy. This includes the legally binding commitment requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan.

20.9 Juveniles

This section focuses on the particular provisions relating to juvenile prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

9.1.1 Has your country adopted laws or policies requiring that juveniles be detained separately from adult offenders? ICCPR 10(3), CRC 37(c), BR 26.3, RPJDL 29, EPR 11.1, ERJO 59.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	1	3
Total Europe - %	87	87	13	4	13
Netherlands	X	X			

9.1.2 Has your country adopted laws or policies to ensure that, subject to reasonable conditions and restrictions, a sentenced prisoner under the age of 18 shall be entitled to receive a minimum of two weekly visits? CRC 37(c), SMR 37, BOP 19, RPJDL 60, ERJO 83, 84, 85.1 & 85.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	6	3	0	15
Total Europe - %	37	25	13	0	63
Netherlands					X

Analysis

International instrument compliance

Dutch law stipulates that juvenile and adult offenders should not be housed together in compliance with the commitments arising from legally binding international legal instruments. No provision exists, however, stipulating the minimum number of weekly visits which a juvenile prisoner is entitled to receive.

Situation in practice

Following its 2007 visit to the Netherlands, the CPT recommended that the Dutch authorities ensure that greater efforts were made to draw up an individualised pedagogical or treatment plan for each resident of De Hartelborgt youth detention centre.

20.10 Sentence Execution Modalities

This section of the questionnaire is designed to collate information on the differing methods by which custodial sentences and measures involving deprivation of liberty are enforced across EU Member States.

10.1.1. Which of the following modalities of prison sentence execution are provided for in the law of your country?

	Weekend detention	Evening detention	Daytime detention	Home detention	
				no electronic monitoring	electronic monitoring
EUROPE	9 = 38%	10 = 42%	3 = 13%	6 = 25%	14 = 58%
Netherlands	X	X	X		X

10.1.2. What is the maximum period for which home detention with electronic monitoring can be imposed?

	Under 12 months	12-24 months	25 months - 36 months	37 months - 50 months	More than 50 months
EUROPE	7 = 29%	4 = 17%	0 = 0%	1 = 4%	2 = 8%
Netherlands	X				

10.2.1. In which of the following locations can custodial sentences or measures involving deprivation of liberty be imposed?

	Penitentiary institution	Psychiatric institution	Detoxification institution	Educational institution	Home
EUROPE	24 = 100%	20 = 83%	10 = 42%	7 = 29%	12 = 50%
Netherlands	X	X	X	X	X

Analysis

Sentence execution modalities

Dutch law provides for four additional sentence execution modalities: weekend detention, evening detention, daytime detention and home detention with electronic monitoring. Such monitoring can be imposed for a period up to 12 months in duration, and 24 months. Custodial sentences or measures involving deprivation of liberty can be imposed in relation to penitentiary, psychiatric, detoxification and educational institutions in the Netherlands in addition to the home detention measures highlighted above. Police stations are, in addition, used in this context.

20.11 Early release from prison, earned remission and suspension of sentence

20.11.1 Early release

Early release means the release of the offender before their prison term is finished. It is possible only while the sentence is still being served. Early release does not include the suspended enforcement of a penalty which is dealt with later in this questionnaire.

11.1.2.1. Has your country adopted laws and regulations under which prisoners are entitled to early release from prison ?

	Yes	No
EUROPE	24 = 100%	0 = 0%
Netherlands	X	

11.1.2.2. At what point in a prisoner's sentence do they become eligible for early release?

	One third of sentence or less	One third to one half of a sentence	One half to three quarters of a sentence	More than three quarters of a sentence	Other
EUROPE	2 = 8%	1 = 4%	7 = 29%	0 = 0%	14 = 58%
Netherlands			X		

11.1.2.2. Does your country have different regulations for the early release of prisoners based on:

	A prisoner's nationality (non-EU citizen)	A prisoner's nationality (EU citizen)	The length of sentence imposed
EUROPE	Yes - 3 = 12% No - 21 = 88%	Yes - 3 = 12% No - 21 = 88%	Yes - 24 = 100% No - 0 = 0%
Netherlands	N	N	Y

11.1.2.3. Are provisions governing the early release of prisoners automatic or discretionary?

	Automatic (prisoners are automatically released at a certain point in their sentence)	Discretionary (prisoners are only released following assessment)
EUROPE	Yes - 7 = 29% No - 17 = 71%	Yes - 20 = 83% No - 4 = 17%
Netherlands	N	Y

11.1.2.4. What factors are taken into consideration when deciding whether a prisoner will be granted early release?

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	The circumstances surrounding the crime	Prior criminal record	The offender's progress during imprisonment	Assessment as to whether the prisoner is likely to reoffend	Recommendation from the sentencing judge
EUROPE	Yes - 24 = 50% No - 24 = 50%	Yes - 15 = 63% No - 9 = 37%	Yes - 22 = 92% No - 2 = 8%	Yes - 19 = 79% No - 5 = 21%	Yes - 4 = 17% No - 20 = 83%
Netherlands	N	N	Y	Y	N

11.1.3.1. What forms of monitoring and conditions can be applied to prisoners' early release?

1. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
2. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
4. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
5. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
6. Electronic monitoring
7. Weekend/evening /daytime detention
8. Requirement containing limitations on leaving the country
9. Requirement to leave the country
10. Requirement to pay compensation
11. Requirement to undertake community service
12. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	Other
EUROPE	Y - 83 N - 17	Y - 8 N - 92	Y - 58 N - 42	Y - 62 N - 38	Y - 33 N - 77	Y - 25 N - 75	Y - 13 N - 87	Y - 42 N - 58	Y - 21 N - 79	Y - 29 N - 71	Y - 21 N - 79	9
Netherlands	Y	N	Y	Y	Y	Y	N	N	Y	Y	N	

20.11.2 Sentence reduction as a result of prison work

11.2.1.1. Can a prisoner earn remission on their sentence as a result of work carried out in prison?

	Yes	No
EUROPE	9= 38%	15 – 62%
Netherlands		X

20.11.3 Suspension of sentence enforcement

11.3.1. Does the national law of your country make provision for the further execution of a prison sentence to be suspended during the course of the sentence?

	Yes	No
EUROPE	10=42%	14= 58%
Netherlands		X

11.3.2.1. What factors are taken into consideration when deciding whether a prisoner will have the further execution of their prison sentence suspended?

1. The circumstances surrounding the crime
2. Prior criminal record
3. The offender's progress during imprisonment
4. Assessment as to whether the prisoner is likely to reoffend
5. Recommendation from the sentencing judge
6. Suitability of home circumstances
7. Information from victim(s)
8. Willingness of the prisoner to leave the country upon release
9. The prisoner will be deported upon release
10. Other – please specify

	1	2	3	4	5	6	7	8	9	Other
EUROPE	Y - 8 N - 92	Y - 13 N - 78	Y - 17 N - 83	Y - 21 N - 79	Y - 0 N - 100	Y - 4 N - 96	Y - 0 N - 100	Y - 0 N - 100	Y - 0 N - 100	21
Netherlands	N	N	N	N	N	N	N	N	N	

11.3.3.1. What forms of monitoring and conditions can be applied to prisoners whose further execution of a prison sentence has been suspended?

1. Unconditional supervision
2. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
4. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
5. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)

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6. Compulsory access and contact restrictions (*e.g.* an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
7. Electronic monitoring
8. Weekend/evening /daytime detention
9. Requirement containing limitations on leaving the country
10. Requirement to leave the country
11. Requirement to pay compensation
12. Requirement to undertake community service
13. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	12	Other
EUROPE	Y - 4	Y - 38	Y - 4	Y - 29	Y - 17	Y - 17	Y - 4	Y - 4	Y - 21	Y - 0	Y - 17	Y - 4	2
	N - 96	N - 62	N - 96	N - 71	N - 83	N - 83	N - 96	N - 96	N - 79	N - 100	N - 83	N - 96	
Netherlands	N	N	N	N	N	N	N	N	N	N	N	N	

Analysis

Early release from prison, earned remission and suspension of sentence

In common with all EU countries, the Netherlands has adopted measures under which prisoners are entitled to early release from prison. Prisoners in the Netherlands can become eligible for early release between one half and two thirds of the way through their sentence albeit that differing regulations apply depending on the length of sentence imposed. The 2008 Conditional/Early Release Act stipulates that prisoners serving a prison sentence of more than one but less than two years will be released after having served one year and one third of the remaining term. Prisoners serving a sentence of more than two years will be released after having served two thirds of their sentence. The early release system in Netherlands is based around discretionary provisions. Decisions on a prisoner's early release are based on five of the ten criteria identified. Seven forms of monitoring and conditions can be applied to a prisoner granted early release. A general condition applying to all prisoners is that they will not re-offend. Special conditions which may be imposed include mandatory participation in a program assisting in a smooth return to society or providing special care, such as treatment for addiction; restrictions of someone's freedom to act or to move and, electronic monitoring. Prisoners in the Netherlands are not able to earn remission from their sentence as a result of work undertaken in prison. Neither is provision is made for the further execution of a prison sentence to be suspended during the course of the sentence.

Appendix

1. Penitentiare beginselenwet
2. Penitentiare maatregels
3. Wet op de rechtsbijstand
4. Circulaire – tijdelijk verlaten van de inrichting
5. Regeling selectie
6. Handreiking methadonverstrekking

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21.1 Introduction

The questionnaire was completed by Professor Dr. Zbigniew Lasocik, Professor in Criminal Law at the University of Warsaw.

Poland has been visited twice recently by the Committee for the Prevention of Torture (2004 and 2009 (report as yet unpublished)) and was the subject of a report by the European Commissioner for Human Rights in 2007 and the UN Committee Against Torture in 2005. Additional information has also been sourced from the 2009 UNHCR Country Report on Human Rights Practices for the Poland (drawing on source material provided by the US Department of State) and the International Centre for Prison Studies.

Country	POLAND
Ministry responsible	Ministry of Justice
	Central Board of Prison Service (Centralny Zarząd
Prison administration	Służby Więziennej)
Contact address	Ul. Rakowiecka 37A, PL-02-521 WARSAW, Poland
Telephone/fax/website	tel: +48 22 640 8311 or 8355 fax: +48 22 640 8312 or 8332 Web: www.sw.gov.pl
Head of prison administration (and title)	Jacek Włodarski Director General
Prison population total (including pre-trial detainees / remand prisoners)	83,401 at 30.4.2011 (national prison administration)
Prison population rate (per 100,000 of national population)	218 based on an estimated national population of 38.21 million at end of April 2011 (from Eurostat figures)
Pre-trial detainees / remand prisoners (percentage of prison population)	10.3% (30.4.2011)
Female prisoners (percentage of prison population)	3.2% (30.04.2011)
Juveniles / minors / young prisoners incl. definition (percentage of prison population)	0.3% (4.1.2010 - under 19)
Foreign prisoners (percentage of prison population)	0.7% (30.4.2011)
Number of establishments / institutions	215 (2008 - 70 institutions for pre-trial detainees, 86 prisons, 14 hospitals, 45 other units associated with the 156 main institutions)
Official capacity of prison	85,476 (30.4.2011 - normal capacity less places temporarily out of

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system	use)
Occupancy level (based on official capacity)	97.4% (30.4.2011 - not including prisoners temporarily outside the prisons)
Recent prison population trend (year, prison population total, prison population rate)	1992 61,409 (161) 1995 61,136 (160) 1998 54,373 (142) 2001 79,634 (208) 2004 80,368 (211) 2007 87,776 (230) 2010 80,728 (211)

21.2 Overarching Principles

This section focuses on the overarching principles governing the management of prisons and the treatment of prisoners. International legal instruments place a series of obligations on States in respect of the management of prisons and the treatment of prisoners. The questions in this section are based on these obligations.

2.1.1 Has your country adopted laws or policies specifically requiring that prisoners must be treated with respect for their human rights? ICCPR 10(1), UDHR 1, BOP 1, BPTP 1, EPR 1 & 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	19	7	1	2
Total Europe - %	92	79	29	4	8
Poland	X	X			

2.1.2 Has your country adopted laws or policies specifically requiring prisons to be managed in accordance with human rights standards? EPR 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	21	18	4	3	3
Total Europe - %	88	75	16	13	12
Poland	X	X			

2.1.3 Has your country adopted laws or policies explicitly prohibiting practices that could constitute torture, inhumane or degrading treatment or punishment of prisoners? ICCPR 7, BOP 6, ECHR 3, *Kalashnikov v Russia* (ECtHR 2003)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	21	1	3	2
Total Europe - %	92	88	4	12	8
Poland	X	X			

2.1.4 Has your country adopted laws or policies specifically requiring that prisoners be provided with a range of activities during their sentence (for example - educational, recreational, work/training and welfare programmes)? SMR 77 & 78, BOP 28, BPTP 6 & 8, EPR 25

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	0	0
Total Europe - %	100	96	29	0	0
Poland	X	X			

Analysis

International instrument compliance

In common with the majority of EU member states, Poland has passed legislation designed to protect the human rights of its prisoners and provide them with a meaningful regime during their time in custody. This legislation includes all of the commitments arising from legally binding international legal instruments.

21.3 Conditions Of Imprisonment

21.3.1 Admission

This section focuses on the treatment of prisoners upon their admission to prison. International legal instruments place a series of obligations on States in respect of prisoner admission. The questions in this section are based on these obligations.

3.1.1 Has your country adopted laws or policies requiring that all prisoner details are recorded at the time of committal including, inter alia, details of any visible injuries and the prisoner's personal belongings? SMR 7(1), EPR 15.1, 31.1, 31.2 & 31.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	7	1	7
Total Europe - %	71	63	29	4	29
Poland	X	X			

3.1.2 Has your country adopted laws or policies requiring that upon admission, each prisoner is given a booklet outlining his/her rights, duties, obligations and privileges and the rules and regulations governing the prison which apply to the individual prisoner? The booklet shall be written in a language that the prisoner understands. CERD 7, SMR 35, BOP 13, EPR 30

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	6	1	6
Total Europe - %	63	54	25	4	25
Poland					X

3.1.3 Has your country adopted laws or policies requiring that upon admission, every prisoner shall undergo a medical examination either by a nurse reporting to a doctor or by a doctor? SMR 24, BOP 24, R(98)7: 1, EPR 42.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	20	6	1	1

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	96	83	25	4	4
Poland	X	X			

3.1.4 Has your country adopted laws or policies requiring the doctor/nurse to pay particular attention to the detection of injuries, mental illnesses, of withdrawal symptoms resulting from the use of drugs, medication or alcohol, of contagious and chronic conditions, and, to assess the prisoner's suicide/self-harm risk? SMR 24, R(98)7: 1, EPR 42.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	10	8	1	9
Total Europe - %	62	42	33	4	38
Poland					X

3.1.5 Has your country adopted laws or policies requiring injuries detected during such an examination to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner? EPR 15.1.e & 42.3.c

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	5	4	1	17
Total Europe - %	29	21	17	4	71
Poland					X

3.1.6 Has your country adopted laws or policies requiring upon admission that each prisoner be assessed to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves? ICCPR 6, UDHR 3, ECHR 2, R(2003)23: 12, EPR 52.1, *Keenan v The United Kingdom* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	5	1	13
Total Europe - %	46	42	21	4	54
Poland					X

3.1.7 Has your country adopted laws or policies requiring that such risks be managed for the duration of the prisoner's sentence? ICCPR 6, UDHR 3, ECHR 2, EPR 52.2, *Osman v The United Kingdom* (ECtHR 2000)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	3	1	12
Total Europe - %	50	50	13	4	50
Poland					X

Analysis

International instrument compliance

Poland has only incorporated two out of the seven commitments relating to the admission of prisoners. Legally binding commitments relating to the provision of a booklet to prisoners outlining their rights and the rules of the establishment and the need to assess (and continue to assess) the degree of risk posed by a prisoner both to themselves and others have not been incorporated.

Situation in practice

Comments from the SPOC above indicate that some aspects of risk assessment are carried out in practice albeit that there is no legal obligation upon the prison authorities so to do.

21.3.2 Allocation

This section focuses on the allocation of prisoners to a particular prison. International legal instruments place a series of obligations on States in respect of prisoner allocation. The question in this section is based on these obligations.

3.2.1 Has your country adopted laws or policies requiring prisoners to be assigned to a prison as near to their home area as possible in order to maintain relationships with families and friends, subject to the maintenance of good order and security? BOP 20, EPR 17.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	15	6	1	5
Total Europe - %	79	63	25	4	21
Poland	X	X			

Analysis

International instrument compliance

The commitment relating to the allocation of prisoners to an establishment as near to their home as possible has been incorporated into Polish law.

Situation in practice

Comments from the SPOC indicate that this provision does not apply to women prisoners owing to the low numbers of women's prisons in Poland.

21.3.3 Accommodation

This section focuses on the living conditions of prisoners. International legal instruments place a series of obligations on States in respect of the accommodation of prisoners. The questions in this section are based on these obligations.

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3.3.1 Has your country adopted laws or policies requiring that where possible prisoners should have individual cells to sleep in? SMR 9(1), EPR 18.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	3	0	10
Total Europe - %	58	54	13	0	42
Poland					X

3.3.2. Has your country adopted laws or policies stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation? ICCPR 6(1), UDHR 3, SMR 9(2), ECHR 2, EPR 18.6 & 18.7, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	4	0	14
Total Europe - %	42	29	17	0	58
Poland	X	X			

3.3.3 Has your country adopted laws or policies requiring that the size of a cell must be suitable for its purpose? The suitability of the cell size should be dependent on the number of hours spent in the cell, the number of prisoners accommodated in the cell and the availability of in-cell-sanitation facilities that ensure privacy. SMR 9, 10, 11 & 12, EPR 18 & 19.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	8	2	1	15
Total Europe - %	37	33	8	4	63
Poland					X

3.3.4 Has your country adopted laws or policies requiring that cells should not be used to accommodate more prisoners than the intended design capacity, unless justified in exceptional circumstances? SMR 9(1) & 10, EPR 18.1, 18.3, 18.4 & 18.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Poland	X	X			

3.3.5 Has your country adopted laws or policies requiring that cells be suitable for accommodating prisoners in respect of size, lighting, heating, ventilation and fittings? SMR 9, 10, 11, 12 & 13, EPR 18

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	16	4	0	6
Total Europe - %	75	67	17	0	25
Poland	X	X			

3.3.6 Has your country adopted laws or policies requiring that all prisoners have in-cell access to a working alarm bell that attracts the attention of staff at all times? ICCPR 6(1), UDHR 3, ECHR 2, EPR 18.2.c & 52.4, IPR 18(4), *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	13	2	0	4
Total Europe - %	83	54	8	0	17
Poland					X

Analysis

International instrument compliance

Poland has adopted three out of the six commitments relating to the accommodation of prisoners including the legally binding commitment requiring prisoners to be assessed as suitable for sharing accommodation. There is no provision in Polish law requiring that prisoners be accommodated in individual cells. Furthermore the provisions of international instruments requiring that cells should be fit for purpose based on the criteria of the number of hours spent in a cell, the number of prisoners accommodated and the availability of in-cell sanitation have also not been incorporated. A less restrictive criteria stipulating that cells should not be used to accommodate more prisoners than their design capacity has been adopted. This stipulation is, however, based on a cell size which is below that recommended by the CPT (see below). The legally binding commitment requiring all cells to have working alarm bells has also not been adopted by Poland.

Situation in practice

The UNHCR reported in 2009 that prison and detention centre conditions remained poor and did not meet international standards. During its 2004 visit, the CPT found that overcrowding was an endemic problem in Polish Prisons. During its visit, the Committee noted that the average floor space available per prisoner was

2.6m², below the requirement of 3m² stipulated in Polish law and well below the minimum of 4m²

recommended by the CPT itself. Overcrowding furthermore was detrimental to the scope of activities offered in areas such as work and education (for example, recreational rooms were often adapted to make additional cell space available). It should also be noted that in May 2004 there had been a mass hunger strike in Wolow Prison to protest against over-crowding.

Concerns regarding overcrowding were also highlighted by the UN Committee against Torture in its 2005 report which highlighted that notwithstanding the measures taken to improve conditions of detention, the Polish prison estate continued to be plagued by problems of overcrowding and understaffing. These concerns were echoed by the European Commissioner of Human Rights in 2007 who emphasised that the principle of humane treatment requires that the dignity of convicts and those individuals placed in pre-trial detention should be respected by according them sufficient living space while incarcerated. Reference was again made to the contrast between the CPT recommendations for cell space, the Polish legal position and the situation on the ground. The growth of the prison population was also recognised as having negative consequences in other areas, for example, it led to the deterioration of the working conditions of prison officers and the lack of activities for inmates.

According to the UNHCR by end December 2009, the overcrowding situation had technically eased with 83,625 persons being held in prisons and detention facilities, according to government statistics. Total capacity compared to the previous year increased by

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approximately 4,602 and was estimated at 87,714 persons, leaving the prison estate at a nominal 95 percent of capacity. These figures should, however, be seen in the context of the restrictive legal definition of floor space per prisoner stipulated by Polish law and, that even adopting this definition, 2,185 detainees remained in cells smaller than the legally mandated minimum. High usage of pre-trial detention was also a serious problem that contributed to overcrowding and the deterioration of detention facilities (an issue also highlighted by the UN Committee Against Torture).

In May 2008 the Constitutional Court ruled that a provision in the criminal code, which allows the Justice Ministry (MOJ) to keep prisoners in overcrowded cells for unlimited periods of time, was unconstitutional and amounted to cruel and degrading treatment. On December 6, a new provision took effect that provides mechanisms to prevent prison overcrowding, including deferring sentences if the total number of prisoners exceeds prison capacity. In an effort to meet this requirement, prison officials converted many common areas, such as activity rooms and libraries, into cells.

The International Centre for Prison Studies reported that the prison system in Poland was operating at 97.4% of design capacity as of May 2011.

21.3.4 Hygiene & Sanitation

This section focuses on the hygiene and sanitation facilities for prisoners. International legal instruments place a series of obligations on States in respect of hygiene and sanitation. The questions in this section are based on these obligations.

3.4.1 Has your country adopted laws or policies to ensure that all prisoners have access to adequate and appropriate sanitary and washing facilities that respect their privacy? SMR 12 & 13, EPR 19.3, 19.4 & 19.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	2	0	10
Total Europe - %	58	58	8	0	42
Poland	X	X			

3.4.2 Has your country adopted laws or policies requiring that all In-cell sanitation facilities must be adequately screened? ICCPR 10(1), SMR 12, BOP 1, BPTP 1, ECHR 3, EPR 19.3, *Peers v Greece* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	4	1	9
Total Europe - %	62	54	17	4	38
Poland	X	X			

Analysis

International instrument compliance

All commitments relating to prison hygiene and sanitation have been incorporated by Poland including the legally binding obligation relating to screening of in-cell sanitation facilities.

21.3.5 Clothing & Bedding

This section focuses on clothing and bedding provisions for prisoners. International legal instruments place a series of obligations on States in respect of the provision of clothing and bedding. The questions in this section are based on these obligations.

3.5.1 Has your country adopted laws or policies to ensure that prisoners are provided with clothing that is suitable for the climate, is not degrading or humiliating and is age appropriate? SMR 17(1), EPR 20.1 & 20.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	10	0	7
Total Europe - %	71	71	42	0	29
Poland	X	X			

3.5.2 Has your country adopted laws or policies requiring each prisoner to be provided with a bed and appropriate bedding and to ensure that all bedding is in good condition, is changed regularly and laundered? SMR 19, EPR 21

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	2	0	6
Total Europe - %	75	71	8	0	25
Poland					X

Analysis

International instrument compliance

The commitment relating to prisoners' beds and bedding has not been incorporated by Poland.

21.3.6 Nutrition

This section focuses on the nutrition requirements of prisoners. International legal instruments place a series of obligations on States in respect of prisoner's nutrition. The questions in this section are based on these obligations.

3.6.1 Has your country adopted laws or policies to ensure that prisoners are provided with a sufficient quantity of nutritious food taking into account their health, physical condition, special dietary requirements, religion and culture? SMR 20(1), EPR 22.1 & 22.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	5	1	4
Total Europe - %	83	83	21	4	17
Poland	X	X			

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3.6.2 Has your country adopted laws or policies to ensure that prisoners have access to clean drinking water? SMR 20(2), EPR 22.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	16	5	1	5
Total Europe - %	79	67	21	4	21
Poland					X

Analysis

International instrument compliance

There is no obligation in Polish law requiring that prisoners must have access to clean drinking water.

21.3.7 *Legal advice, info & rights*

This section focuses on the entitlement of prisoners to legal advice and information. International legal instruments place a series of obligations on States in respect of access to legal advice and information. The questions in this section are based on these obligations.

3.7.1 Has your country adopted laws or policies requiring that adequate time and facilities be provided to prisoners to receive professional visits from their legal advisers? BOP 18(2), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	4	1	2
Total Europe - %	92	92	17	4	8
Poland	X	X			

3.7.2 Has your country adopted laws or policies establishing the right of prisoners to communicate with their legal advisers by telephone and by letter? BOP 18(1), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	3	3	3
Total Europe - %	87	83	13	13	13
Poland	X	X			

3.7.3 Has your country adopted laws or policies requiring that communications between a prisoner and his/her legal adviser remain confidential and can only be restricted by law or judicial authority? ICCPR 17, BOP 18(3) & (4), ECHR 8, EPR 23.4 & 23.5, *Campbell v The United Kingdom* (ECtHR 1992)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	3	1	2
Total Europe - %	92	92	13	4	8
Poland	X	X			

Analysis

International instrument compliance

All commitments relating to a prisoner's legal advice and rights have been adopted by Poland including the legally binding commitment protecting the confidentiality of correspondence between a prisoner and their legal advisor.

21.3.8 Contact with the outside world**21.3.8.1 Visits**

This section focuses on the entitlement of prisoners to maintain contacts with the outside world. International legal instruments place a series of obligations on states in respect of prisoners' on-going contact with the outside world. The questions in this section are based on these obligations.

3.8.1.1 Has your country adopted laws or policies establishing the right of prisoners to communicate with their family and friends by correspondence and by receiving visits, subject to reasonable conditions/restrictions imposed by law or another authority? ICCPR 23(1), UDHR 16(3), SMR 37, BOP 15 & 19, EPR 24.1 & 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	2	0
Total Europe - %	100	96	29	8	0
Poland	X	X			

3.8.1.2 Has your country adopted laws or policies requiring that visits take place in an environment that enables prisoners to maintain and develop family and other relationships in as normal a manner as is possible subject to the maintenance of good order and security in the prison? SMR 79, EPR 24.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	6	0	2
Total Europe - %	92	88	25	0	8
Poland	X	X			

21.3.8.2 Searching of visitors

3.8.2.1 Has your country adopted laws or policies requiring that searching procedures for visitors be undertaken in a manner that respects a person's dignity? SMR 27, BOP 19, EPR 54.1.c, 54.3, 54.4 & 54.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	4	0	7
Total Europe - %	71	63	17	0	29
Poland					X

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3.8.2.2 Has your country adopted laws or policies requiring that prison officers only be permitted to search visitors of the same gender? EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	9	1	0	12
Total Europe - %	50	38	4	0	50
Poland					X

21.3.8.3 *Restrictions on visits*

3.8.3.1 Has your country adopted laws or policies requiring the authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party(ies) and to review these circumstances on a regular basis? SMR 27, 79 & 80, EPR 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	0	0	63
Poland					X

3.8.3.2 Has your country adopted laws or policies preventing the withdrawal of contact for female prisoners with their children as a disciplinary action except in exceptional circumstances? SMR 27, 79 & 80, EPR 24.2 & 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	2	0	12
Total Europe - %	50	50	8	0	50
Poland					X

21.3.8.4 *Death, illness & transfer*

3.8.4.1 Has your country adopted laws or policies requiring that prisoners be informed of the death/serious illness of a close relative/ friend without delay? SMR 44(2), EPR 24.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	2	0	13
Total Europe - %	46	42	8	0	54
Poland					X

3.8.4.2 Has your country adopted laws or policies allowing a prisoner to leave the prison to visit a sick relative/friend, attend a funeral or for other humanitarian reasons? SMR 44(2), EPR 24.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Poland					X

3.8.4.3 Has your country adopted laws or policies ensuring that prisoners are allowed to inform their families or other nominated persons without delay of their imprisonment, transfer to another institution or of any serious illness that they may suffer from? SMR 44(1) & (3), BOP 16(1), EPR 24.8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Poland					X

3.8.4.4 Has your country adopted laws or policies requiring the prison authorities to immediately inform the spouse or the nearest relative to the prisoner (or any other person previously nominated), if the prisoner dies in custody, is removed to a hospital or suffers a serious injury/illness? SMR 44(1), EPR 24.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	3	0	6
Total Europe - %	75	75	13	0	25
Poland					X

21.3.8.5 Telephone and letters

3.8.5.1 Has your country adopted laws or policies preventing the monitoring or censoring of telephone calls unless the prisoner or the recipient of the call is informed of the possibility of such monitoring or, such monitoring has been agreed by any lawful authority? ICCPR 17, UDHR 12, SMR 37, BOP 19, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	3	1	5
Total Europe - %	79	79	13	4	21
Poland	X	X			

3.8.5.2 Has your country adopted laws or policies permitting prisoners to send a minimum of 7 letters a week free of charge and more if he/she can afford it, and to receive as many letters as are sent to him/her? SMR 37, BOP 19, EPR 24.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	11	1	0	12
Total Europe - %	50	46	4	0	50
Poland					X

3.8.5.3 Has your country adopted laws or policies preventing the prison authorities from opening prisoners' private correspondence subject to the maintenance of good order and safe and secure custody in the prison? ICCPR 17, UDHR 12, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	1	9
Total Europe - %	62	62	13	4	38

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Poland					X

21.3.8.6 *Media*

3.8.6.1 Has your country adopted laws or policies entitling prisoners to be kept informed of current affairs and other developments outside the prison by reading newspapers and periodicals and by listening to radio or television broadcasts (subject to the maintenance of good order and safe and secure custody)? SMR 39, BOP 28, EPR 24.10

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	1	1
Total Europe - %	96	92	21	4	4
Poland	X	X			

Analysis

International instrument compliance

Poland has only incorporated four of the fourteen commitments relating to prisoners' contact with the outside world into its national law. Legally binding commitments establishing the right of prisoners to communicate with and receive visits from friends and relatives and defining the circumstances in which the prison authorities may monitor a prisoner's telephone calls have been incorporated. The legally binding commitment defining (and thus restricting) the circumstances in which a prisoner's mail can be opened by the authorities has not been adopted however. Furthermore, Poland has not adopted measures to comply with the provisions of international legal instruments relating to the searching of visitors, the circumstances in which visits can be restricted, the right for prisoners to inform relatives and friends concerning their illness and transfer to another institution and to receive information on the death or serious illness of relatives and friends outside and, to send a maximum of seven letters per week and receive unlimited numbers of letters in return.

Situation in practice

The CPT observed that while in general the visiting regimes in Polish prisons were satisfactory, prisoners held on remand were denied the use of a telephone and were limited to two letters and visits per month.

21.3.9 *Work*

This section focuses on work in prison. International legal instruments place a series of obligations on States in respect of work in prison. The questions in this section are based on these obligations.

3.9.1 Has your country adopted laws or policies requiring work to be incorporated as a positive aspect of prison regimes and prohibiting its use as a form of punishment? SMR 71(1), EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Poland	X	X			

3.9.2 Has your country adopted laws or policies requiring that prison work provided should prepare prisoners for worthwhile work on their release and facilitate their reintegration into the workforce? SMR 71(3) & (4), BPTP 8, EPR 26.3 & 26.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	18	7	0	4
Total Europe - %	83	75	29	0	17
Poland					X

3.9.3 Has your country adopted laws or policies entitling prisoners to be remunerated in respect of prison work carried out? ICESCR 7(a), UDHR 23, SMR 76(1), BPTP 8, EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	1	1
Total Europe - %	96	92	13	4	4
Poland	X	X			

Analysis

International instrument compliance

Poland has adopted two out of the three commitments relating to prison work into its national law including the legally binding commitment requiring that prisoners be remunerated for work undertaken in prison.

Situation in practice

During its prison visits, the CPT found that work was available for a relatively low proportion of prisoners and there were long waiting lists for places. A number of cultural and recreational activities were, however, arranged for the inmates including visits from actors or musicians and sporting or artistic competitions. Prisoners in some facilities were able to take part in the production of prison radio or newspapers. Furthermore, all of the establishments visited boasted excellent library facilities. There were also number of vocational schools established within the prisons visited providing courses such as printing, carpentry and mechanics. However the numbers of prisoners far exceeded the number of available places. Prisoners not in work or education regularly spent up to 23 hours per day in their cells.

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21.3.10 Exercise & recreation

This section focuses on facilities for exercise and recreation in prison. International legal instruments place a series of obligations on States in respect of exercise and recreational facilities. The questions in this section are based on these obligations.

3.10.1 Has your country adopted laws or policies ensuring that, subject to the constraints of the particular prison and the maintenance of good order and security, prisoners shall be entitled to spend as much time out of their cells as is possible? EPR 25(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Poland					X

3.10.2 Has your country adopted laws or policies ensuring that prisoners receive at least one hours exercise each day in the open air, weather permitting? SMR 21, EPR 27.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	2	1
Total Europe - %	96	92	21	8	4
Poland	X	X			

3.10.3 Has your country adopted laws or policies ensuring that prisoners shall have access to a well-stocked library at least once a week (subject to the maintenance of good order and safe and secure custody)? R(89)12: 10, EPR 28.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	13	0	0	11
Total Europe - %	54	54	0	0	46
Poland	X	X			

Analysis

International instrument compliance

Two out of the three commitments relating to prison exercise and recreation have been adopted by Poland.

Situation in practice

As highlighted in section 3.9 above, during its visits to Poland the CPT found that despite the existence of excellent library facilities those prisoners not in work or education were forced to spend up to 23 hours per day in their cells.

21.3.11 Education

This section focuses on facilities for education in prison. International legal instruments place a series of obligations on States in respect of prison education facilities. The questions in this section are based on these obligations.

3.11.1 Has your country adopted laws or policies requiring, as far as practicable, that prisoners have access to educational programmes that can meet their individual needs? ICESCR 13, UDHR 26, SMR 77(1), BPTP 6, R(89)12: 1, EPR 28.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	5	1	1
Total Europe - %	96	96	21	4	4
Poland	X	X			

3.11.2 Has your country adopted laws or policies requiring that education provided in prisons shall be integrated, in so far as is practicable, with national educational systems/programmes enabling prisoners to continue their education following their release? SMR 77(2), R(89)12: 16, EPR 28.7.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	5	0	3
Total Europe - %	87	75	21	0	13
Poland	X	X			

3.11.3 Has your country adopted laws or policies requiring that vocational training be available for those prisoners who are able to benefit from it, particularly young prisoners? SMR 71(5), BPTP 8, R(89)12: 9, EPR 26.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	20	5	0	2
Total Europe - %	92	83	21	0	8
Poland	X	X			

Analysis

International instrument compliance

All commitments relating to prison education have been adopted by Poland including the legally binding commitment requiring that prisoners have access to education programmes that meet their individual needs.

Situation in practice

As indicated in the previous sections, the CPT highlighted the work of vocational schools established within the prisons visited which provided courses such as printing, carpentry and mechanics. It also noted, however, that the numbers of prisoners far exceeded the number of available places.

POLAND

21.3.12 Freedom of thought, conscience & religion

3.12.1 Has your country adopted laws or policies ensuring that prisoners have the opportunity to practice their religion and to follow their beliefs whilst in custody? ICCPR 18(1), CERD 5 (d) (vii), UDHR 18, SMR 42, BPTP 3, EPR 29.1 & 29.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	5	0	0
Total Europe - %	100	96	21	0	0
Poland	X	X			

Analysis

International instrument compliance

Commitment regarding freedom of thought, conscience and religion has been adopted by Poland.

21.4 Health

21.4.1 Core principles

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.1.1 Has your country adopted laws or policies requiring that primary healthcare services to meet the needs of all prisoners be provided in each prison to a standard equivalent to that available to the community in general? ICESCR 12(1), SMR 22(1), PME 1, R(98)7: 10, 11, 12 & 19, EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	6	0	1
Total Europe - %	96	92	25	0	4
Poland	X	X			

4.1.2 Has your country adopted laws or policies to ensure that where a sick prisoner requires treatment that cannot be provided by the medical staff in the prison he/she shall be transferred to an appropriate hospital without undue delay? SMR 22(2), BPTP 9, R(98)7: 3, EPR 46.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	3	1	2
Total Europe - %	92	88	13	4	8
Poland	X	X			

4.1.3 Has your country adopted laws or policies requiring that medical records be created and accurately maintained on all prisoners and that such records be treated as confidential? BOP 26, R(98)7: 13, EPR 42.3.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	5	0	3
Total Europe - %	87	83	21	0	13
Poland	X	X			

Analysis

International instrument compliance

All commitments relating to the core principles of prison health care have been adopted by Poland including the legally binding commitment requiring that primary health care for prisoners be provided at a standard equivalent to that provided in the community.

Situation in practice

The CPT found that the provision of health care varied extensively in Polish prisons. Some facilities (for example Warsaw) were considered to be generally satisfactory whilst others (primarily Wolow) were criticised. The problem of overcrowding in Wolow was exacerbated by both prison staff and prisoners using the same doctors resulting in substantial delays in accessing medical attention. This practice was strongly criticised not only for increasing waiting times but also for creating issues around impartiality in cases involving ill-treatment.

Concerns regarding the general standards of prison healthcare were also raised by the UNHCR in its 2009 country report on Poland.

21.4.2 Women and children

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations

4.2.1 Has your country adopted laws or policies to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor? CEDAW 12, SMR 23, BOP 5(2), R(98)7: 8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	7	3	0	17
Total Europe - %	29	29	13	0	71
Poland					X

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4.2.2 Has your country adopted laws or policies requiring that appropriate care be afforded to all pregnant prisoners and nursing mothers? CEDAW 12(2), SMR 23, R(98)7: 8 & 69, EPR 34.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Poland	X	X			

Analysis

International instrument compliance

The legally binding commitment requiring that appropriate care be afforded to all pregnant prisoners and nursing mothers has been incorporated into Polish law. There is, however, no legal right foreseen to ensure that female prisoners can have access to a female doctor.

21.4.3 Mental health care

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.3.1 Has your country adopted laws or policies requiring that prisoners with mental health difficulties be entitled to care appropriate to their circumstances, commensurate to the type of care available for people with similar mental health difficulties in the community? SMR 22(1), PPPMI 1 & 20, R(98)7:10, 11 & 52, R(2004)10: 35(1) & (2), EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	4	0	3
Total Europe - %	87	79	17	0	13
Poland	X	X			

4.3.2 Has your country adopted laws or policies to ensure that prisoners who require psychiatric in-patient care are transferred to a suitable hospital facility of an appropriate security level without undue delay? SMR 22(2), PPPMI 9(1) & 20, R(98)7: 3 & 55, R(2004)10: 8, 9(1) & 35(1), EPR 12(1) & 46(1)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	3	0	6
Total Europe - %	75	71	13	0	25
Poland					X

Analysis

International instrument compliance

One of the two commitments relating to the mental health care of prisoners has been adopted by Poland.

21.4.4 Vulnerable prisoners

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.4.1 Has your country adopted laws or policies requiring that prisoners assessed as vulnerable be accommodated in areas of the prison which are most convenient and appropriate for their monitoring and treatment by the medical personnel and other relevant agencies? SMR 22(2) & 62, EPR 12.2, 39, 43.1, 46.2, 47.1 & 47.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	3	0	8
Total Europe - %	67	63	13	0	33
Poland					X

4.4.2 Has your country adopted laws or policies requiring that prisoners assessed as being at risk of suicide/self-harm be continuously monitored by both medical and prison staff throughout the prisoner's time in custody and that records are kept of such monitoring? R(98)7: 58, EPR 47(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	5	0	14
Total Europe - %	42	29	21	0	58
Poland					X

4.4.3 Has your country adopted laws or policies requiring that prisoners detained in a special cell be visited daily, and as frequently as is necessary by a doctor who shall, inter alia, monitor his/ her physical and mental health? SMR 25(1) & 32(3), R(98)7: 66, EPR 43.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Poland					X

POLAND

Analysis

International instrument compliance

None of the commitments relating to vulnerable prisoners have been incorporated into Polish law.

21.4.5 Medical & health care personnel

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.5.1 Has your country adopted laws or policies to ensure that every prisoner has access to appropriately qualified medical personnel in the prison at all times? SMR 24, BOP 24, R(98)7:1, 2 & 4, EPR 41.2 & 41.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Poland	X	X			

Analysis

International instrument compliance

Commitment relating to medical and health care staff has been incorporated into Polish national law.

Situation in practice

This proviso notwithstanding, international organisations have highlighted shortcomings in Polish prison health care (see previous sections, chapter 4). Comments from the SPOC above would appear to confirm the continuing existence of problems in this area.

21.4.6 Prisoners with addiction problems

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.6.1 Has your country adopted laws or policies to ensure that prisoners with addiction problems have access to appropriate treatment and support services, including those from external agencies? SMR 62, R(98)7: 7, 43, 44, 45, 46 & 47, EPR 42.3.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	8	0	3
Total Europe - %	88	79	33	0	13
Poland	X	X			

Analysis

International instrument compliance

The commitment relating to prisoners with addiction problems has been incorporated into Polish national law.

Situation in practice

The CPT highlighted that the treatment of drug addiction varied from prison to prison. The 'Atlantis' project in Warsaw was singled out for praise in treating those with drug and alcohol dependencies. However none of the visited establishments had measures to prevent harm from drug use, for example by providing information on sterilisation of syringes or bleach.

21.4.7 *Hunger strikes*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.7.1 Has your country adopted laws or policies forbidding the practice of forced feeding of hunger strikers? DOMHS, R(98)7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	37	21	21	0	63
Poland					X

Analysis

International instrument compliance

The commitment preventing the forced feeding of hunger strikers has not been adopted by Poland.

POLAND

21.5 Good order

21.5.1 General approaches

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.1.1 Has your country adopted laws or policies requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody? R(82)17: 8, EPR 51.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	0	9
Total Europe - %	62	62	13	0	38
Poland	X	X			

Analysis

International instrument compliance

Commitment regarding security assessment of prisoners has been adopted by Poland.

21.5.2 Safety & Security

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.2.1 Has your country adopted laws or policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat? EPR 51.5, 53.1 & 53.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	63	63	17	0	37
Poland	X	X			

Analysis

International instrument compliance

Commitment relating to the regular review of prisoners placed on protection has been adopted by Poland.

Situation in practice

The CPT highlighted that conditions for 'N' (dangerous) prisoners were less than satisfactory. They enjoyed very little time out of their cells, had strictly limited numbers of visits and calls and only periodic visits from educators, psychologists or chaplains. During these visits the prisoner was put in a cage like structure to prevent direct contact with their visitors.

21.5.3 Searching of prisoners

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.3.1 Has your country adopted laws or policies requiring that searches conducted on prisoners be carried out with due regard to the prisoner's dignity? ICCPR 10(1), BPTP 1, EPR 54.3 & 54.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	0	1
Total Europe - %	96	92	13	0	4
Poland					X

5.3.2 Has your country adopted laws or policies stipulating that prisoners may only be searched by a staff member of the same gender? ICCPR 10(1), BPTP 1, EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	1	0	1
Total Europe - %	96	92	4	0	4
Poland	X	X			

5.3.3 Has your country adopted laws or policies stipulating that prisoners may only be subjected to a strip search in exceptional circumstances and for good reason and then, only in the presence of two officers in an appropriate place which ensures privacy? ICCPR 10(1), BPTP 1, EPR 54.3, 54.4 & 54.6, *Van der Van v The Netherlands* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	3	1	13
Total Europe - %	66	54	13	4	54
Poland					X

Analysis*International instrument compliance*

Poland has only adopted one of the three legally binding commitments relating to the searching of prisoners into its national law.

POLAND

21.5.4 Criminal acts, discipline & punishment

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.4.1 Has your country adopted laws or policies stipulating that all inquiries into breach of prison discipline or rules shall be conducted in an independent and impartial manner? ICCPR 14(1), UDHR 10, ECHR 6(1), *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	2	1	8
Total Europe - %	67	63	8	4	33
Poland					X

5.4.2 Has your country adopted laws or policies requiring that all incidents of bullying/violence/threatening behaviour between prisoners, and any breach of discipline be reported to an officer of a higher rank, duly recorded and properly investigated? EPR 52.2 & 58

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	62	62	17	0	38
Poland	X	X			

5.4.3 Has your country adopted laws or policies stipulating that when a prisoner has been charged with a disciplinary offence he/she shall be promptly informed of the allegation made against him/her in a language that he/she understands? ICCPR 14(3)(a), CERD 5(a), SMR 30(2), ECHR 6(3)(a), EPR 59.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	3	0	7
Total Europe - %	71	71	13	0	29
Poland					X

5.4.4 Has your country adopted laws or policies stipulating if an inquiry is being conducted into a breach of prison discipline or rules the prisoner shall have adequate time to prepare his/her defence and/or to receive legal assistance? ICCPR 14(3)(b) & (d), SMR 30(2), ECHR 6(3)(b) & (c), EPR 59.b & 59.c, *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	2	0	9
Total Europe - %	62	58	8	0	38
Poland					X

5.4.5 Has your country adopted laws or policies stipulating that in any disciplinary proceedings prisoners must understand the proceedings and if necessary, appropriate interpretation facilities must be provided? ICCPR 14(3)(f), SMR 30(3), ECHR 6(3)(e), EPR 59.e

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Poland					X

5.4.6 Has your country adopted laws or policies stipulating that no prison officer shall impose a punishment/penalty/deprivation on a prisoner without due process and in accordance with law and/or relevant rules or instruments? EPR 57.2.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	2	0	4
Total Europe - %	83	83	8	0	17
Poland					X

5.4.7 Has your country adopted laws or policies stipulating that if a prisoner is found guilty of a disciplinary offence, he/she shall be entitled to exercise his/her right of appeal to an independent and impartial tribunal established by law? ICCPR 14(5), BOP 30(2), EPR 61

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	1	0	5
Total Europe - %	79	79	4	0	21
Poland					X

5.4.8 Has your country adopted laws or policies requiring that when a prisoner is detained in any type of special cell (special observation/cladded/strip) he/she shall be regularly monitored by a prison officer? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	3	0	7
Total Europe - %	71	67	13	0	29
Poland	X	X			

5.4.9 Has your country adopted laws or policies requiring that a detailed record be maintained of, inter alia, the monitoring of such prisoners, their expressed requirements, actions taken in response to such requests and details of visits by officers or others to such prisoners? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	8	8	2	0	16
Total Europe - %	33	33	8	0	67
Poland					X

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5.4.10 Has your country adopted laws or policies to ensure that prisoners in a special cell are able to contact a member of staff at all times, including during the night and that a staff member shall respond without delay? ICCPR 6(1), EPR 18.2.c & 52.4, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	4	0	63
Poland					X

Analysis

International instrument compliance

Poland has only adopted two of the ten commitments relating to criminal acts, discipline and punishment: this includes the legally binding commitment regarding the monitoring of prisoners placed in special cells.

Legally binding commitments relating to the impartial investigation of breaches of prison discipline, ensuring that prisoners have access to information about the charges against them in a language which they understand, have adequate time to prepare their defence, can access interpretation facilities during a hearing if required and can appeal to an independent and impartial tribunal have not been incorporated. Furthermore, the legally binding requirements concerning the requirement to record information relating to the monitoring of and contact with prisoners in special cells alongside ensuring that such prisoners are able to contact prison staff at all times have also not been incorporated.

Situation in practice

The CPT highlighted that the safeguards in place for discipline were generally appropriate.

21.5.5 Use of force/weapons

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.5.1 Has your country adopted laws or policies stipulating that members of staff will use force only when absolutely necessary and that any force used shall be proportionate to the situation? SMR 54(1), CCLEO 3, BPUF 4, EPR 64 & 6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	4	1	3
Total Europe - %	87	87	17	4	13
Poland	X	X			

Analysis

International instrument compliance

Commitment regarding the proportionate use of force has been incorporated into Polish law.

Situation in practice

This proviso notwithstanding, the CPT highlighted that in some facilities physical restraints were used for excessive periods of time in concurrence with detention in a security cell. It was apparent from the records that this was done infrequently. Nevertheless, following comment by the inspectors, steps were immediately taken to ensure prisoners were restrained for no more than was necessary.

21.5.6 Requests & complaints

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.6.1 Has your country adopted laws or policies to ensure that prisoners have sufficient opportunity to make requests or complaints to the Governor of the prison or to any other competent authority? SMR 36(1) & (3), BOP 33(1), EPR 70.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	3	0	1
Total Europe - %	96	96	13	0	4
Poland	X	X			

5.6.2 Has your country adopted laws or policies establishing the right of a prisoner's legal advisor or to make a request or a complaint regarding that prisoner's treatment to the prison authorities, or other relevant authorities? BOP 33 (1) & (2), EPR 70.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	1	0	6
Total Europe - %	75	75	4	0	25
Poland	X	X			

5.6.3 Has your country adopted laws or policies requiring that all complaints be promptly investigated in accordance with law? SMR 36(4), BOP 33(4)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	2	0	7
Total Europe - %	71	67	8	0	29
Poland	X	X			

POLAND

5.6.4 Has your country adopted laws or policies to ensure that where a request is denied or a complaint is rejected, the prisoner is informed promptly as to the reason(s) for such denial or rejection? SMR 36(4), BOP 33(4), EPR 70.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	2	1	7
Total Europe - %	71	63	8	4	29
Poland					X

5.6.5 Has your country adopted laws or policies to ensure that prisoners are not disadvantaged for exercising their rights to make requests or complaints? BOP 33(4), EPR 70.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	3	0	13
Total Europe - %	46	42	13	0	54
Poland					X

5.6.6 Has your country adopted laws or policies requiring that complaints made by members of staff against other members of staff be properly recorded and investigated in accordance with the law? EPR 88 & 87.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	11	3	0	11
Total Europe - %	54	46	13	0	46
Poland					X

Analysis

International instrument compliance

Poland has adopted three out of the six commitments relating to prison discipline and complaints. The commitment requiring the authorities to ensure that a prisoner is not discriminated against for raising a complaint has not however been adopted.

Situation in practice

The CPT found that prisoners were well informed about the avenues open for complaints. It was however noted that sometimes educators or guards would remove privileges if it was noticed a prisoner handed in an envelope with the address of the complaints bureau. In lieu of this it was recommended that an anonymous 'drop-box' system be introduced.

21.6 Management & Staff

21.6.1 Training of staff

This section focuses on the staff training and prison management. International legal instruments place a series of obligations on States in respect of the training and management of prison staff. The questions in this section are based on these obligations.

6.1.1 Has your country adopted laws or policies to ensure that all prison staff receive appropriate training at regular intervals throughout their career? SMR 47(3), EPR 8, 76 & 81.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	14	7	0	5
Total Europe - %	79	58	29	0	21
Poland					X

6.1.2 Has your country adopted laws or policies to ensure that members of staff who work with particular groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, receive training particular to their individual work? R(82)17: 10, R(2004)10: 12(1), EPR 81.3, ERJO 129

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	38	21	21	0	62
Poland					X

Analysis

International instrument compliance

Neither of the obligations relating to prison management and staff have been adopted by Poland.

21.7 Inspection & Monitoring

21.7.1 *Governmental Inspection*

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.1.1 Has your country adopted laws or policies requiring that prisons be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law? SMR 55, EPR 92, R(2004)10 36.1, ERJO 125, PPPMI 22

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	19	4	0	4
Total Europe - %	83	79	17	0	17
Poland					X

POLAND

Analysis

International instrument compliance

Commitment requiring that prisons be inspected regularly has not been adopted.

Situation in practice

Polish prisons are inspected once per year by a penitentiary judge with whom inmates are able to discuss complaints in private. A few NGOs are also permitted to inspect the facilities at irregular intervals.

21.7.2 Independent monitoring

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.2.1 Has your country adopted laws or policies requiring that the conditions of detention and the treatment of prisoners shall be also monitored by an independent body or bodies, comprised of qualified experienced personnel, and whose findings shall be made public? OPCAT 3, 17, 18, 19, BOP 29.1, EPR 93.1, R(2004)10 36.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Poland					X

7.2.2 Has your country adopted laws or policies granting such an independent body open access to places of detention, to prisoners and others whom it wishes to interview? OPCAT 19, 20, CPT 8,9 BOP 29.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	3	1	9
Total Europe - %	62	58	13	4	38
Poland					X

7.2.3 Has your country adopted laws or policies encouraging such independent bodies to cooperate with those international agencies that are legally entitled to visit prisons? CPT 2,7 EPR 93.2, ERJO 126.

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	6	1	0	17
Total Europe - %	29	25	4	0	71
Poland					X

Analysis

International instrument compliance

None of the commitments relating to external monitoring of prisons have been fully incorporated into Polish law.

Situation in practice

Poland ratified OP-CAT on the 14th of September 2005. The designated NPM is the Office of the Commissioner of Civil Rights.

The UNHR reported that the Polish government permitted monitoring visits by independent human rights observers. During 2009, Poland's human rights ombudsman received 7,158 complaints, compared with 5,718 in 2008, mainly regarding poor prison conditions, such as inadequate medical care, abuse by prison authorities, inadequate living conditions, and violations of mail and visiting rights.

21.8 Sentenced Prisoners

This section focuses on the particular provisions relating to convicted prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

8.1.1 Has your country adopted laws or policies requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan? ICCPR 10(3), SMR 80, EPR 6, 103.2 & 103.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	6	2	4
Total Europe - %	83	83	25	8	17
Poland	X	X			

8.1.2 Has your country adopted laws or policies requiring that a sentence management plan be prepared for each prisoner serving a sentence of 12 months or over as soon as practicable after their admission? It should provide for, inter alia, the welfare and health needs of the prisoner, training, employment or education needs he/she may have, and include a release plan for the prisoner. This plan shall be reviewed at regular intervals to take into account the changing circumstances of the prisoner. SMR 65, 66 & 69, R(2003)23: 3 & 9, EPR 6, 103 & 104.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	5	0	10
Total Europe - %	58	54	21	0	42
Poland					X

POLAND

Analysis

International instrument compliance

The legally binding commitment relating to a prisoner’s release and reintegration has been adopted by Poland. This is not, however, backed up by a requirement to prepare a sentence management plan.

21.9 Juveniles

This section focuses on the particular provisions relating to juvenile prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

9.1.1 Has your country adopted laws or policies requiring that juveniles be detained separately from adult offenders? ICCPR 10(3), CRC 37(c), BR 26.3, RPJDL 29, EPR 11.1, ERJO 59.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	1	3
Total Europe - %	87	87	13	4	13
Poland	X	X			

9.1.2 Has your country adopted laws or policies to ensure that, subject to reasonable conditions and restrictions, a sentenced prisoner under the age of 18 shall be entitled to receive a minimum of two weekly visits? CRC 37(c), SMR 37, BOP 19, RPJDL 60, ERJO 83, 84, 85.1 & 85.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	6	3	0	15
Total Europe - %	37	25	13	0	63
Poland	X	X			

Analysis

International instrument compliance

Both commitments relating to juveniles have been adopted by Poland including the legally binding requirement to house juvenile and adult prisoners apart from each other.

Situation in practice

These provisos notwithstanding, the CPT condemned the practice of placing juvenile prisoners (up to one in a cell) with one or more selected adult prisoners highlighting that this created the potential for exploitation and domination.

21.10 Sentence Execution Modalities

This section of the questionnaire is designed to collate information on the differing methods by which custodial sentences and measures involving deprivation of liberty are enforced across EU Member States.

10.1.1. Which of the following modalities of prison sentence execution are provided for in the law of your country?

	Weekend detention	Evening detention	Daytime detention	Home detention	
				no electronic monitoring	electronic monitoring
EUROPE	9 = 38%	10 = 42%	3 = 13%	6 = 25%	14 = 58%
Poland					X

10.1.2. What is the maximum period for which home detention with electronic monitoring can be imposed?

	Under 12 months	12-24 months	25 months - 36 months	37 months - 50 months	More than 50 months
EUROPE	7 = 29%	4 = 17%	0 = 0%	1 = 4%	2 = 8%
Poland	X				

10.2.1. In which of the following locations can custodial sentences or measures involving deprivation of liberty be imposed?

	Penitentiary institution	Psychiatric institution	Detoxification institution	Educational institution	Home
EUROPE	24 = 100%	20 = 83%	10 = 42%	7 = 29%	12 = 50%
Poland	X	X	X	X	X

Analysis

Sentence execution modalities

In Poland, the only additional sentence execution which applies is home detention with electronic monitoring: this can be imposed for a period up to twelve months. Custodial sentences or measures involving deprivation of liberty can be imposed in relation to penitentiary, psychiatric, detoxification and educational and military institutions in addition to the home.

POLAND

21.11 Early release from prison, earned remission and suspension of sentence

21.11.1 Early release

Early release means the release of the offender before their prison term is finished. It is possible only while the sentence is still being served. Early release does not include the suspended enforcement of a penalty which is dealt with later in this questionnaire.

11.1.2.1. Has your country adopted laws and regulations under which prisoners are entitled to early release from prison ?

	Yes	No
EUROPE	24 = 100%	0 = 0%
Poland	X	

11.1.2.2. At what point in a prisoner's sentence do they become eligible for early release?

	One third of sentence or less	One third to one half of a sentence	One half to three quarters of a sentence	More than three quarters of a sentence	Other
EUROPE	2 = 8%	1 = 4%	7 = 29%	0 = 0%	14 = 58%
Poland			X		

11.1.2.2. Does your country have different regulations for the early release of prisoners based on:

	A prisoner's nationality (non-EU citizen)	A prisoner's nationality (EU citizen)	The length of sentence imposed
EUROPE	Yes - 3 = 12% No - 21 = 88%	Yes - 3 = 12% No - 21 = 88%	Yes - 24 = 100% No - 0 = 0%
Poland	N	N	Y

11.1.2.3. Are provisions governing the early release of prisoners automatic or discretionary?

	Automatic (prisoners are automatically released at a certain point in their sentence)	Discretionary (prisoners are only released following assessment)
EUROPE	Yes - 7 = 29% No - 17 = 71%	Yes - 20 = 83% No - 4 = 17%
Poland	N	Y

11.1.2.4. What factors are taken into consideration when deciding whether a prisoner will be granted early release?

	The circumstances surrounding the crime	Prior criminal record	The offender's progress during imprisonment	Assessment as to whether the prisoner is likely to reoffend	Recommendation from the sentencing judge
EUROPE	Yes - 24 = 50% No - 24 = 50%	Yes - 15 = 63% No - 9 = 37%	Yes - 22 = 92% No - 2 = 8%	Yes - 19 = 79% No - 5 = 21%	Yes - 4 = 17% No - 20 = 83%
Poland	Y	Y	Y	Y	Y

11.1.3.1. What forms of monitoring and conditions can be applied to prisoners' early release?

1. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
2. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
4. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
5. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
6. Electronic monitoring
7. Weekend/evening /daytime detention
8. Requirement containing limitations on leaving the country
9. Requirement to leave the country
10. Requirement to pay compensation
11. Requirement to undertake community service
12. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	Other
EUROPE	Y - 83 N - 17	Y - 8 N - 92	Y - 58 N - 42	Y - 62 N - 38	Y - 33 N - 77	Y - 25 N - 75	Y - 13 N - 87	Y - 42 N - 58	Y - 21 N - 79	Y - 29 N - 71	Y - 21 N - 79	9
Poland	Y	N	Y	N	Y	Y	N	N	N	Y	Y	X

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21.11.2 Sentence reduction as a result of prison work

11.2.1.1. Can a prisoner earn remission on their sentence as a result of work carried out in prison?

	Yes	No
EUROPE	9= 38%	15 – 62%
Poland		X

21.11.3 Suspension of sentence enforcement

11.3.1. Does the national law of your country make provision for the further execution of a prison sentence to be suspended during the course of the sentence?

	Yes	No
EUROPE	10=42%	14= 58%
Poland	X	

11.3.2.1. What factors are taken into consideration when deciding whether a prisoner will have the further execution of their prison sentence suspended?

1. The circumstances surrounding the crime
2. Prior criminal record
3. The offender's progress during imprisonment
4. Assessment as to whether the prisoner is likely to reoffend
5. Recommendation from the sentencing judge
6. Suitability of home circumstances
7. Information from victim(s)
8. Willingness of the prisoner to leave the country upon release
9. The prisoner will be deported upon release
10. Other – please specify

	1	2	3	4	5	6	7	8	9	Other
EUROPE	Y - 8 N - 92	Y - 13 N - 78	Y - 17 N - 83	Y - 21 N - 79	Y - 0 N - 100	Y - 4 N - 96	Y - 0 N - 100	Y - 0 N - 100	Y - 0 N - 100	21
Poland	Y	Y	N	Y	N	N	N	N	N	

11.3.3.1. What forms of monitoring and conditions can be applied to prisoners whose further execution of a prison sentence has been suspended?

1. Unconditional supervision
2. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
4. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)

5. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
6. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
7. Electronic monitoring
8. Weekend/evening /daytime detention
9. Requirement containing limitations on leaving the country
10. Requirement to leave the country
11. Requirement to pay compensation
12. Requirement to undertake community service
13. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	12	Other
EUROPE	Y - 4 N - 96	Y - 38 N - 62	Y - 4 N - 96	Y - 29 N - 71	Y - 17 N - 83	Y - 17 N - 83	Y - 4 N - 96	Y - 4 N - 96	Y - 21 N - 79	Y - 0 N - 100	Y - 17 N - 83	Y - 4 N - 96	2
Poland	N	Y	N	Y	N	Y	N	N	N	N	Y	N	X

Analysis

Early release from prison, earned remission and suspension of sentence

In common with all EU countries, Poland has adopted measures under which prisoners are entitled to early release from prison. Polish prisoners can become eligible for early release between one half and two thirds of the way through their prison sentence albeit that regulations differ depending on the length of sentence imposed. Poland employs a discretionary system of early release. Decisions on a prisoner's early release are based on five of the ten criteria identified. Seven differing forms of monitoring and conditions can be applied to a prisoner granted early release. Polish prisoners are not able to earn remission from their sentence as a result of work undertaken in prison. Provision is made, however, for the further execution of a prison sentence to be suspended during the course of the sentence a decision which is based around three of the ten criteria identified. Five forms of monitoring and conditions can be applied to a prisoner in such cases.

Appendix

1. Kodeks karny (Dz. U. z dnia 2 sierpnia 1997 r.) CZĘŚĆ OGÓLNA
2. Kodeks karny wykonawczy (Dz. U. z dnia 5 sierpnia 1997 r.)
3. Polish Penal Code part 1 (1997)
4. Penal Execution Code (1997)
5. Prison Rules & Regulations (2003)
6. Rozporządzenie ministra sprawiedliwości w sprawie szczegółowych zasad wykonywania praktyk religijnych i korzystania z usług religijnych w zakładach karnych i aresztach śledczych (2003)
7. Executive Penal Code (1997)

22 Romania

22.1 Introduction

The questionnaire was completed by Dr. Ioan Durnescu, a lecturer at the University of Bucharest. Later, the National Administration of Penitentiaries (NAP) provided for additional comments. These comments have generally been included in this chapter.

Romania has been visited thrice by the Committee for the Prevention of Torture in the last five years (2006, 2009 and 2010 ((last report unpublished)) and was the subject of a report from the European Commissioner for Human Rights in 2006. Additional information was sourced from the 2009 UNHCR Country Report on Human Rights Practices for Romania (drawing on source material provided by the US Department of State), reports prepared by APADOR-CH (Asociația pentru Apărarea Drepturilor Omului în România - Comitetul Helsinki/Association for Human Rights in Romania – Helsinki Committee) and the International Centre for Prison Studies. All of these reports have been used as a basis for information on the situation in practice.

Country	ROMANIA
Ministry responsible	Ministry of Justice
Prison administration	National Administration of Penitentiaries
Contact address	Str. Maria Ghiculeasa No. 47, RO-72228 Bucharest sector 2, Romania
Telephone/fax/website	tel: +40 21 242 0593 / fax: +40 21 242 6078 / www.anp-just.ro
Head of prison administration (and title)	Ioan Bala Director General
Prison population total (including pre-trial detainees / remand prisoners)	29,348 at 24.5.2011 (national prison administration)
Prison population rate (per 100,000 of national population)	137 based on an estimated national population of 21.41 million at end of May 2011 (from Eurostat figures)
Pre-trial detainees / remand prisoners (percentage of prison population)	16.4% (31.12.2010)
Female prisoners (percentage of prison population)	4.6% (25.5.2010)
Juveniles / minors / young prisoners incl. definition (percentage of prison population)	1.6% (24.5.2011 - under 18)
Foreign prisoners (percentage of prison population)	0.7% (25.5.2010)
Number of establishments / institutions	45 -2011
Official capacity of prison	35,241

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system	(24.5.2011)		
Occupancy level (based on official capacity)	83.3% (24.5.2011)		
Recent prison population trend (year, prison population total, prison population rate)	1992	44,011	193
	1995	45,309	200
	1998	52,149	232
	2001	49,84	228
	2004	39,031	180
	2007	29,39	137
	2010	28,244	132

22.2 Overarching Principles

This section focuses on the overarching principles governing the management of prisons and the treatment of prisoners. International legal instruments place a series of obligations on States in respect of the management of prisons and the treatment of prisoners. The questions in this section are based on these obligations.

2.1.1 Has your country adopted laws or policies specifically requiring that prisoners must be treated with respect for their human rights? ICCPR 10(1), UDHR 1, BOP 1, BPTP 1, EPR 1 & 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	19	7	1	2
Total Europe - %	92	79	29	4	8
Romania	X	X			

2.1.2 Has your country adopted laws or policies specifically requiring prisons to be managed in accordance with human rights standards? EPR 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	4	3	3
Total Europe - %	88	75	16	13	12
Romania					

2.1.3 Has your country adopted laws or policies explicitly prohibiting practices that could constitute torture, inhumane or degrading treatment or punishment of prisoners? ICCPR 7, BOP 6, ECHR 3, *Kalashnikov v Russia* (ECtHR 2003)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	1	3	2
Total Europe - %	92	88	4	12	8
Romania	X	X			

2.1.4 Has your country adopted laws or policies specifically requiring that prisoners be provided with a range of activities during their sentence (for example - educational, recreational, work/training and welfare programmes)? SMR 77 & 78, BOP 28, BTP 6 & 8, EPR 25

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	0	0
Total Europe - %	100	96	29	0	0
Romania	X	X			

Analysis

International instrument compliance

Romania has adopted all commitments concerning human rights except for a commitment on specifically requiring prisons to be managed in accordance with human rights standards. This proves to be in common with the majority of other EU Member States and legally binding international instruments on human rights. According to the SPOC there is no direct/explicit reference to human rights in the criminal law or procedure. According to the NAP art. 57 of Law no. 293/2004 on the status of civil servants with special status in the National Penitentiary Administration does hold the requirement that prisons to be managed in accordance with human rights standards. As an additional comments the NAP refers to art. 6, 38, 39 and 54 of Law no. 275/2006.

Situation in practice

During the CPT's 2006 visit a number of serious cases of violence among prisoners and the alleged passivity of the prison staff were reported. This violence leads to inhumane living conditions for prisoners.

22.3 Conditions Of Imprisonment

22.3.1 Admission

This section focuses on the treatment of prisoners upon their admission to prison. International legal instruments place a series of obligations on States in respect of prisoner admission. The questions in this section are based on these obligations.

3.1.1 Has your country adopted laws or policies requiring that all prisoner details are recorded at the time of committal including, inter alia, details of any visible injuries and the prisoner's personal belongings? SMR 7(1), EPR 15.1, 31.1, 31.2 & 31.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	7	1	7
Total Europe - %	71	63	29	4	29
Romania	X	X			

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3.1.2 Has your country adopted laws or policies requiring that upon admission, each prisoner is given a booklet outlining his/her rights, duties, obligations and privileges and the rules and regulations governing the prison which apply to the individual prisoner? The booklet shall be written in a language that the prisoner understands. CERD 7, SMR 35, BOP 13, EPR 30

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	6	1	6
Total Europe - %	63	54	25	4	25
Romania	X	X			

3.1.3 Has your country adopted laws or policies requiring that upon admission, every prisoner shall undergo a medical examination either by a nurse reporting to a doctor or by a doctor? SMR 24, BOP 24, R(98)7: 1, EPR 42.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	20	6	1	1
Total Europe - %	96	83	25	4	4
Romania	X	X			

3.1.4 Has your country adopted laws or policies requiring the doctor/nurse to pay particular attention to the detection of injuries, mental illnesses, of withdrawal symptoms resulting from the use of drugs, medication or alcohol, of contagious and chronic conditions, and, to assess the prisoner's suicide/self-harm risk? SMR 24, R(98)7: 1, EPR 42.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	10	8	1	9
Total Europe - %	62	42	33	4	38
Romania					X

3.1.5 Has your country adopted laws or policies requiring injuries detected during such an examination to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner? EPR 15.1.e & 42.3.c

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	5	4	1	17
Total Europe - %	29	21	17	4	71
Romania	X	X			

3.1.6 Has your country adopted laws or policies requiring upon admission that each prisoner be assessed to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves? ICCPR 6, UDHR 3, ECHR 2, R(2003)23: 12, EPR 52.1, *Keenan v The United Kingdom* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	5	1	13
Total Europe - %	46	42	21	4	54
Romania					X

3.1.7 Has your country adopted laws or policies requiring that such risks be managed for the duration of the prisoner's sentence? ICCPR 6, UDHR 3, ECHR 2, EPR 52.2, *Osman v The United Kingdom* (ECtHR 2000)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	3	1	12
Total Europe - %	50	50	13	4	50
Romania					X

Analysis

International instrument compliance

As regards to the issue of admission, Romania had adopted commitments on all aspects except for the assessment and management of a safety risk of each prisoner. Regarding the assessment and management of a safety risk of each prisoner, the NAP refers to the following articles of Law no. 275/2006: 27, 28, 77 and 79 to indicate that Romanian law has, inter alia, provisions concerning plan assessment and individualised educational and therapeutic intervention. Moreover, in this respect the NAP refers to articles 7, 80 and 931-933 reg. 1897/2006 and art. 64 of Law no. 275/2006 to express that Romanian law covers that such risks be managed for the duration of the prisoner's sentence.

No commitments were adopted requiring the doctor/nurse to pay particular attention to the detection of injuries, mental illnesses, of withdrawal symptoms resulting from the use of drugs, medication or alcohol, of contagious and chronic conditions, and, to assess the prisoner's suicide/self-harm risk. However, the NAP mentions in this respect 'that these measures were covered by art. 13 of the Joint Order MJ/MS nr. 1361/C/1016/2007'. As opposed to the majority of EU Member States, Romania has adopted a law requiring injuries detected during such an examination to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner.

Situation in practice

The CPT indicates that despite the legally binding national and international instruments on the distribution of a booklet with useful information upon admission, the lack of the distribution of an information leaflet (giving a simple description of the main features of the regime in force, prisoners' rights and obligations, disciplinary procedures, etc.) in the admission cells at Ploiești Prison and in the other cells at both prisons was a fact.

22.3.2 Allocation

This section focuses on the allocation of prisoners to a particular prison. International legal instruments place a series of obligations on States in respect of prisoner allocation. The question in this section is based on these obligations.

3.2.1 Has your country adopted laws or policies requiring prisoners to be assigned to a prison as near to their home area as possible in order to maintain relationships with families and friends, subject to the maintenance of good order and security? BOP 20, EPR 17.1

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	15	6	1	5
Total Europe - %	79	63	25	4	21
Romania	X	X			

Analysis

International instrument compliance

Romania has in accordance with most other EU Member States, adopted the commitment requiring prisoners to be assigned to a prison as near to their home area as possible.

22.3.3 Accommodation

This section focuses on the living conditions of prisoners. International legal instruments place a series of obligations on States in respect of the accommodation of prisoners. The questions in this section are based on these obligations.

3.3.1 Has your country adopted laws or policies requiring that where possible prisoners should have individual cells to sleep in? SMR 9(1), EPR 18.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	3	0	10
Total Europe - %	58	54	13	0	42
Romania	X	X			

3.3.2. Has your country adopted laws or policies stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation? ICCPR 6(1), UDHR 3, SMR 9(2), ECHR 2, EPR 18.6 & 18.7, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	4	0	14
Total Europe - %	42	29	17	0	58
Romania					X

3.3.3 Has your country adopted laws or policies requiring that the size of a cell must be suitable for its purpose? The suitability of the cell size should be dependent on the number of hours spent in the cell, the number of prisoners accommodated in the cell and the availability of in cell-sanitation facilities that ensure privacy. SMR 9, 10, 11 & 12, EPR 18 & 19.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	8	2	1	15
Total Europe - %	37	33	8	4	63
Romania					X

3.3.4 Has your country adopted laws or policies requiring that cells should not be used to accommodate more prisoners than the intended design capacity, unless justified in exceptional circumstances? SMR 9(1) & 10, EPR 18.1, 18.3, 18.4 & 18.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Romania					X

3.3.5 Has your country adopted laws or policies requiring that cells be suitable for accommodating prisoners in respect of size, lighting, heating, ventilation and fittings? SMR 9, 10, 11, 12 & 13, EPR 18

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	16	4	0	6
Total Europe - %	75	67	17	0	25
Romania	X	X			

3.3.6 Has your country adopted laws or policies requiring that all prisoners have in-cell access to a working alarm bell that attracts the attention of staff at all times? ICCPR 6(1), UDHR 3, ECHR 2, EPR 18.2.c & 52.4, IPR 18(4), *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	13	2	0	4
Total Europe - %	83	54	8	0	17
Romania					X

Analysis

International instrument compliance

Two out of six commitments have been incorporated. Romania has adopted a commitment requiring that where possible, prisoners should have individual cells to sleep in inmates as well as a law requiring that cells be suitable for accommodating prisoners in respect of size, lighting, heating, ventilation and fittings. The NAP wishes to add art. 33 (275/2006) and 100 (regarding security in the penitentiary) to the question of Romania has adopted laws or policies requiring that all prisoner details are recorded at the time of committal including, inter alia, details of any visible injuries and the prisoner's personal belongings.

The internationally legally binding legal instruments stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation and the obligation of an in-cell access to a working alarm bell have not been adopted by Romania. With respect to the question of Romania adopted laws or policies stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation, the NAP refers to articles 27 and 28 of the Law no. 275/2006 and especially to art. 18.3.

The NAP answers 'yes' on the question of Romania has adopted laws or policies requiring that the size of a cell must be suitable for its purpose. The suitability of the cell size should be dependent on the number of hours spent in the cell, the number of prisoners accommodated in the cell and the availability of in-cell-sanitation facilities that ensure privacy. Art. 100 regarding

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security in the penitentiary deals with this aspect according to the NAP. Moreover, the NAP answers 'yes' to the question if Romania has adopted laws or policies requiring that all prisoners have in-cell access to a working alarm bell that attracts the attention of staff at all times and refers to art. 100 regarding security in the penitentiary. According to the opinion of the NAP, four out of the six commitments have been incorporated. Additionally, the NAP mentions that room accommodation in existing prison must ensure 1) at least 4m² per person deprived of liberty or placed in securely closed system and 2) at least 6 cubic meters of air per person deprived of liberty, framed or semi-open regime.

Situation in practice

The UNHCR stated that prison conditions remained harsh and did not meet international standards. The European Commissioner for Human Rights had highlighted in 2006 that prison overcrowding remained a problem despite a decline in the prison population in the previous two years. Figures released by the Ministry of Justice, National Administration of Penitentiaries in December 2009, indicated that there were 26,750 persons, including 470 minors, in prison or juvenile detention facilities in a system with a stated capacity of 33,951. These developments notwithstanding, there were prisons where the standard of 43 square feet of cell space per prisoner, recommended by the CPT, was not observed leading to the APADOR-CH to call for the adoption of legislation to make this recommendation mandatory. The International Centre for Prison Studies reported that the prison system in Romania was operating at 81% of design capacity as of November 2010.

Although national law on this subject clearly stipulates otherwise (see 3.3.5) CPT highlights that some of the cells in which female prisoners were accommodated, had very little access to natural light, particularly because of the metal shutters placed in front of the windows to prevent any contact with persons walking outside. As for the living space of these women, this was more often than not limited to 1.5 m² per prisoner and some of them also had to share beds.

22.3.4 *Hygiene & Sanitation*

This section focuses on the hygiene and sanitation facilities for prisoners. International legal instruments place a series of obligations on States in respect of hygiene and sanitation. The questions in this section are based on these obligations.

3.4.1 Has your country adopted laws or policies to ensure that all prisoners have access to adequate and appropriate sanitary and washing facilities that respect their privacy? SMR 12 & 13, EPR 19.3, 19.4 & 19.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	2	0	10
Total Europe - %	58	58	8	0	42
Romania	X	X			

3.4.2 Has your country adopted laws or policies requiring that all In-cell sanitation facilities must be adequately screened? ICCPR 10(1), SMR 12, BOP 1, BTP 1, ECHR 3, EPR 19.3, *Peers v Greece* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	4	1	9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	62	54	17	4	38
Romania					X

Analysis

International instrument compliance

Romania has adopted a commitment to ensure access of all prisoners to adequate sanitary facilities, whereas only 58% of other EU member States have adopted a law on this matter. However, national laws or policies requiring that all in-cell sanitation facilities must be adequately screened have not been adopted, yet the second question is based on legally binding international safeguards. However, with regard to this latter issue the NAP refers to art. 83 1897?DEC2006 GD, Order No. MJ. 433/C2010 and art. 100 regarding security in the penitentiary and notes that Romania has adopted the first two commitments under this heading by providing access to all prisoners to adequate sanitation.

22.3.5 *Clothing & Bedding*

This section focuses on clothing and bedding provisions for prisoners. International legal instruments place a series of obligations on States in respect of the provision of clothing and bedding. The questions in this section are based on these obligations.

3.5.1 Has your country adopted laws or policies to ensure that prisoners are provided with clothing that is suitable for the climate, is not degrading or humiliating and is age appropriate? SMR 17(1), EPR 20.1 & 20.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	10	0	7
Total Europe - %	71	71	42	0	29
Romania	X	X			

3.5.2 Has your country adopted laws or policies requiring each prisoner to be provided with a bed and appropriate bedding and to ensure that all bedding is in good condition, is changed regularly and laundered? SMR 19, EPR 21

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	2	0	6
Total Europe - %	75	71	8	0	25
Romania	X	X			

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Analysis

International instrument compliance

In common with the majority of EU Member States, Romania has adopted both commitments designed to ensure that prisoners have the right to wear appropriate clothing.

Situation in practice

However during the CPT visit in 2006 of the cells at the Bacău, Bucharest-Jilava and Ploiești Prisons, the material conditions were found to be appalling and could well be described as inhuman and degrading. Especially the lack of beds continued to be a problem not only in the establishments visited but throughout the country and this has been the case since CPT's first visit to Romania in 1995. This unworthy situation is found to be better in Craiova prison.

22.3.6 Nutrition

This section focuses on the nutrition requirements of prisoners. International legal instruments place a series of obligations on States in respect of prisoner's nutrition. The questions in this section are based on these obligations.

3.6.1 Has your country adopted laws or policies to ensure that prisoners are provided with a sufficient quantity of nutritious food taking into account their health, physical condition, special dietary requirements, religion and culture? SMR 20(1), EPR 22.1 & 22.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	5	1	4
Total Europe - %	83	83	21	4	17
Romania	X	X			

3.6.2 Has your country adopted laws or policies to ensure that prisoners have access to clean drinking water? SMR 20(2), EPR 22.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	16	5	1	5
Total Europe - %	79	67	21	4	21
Romania	X	X			

Analysis

International instrument compliance

In common with the majority of EU Member States, Romania has adopted both commitments designed to ensure that prisoners are provided with a sufficient quantity of nutritious food and have access to clean drinking water. The NAP mentions in respect of the 1st question art. 35 of Law 275 and in respect of the 2nd 433/2010 art. 5 of OMJ.

22.3.7 Legal advice, info & rights

This section focuses on the entitlement of prisoners to legal advice and information. International legal instruments place a series of obligations on States in respect of access to legal advice and information. The questions in this section are based on these obligations.

3.7.1 Has your country adopted laws or policies requiring that adequate time and facilities be provided to prisoners to receive professional visits from their legal advisers? BOP 18(2), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	4	1	2
Total Europe - %	92	92	17	4	8
Romania	X	X			

3.7.2 Has your country adopted laws or policies establishing the right of prisoners to communicate with their legal advisers by telephone and by letter? BOP 18(1), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	3	3	3
Total Europe - %	87	83	13	13	13
Romania	X	X			

3.7.3 Has your country adopted laws or policies requiring that communications between a prisoner and his/her legal adviser remain confidential and can only be restricted by law or judicial authority? ICCPR 17, BOP 18(3) & (4), ECHR 8, EPR 23.4 & 23.5, *Campbell v The United Kingdom* (ECtHR 1992)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	3	1	2
Total Europe - %	92	92	13	4	8
Romania	X	X			

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Analysis

International instrument compliance

In common with a vast majority of EU Member States, Romania has adopted all three commitments ensuring the entitlement of prisoners to legal advice and information.

22.3.8 Contact with the outside world

22.3.8.1 Visits

This section focuses on the entitlement of prisoners to maintain contacts with the outside world. International legal instruments place a series of obligations on states in respect of prisoners' on-going contact with the outside world. The questions in this section are based on these obligations.

3.8.1.1 Has your country adopted laws or policies establishing the right of prisoners to communicate with their family and friends by correspondence and by receiving visits, subject to reasonable conditions/restrictions imposed by law or another authority? ICCPR 23(1), UDHR 16(3), SMR 37, BOP 15 & 19, EPR 24.1 & 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	2	0
Total Europe - %	100	96	29	8	0
Romania	X	X			

3.8.1.2 Has your country adopted laws or policies requiring that visits take place in an environment that enables prisoners to maintain and develop family and other relationships in as normal a manner as is possible subject to the maintenance of good order and security in the prison? SMR 79, EPR 24.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	6	0	2
Total Europe - %	92	88	25	0	8
Romania	X	X			

22.3.8.2 Searching of visitors

3.8.2.1 Has your country adopted laws or policies requiring that searching procedures for visitors be undertaken in a manner that respects a person's dignity? SMR 27, BOP 19, EPR 54.1.c, 54.3, 54.4 & 54.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	4	0	7
Total Europe - %	71	63	17	0	29
Romania					X

3.8.2.2 Has your country adopted laws or policies requiring that prison officers only be permitted to search visitors of the same gender? EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	9	1	0	12
Total Europe - %	50	38	4	0	50
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22.3.8.3 Restrictions on visits

3.8.3.1 Has your country adopted laws or policies requiring the authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party(ies) and to review these circumstances on a regular basis? SMR 27, 79 & 80, EPR 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	0	0	63
Romania					X

3.8.3.2 Has your country adopted laws or policies preventing the withdrawal of contact for female prisoners with their children as a disciplinary action except in exceptional circumstances? SMR 27, 79 & 80, EPR 24.2 & 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	2	0	12
Total Europe - %	50	50	8	0	50
Romania	X	X			

22.3.8.4 Death, illness & transfer

3.8.4.1 Has your country adopted laws or policies requiring that prisoners be informed of the death/serious illness of a close relative/ friend without delay? SMR 44(2), EPR 24.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	2	0	13
Total Europe - %	46	42	8	0	54
Romania					X

3.8.4.2 Has your country adopted laws or policies allowing a prisoner to leave the prison to visit a sick relative/friend, attend a funeral or for other humanitarian reasons? SMR 44(2), EPR 24.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Romania	X	X			

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3.8.4.3 Has your country adopted laws or policies ensuring that prisoners are allowed to inform their families or other nominated persons without delay of their imprisonment, transfer to another institution or of any serious illness that they may suffer from? SMR 44(1) & (3), BOP 16(1), EPR 24.8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Romania	X	X			

3.8.4.4 Has your country adopted laws or policies requiring the prison authorities to immediately inform the spouse or the nearest relative to the prisoner (or any other person previously nominated), if the prisoner dies in custody, is removed to a hospital or suffers a serious injury/illness? SMR 44(1), EPR 24.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	3	0	6
Total Europe - %	75	75	13	0	25
Romania	X	X			

22.3.8.5 Telephone and letters

3.8.5.1 Has your country adopted laws or policies preventing the monitoring or censoring of telephone calls unless the prisoner or the recipient of the call is informed of the possibility of such monitoring or, such monitoring has been agreed by any lawful authority? ICCPR 17, UDHR 12, SMR 37, BOP 19, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	3	1	5
Total Europe - %	79	79	13	4	21
Romania	X	X			

3.8.5.2 Has your country adopted laws or policies permitting prisoners to send a minimum of 7 letters a week free of charge and more if he/she can afford it, and to receive as many letters as are sent to him/her? SMR 37, BOP 19, EPR 24.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	11	1	0	12
Total Europe - %	50	46	4	0	50
Romania	X	X			

3.8.5.3 Has your country adopted laws or policies preventing the prison authorities from opening prisoners' private correspondence subject to the maintenance of good order and safe and secure custody in the prison? ICCPR 17, UDHR 12, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	1	9
Total Europe - %	62	62	13	4	38

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Romania	X	X			

22.3.8.6 Media

3.8.6.1 Has your country adopted laws or policies entitling prisoners to be kept informed of current affairs and other developments outside the prison by reading newspapers and periodicals and by listening to radio or television broadcasts (subject to the maintenance of good order and safe and secure custody)? SMR 39, BOP 28, EPR 24.10

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	1	1
Total Europe - %	96	92	21	4	4
Romania	X	X			

Analysis

International instrument compliance

Ten out of fourteen commitments concerning contact with the outside world have been incorporated in Romanian law, including both laws regarding visits in accordance with the majority of other EU Member States. As regards to the searching of prisoners however, no laws have been implemented unlike the majority of EU Member States. However, the NAP finds that there is a basis for requiring that searching procedures for visitors be undertaken in a manner that respects a person's dignity (namely art. 8 of the 2714/2008 OMJ related to art. 41 and 200 of 1897 GD). On the restriction of visits national law includes preventing the withdrawal of contact for female prisoners with their children as a disciplinary action except in exceptional circumstances, though a safeguard requiring the authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party is not included. The NAP wishes to add to this art. 58 of the draft law on the enforcement of custodial sentences on the right to be informed of special family circumstances.

Furthermore, Romania has adopted all laws on telephone, letters and media. All legally binding international instruments concerning the topic of contact with the outside world have also been adopted through national law in Romania.

22.3.9 Work

This section focuses on work in prison. International legal instruments place a series of obligations on States in respect of work in prison. The questions in this section are based on these obligations.

3.9.1 Has your country adopted laws or policies requiring work to be incorporated as a positive aspect of prison regimes and prohibiting its use as a form of punishment? SMR 71(1), EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Romania					X

3.9.2 Has your country adopted laws or policies requiring that prison work provided should prepare prisoners for worthwhile work on their release and facilitate their reintegration into the workforce? SMR 71(3) & (4), BPTP 8, EPR 26.3 & 26.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	18	7	0	4
Total Europe - %	83	75	29	0	17
Romania	X	X			

3.9.3 Has your country adopted laws or policies entitling prisoners to be remunerated in respect of prison work carried out? ICESCR 7(a), UDHR 23, SMR 76(1), BPTP 8, EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	1	1
Total Europe - %	96	92	13	4	4
Romania	X	X			

Analysis

International instrument compliance

Two out of three commitments concerning work in prison have been adopted. According to the NAP, the execution of sentences of imprisonment is based on the possibility to provide prisoners with their consent useful work (see art. 52 and 533 Penal Code).

22.3.10 Exercise & recreation

This section focuses on facilities for exercise and recreation in prison. International legal instruments place a series of obligations on States in respect of exercise and recreational facilities. The questions in this section are based on these obligations.

3.10.1 Has your country adopted laws or policies ensuring that, subject to the constraints of the particular prison and the maintenance of good order and security, prisoners shall be entitled to spend as much time out of their cells as is possible? EPR 25(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Romania	X	X			

3.10.2 Has your country adopted laws or policies ensuring that prisoners receive at least one hours exercise each day in the open air, weather permitting? SMR 21, EPR 27.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	2	1
Total Europe - %	96	92	21	8	4
Romania	X	X			

3.10.3 Has your country adopted laws or policies ensuring that prisoners shall have access to a well-stocked library at least once a week (subject to the maintenance of good order and safe and secure custody)? R(89)12: 10, EPR 28.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	13	0	0	11
Total Europe - %	54	54	0	0	46
Romania	X	X			

Analysis

International instrument compliance

Romania has adopted all three commitments ensuring access to facilities for exercise and recreation in prison for all prisoners.

In practice however, shortcomings are still to be noted. See 3.9 above.

Situation in practice

As regards to the access to activities, the CPT found that at Bacău Prison, only 20% of the sentenced prisoners had access to educational activities or vocational training. Moreover, some activities only took place two or three times a week while others sometimes did not take place at all owing to staff shortages. Virtually half of the sentenced prisoners in Bacău Prison and approximately a fifth in Ploiești Prison had no access to any out-of-cell activities, apart from outdoor exercise. In addition the daily minimum of one hour's outdoor exercise was far from being respected in both Bacău and Ploiești prison. In this context, a shelter should be built to protect the Bacău Prison exercise yard from bad weather.

22.3.11 Education

This section focuses on facilities for education in prison. International legal instruments place a series of obligations on States in respect of prison education facilities. The questions in this section are based on these obligations.

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3.11.1 Has your country adopted laws or policies requiring, as far as practicable, that prisoners have access to educational programmes that can meet their individual needs? ICESCR 13, UDHR 26, SMR 77(1), BPTP 6, R(89)12: 1, EPR 28.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	5	1	1
Total Europe - %	96	96	21	4	4
Romania	X	X			

3.11.2 Has your country adopted laws or policies requiring that education provided in prisons shall be integrated, in so far as is practicable, with national educational systems/programmes enabling prisoners to continue their education following their release? SMR 77(2), R(89)12: 16, EPR 28.7.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	5	0	3
Total Europe - %	87	75	21	0	13
Romania	X	X			

3.11.3 Has your country adopted laws or policies requiring that vocational training be available for those prisoners who are able to benefit from it, particularly young prisoners? SMR 71(5), BPTP 8, R(89)12: 9, EPR 26.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	20	5	0	2
Total Europe - %	92	83	21	0	8
Romania	X	X			

Analysis

International instrument compliance

According to international legally binding instruments, Romania has adopted a law requiring access to education for all inmates. The two other commitments, which are not internationally legally binding, have also been adopted by Romania.

Situation in practice

CPT reports about the situation in practice show evidence of serious shortcomings in the area of education.

As regards to the access to activities, the CPT found that at Bacău Prison, only 20% of the sentenced prisoners had access to educational activities or vocational training. Moreover, some activities only took place two or three times a week while others sometimes did not take place at all owing to staff shortages. Virtually half of the sentenced prisoners in Bacău Prison and approximately a fifth in Ploiești Prison had no access to any out-of-cell activities, apart from outdoor exercise. In addition the daily minimum of one hour's outdoor exercise was far from being respected in both Bacău and Ploiești prison. In this context, a shelter should be built to protect the Bacău Prison exercise yard from bad weather.

The NAP mentions the collaboration between the National Penitentiary Administration and the Ministry of Education, Youth and Sports, with which they want to ensure access for inmates to education activities.

22.3.12 Freedom of thought, conscience & religion

3.12.1 Has your country adopted laws or policies ensuring that prisoners have the opportunity to practice their religion and to follow their beliefs whilst in custody? ICCPR 18(1), CERD 5 (d) (vii), UDHR 18, SMR 42, BPTP 3, EPR 29.1 & 29.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	5	0	0
Total Europe - %	100	96	21	0	0
Romania	X	X			

Analysis

International instrument compliance

Abiding by internationally legally binding instruments, Romania has adopted a commitment to ensure the freedom of thought, conscience and religion for all prisoners.

22.4 Health

22.4.1 Core principles

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.1.1 Has your country adopted laws or policies requiring that primary healthcare services to meet the needs of all prisoners be provided in each prison to a standard equivalent to that available to the community in general? ICESCR 12(1), SMR 22(1), PME 1, R(98)7: 10, 11, 12 & 19, EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	6	0	1
Total Europe - %	96	92	25	0	4
Romania	X	X			

4.1.2 Has your country adopted laws or policies to ensure that where a sick prisoner requires treatment that cannot be provided by the medical staff in the prison he/she shall be transferred to an appropriate hospital without undue delay? SMR 22(2), BPTP 9, R(98)7: 3, EPR 46.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	3	1	2
Total Europe - %	92	88	13	4	8

ROMANIA

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Romania	X	X			

4.1.3 Has your country adopted laws or policies requiring that medical records be created and accurately maintained on all prisoners and that such records be treated as confidential? BOP 26, R(98)7: 13, EPR 42.3.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	5	0	3
Total Europe - %	87	83	21	0	13
Romania	X	X			

Analysis

International instrument compliance

The NAP mentions that the privacy aspects regarding this subject are covered by art. 31.1 of the Joint Order MJ/MS nr. 1361/C/1016/2007.

In common with the majority of other EU Member States, Romania has adopted all commitments regarding general health care in prison. Nevertheless reports used for the information on the situation in practice in Romanian prisons, show different breaches concerning healthcare.

Situation in practice

The European Commissioner of Human Rights commented favourably on the facilities at Rahova prison hospital which at the time of his visit admitted and treated prisoners from throughout the country. Following a significant investment in the physical environment and operating equipment, prisoners were able to receive appropriate standards of care in better conditions than some civil hospitals. However, the CPT found during its visits to Bacău and Ploiești prisons that there were serious flaws in the measures taken for the prevention of transmissible diseases and the lack of reliable information on deaths over the past few years. The Committee found this to potentially constitute medical negligence.

Despite the enactment of new legislation concerning medical examinations in prison, it appears from the information gathered during the CPT's 2006 visit that these new legal requirements are seldom complied with in practice. Moreover, the principle of the confidentiality of medical examinations was still not guaranteed, since at least one guard was present. In addition, it is unacceptable that at Bucarest-Jilava prison inmates classified as dangerous were, as a rule, handcuffed during medical examinations.

22.4.2 Women and children

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations

4.2.1 Has your country adopted laws or policies to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor? CEDAW 12, SMR 23, BOP 5(2), R(98)7: 8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	7	3	0	17
Total Europe - %	29	29	13	0	71
Romania					X

4.2.2 Has your country adopted laws or policies requiring that appropriate care be afforded to all pregnant prisoners and nursing mothers? CEDAW 12(2), SMR 23, R(98)7: 8 & 69, EPR 34.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Romania	X	X			

Analysis

International instrument compliance

Commitments to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor have not adopted by Romania, although they are legally binding by international instruments. According to the SPOC women receive a good standard of health care.

Situation in practice

Romania is abiding by internationally legally binding rules by adopting a law on the requirement of appropriate care for pregnant prisoners as most EU Member States have.

22.4.3 *Mental health care*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.3.1 Has your country adopted laws or policies requiring that prisoners with mental health difficulties be entitled to care appropriate to their circumstances, commensurate to the type of care available for people with similar mental health difficulties in the community? SMR 22(1), PPPMI 1 & 20, R(98)7:10, 11 & 52, R(2004)10: 35(1) & (2), EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	4	0	3
Total Europe - %	87	79	17	0	13
Romania	X	X			

ROMANIA

4.3.2 Has your country adopted laws or policies to ensure that prisoners who require psychiatric in-patient care are transferred to a suitable hospital facility of an appropriate security level without undue delay? SMR 22(2), PPPMI 9(1) & 20, R(98)7: 3 & 55, R(2004)10: 8, 9(1) & 35(1), EPR 12(1) & 46(1)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	3	0	6
Total Europe - %	75	71	13	0	25
Romania	X	X			

Analysis

International instrument compliance

Romania has adopted both commitments on mental health, this being in common with the majority of the EU Member States. The reality in practice however reports several deficiencies.

Situation in practice

The lack of psychiatric staff and shortages of psychologists at Bacău and Ploiești prisons raised serious concerns for the CPT, especially given the fact that, according to the medical staff, a significant number of prisoners were suffering from psychiatric disorders. In both 2006 and 2009 CPT visited Nucet Medico-Social Centre and Oradea Hospital for Neurology and Psychiatry. As a whole, in both establishments for mental care, the living conditions had improved in the course of those three years with a few exceptions to be held into account. In Nucet Medico-Social Centre the insufficient number of staff especially still proves to be a serious problem, with only one psychiatrist, no psychologist and high shortages in the nursing staff. Furthermore, a defective elevator caused the inaccessibility of a large number of residents to a daily outside exercise.

The NAP mentions in this respect that ‘medical specialist for detainees with mental illness is provided by the Prisons psychiatrists Jilava Hospital, Poarta Alba, Rahova, Colibasi and the Specialist doctor from Craiova’s Penitentiary’.

At Oradea Psychiatric hospital renovation works have continued since 2006, leaving some wards in excellent conditions as opposed to others still in a largely dilapidated state.

In both facilities the pressing need for more individual treatment programmes, a clear protocol on restraint as well as the use of a special restraint register, the implementation of a formal policy on electroconvulsive treatment (ECT) and a professional training for nursing staff in the management of agitated and/or violent residents exist. Also the absence of procedural safeguards in connection to the certitude of full and accurate information as a means for informed consent to treatment as well as safeguards concerning the placement and discharge of residents is reiterated by the CPT. The implementation of an involuntary placement procedure is appropriate in the latter case.

A final concern was the high uncertainty regarding the causes and circumstances of deaths of residents. These should be reported to the public prosecutor responsible and be subject to an autopsy immediately.

22.4.4 Vulnerable prisoners

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.4.1 Has your country adopted laws or policies requiring that prisoners assessed as vulnerable be accommodated in areas of the prison which are most convenient and appropriate for their monitoring and treatment by the medical personnel and other relevant agencies? SMR 22(2) & 62, EPR 12.2, 39, 43.1, 46.2, 47.1 & 47.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	3	0	8
Total Europe - %	67	63	13	0	33
Romania	X	X			

4.4.2 Has your country adopted laws or policies requiring that prisoners assessed as being at risk of suicide/self-harm be continuously monitored by both medical and prison staff throughout the prisoner's time in custody and that records are kept of such monitoring? R(98)7: 58, EPR 47(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	5	0	14
Total Europe - %	42	29	21	0	58
Romania					X

4.4.3 Has your country adopted laws or policies requiring that prisoners detained in a special cell be visited daily, and as frequently as is necessary by a doctor who shall, inter alia, monitor his/ her physical and mental health? SMR 25(1) & 32(3), R(98)7: 66, EPR 43.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Romania	X	X			

Analysis

International instrument compliance

As regards to the protection of vulnerable prisoners, Romania has adopted two out of three commitments, including commitments ensuring proper accommodation for this category of inmates as well as laws requiring that prisoners detained in a special cell be visited daily and as frequently as necessary by a doctor.

The NAP wishes to make a comment with regard to the question if Romania adopted laws or policies requiring that prisoners assessed as being at risk of suicide/self-harm be continuously monitored by both medical and prison staff throughout the prisoner's time in custody and that records are kept of such monitoring: 'health care professionals have all the inmates out medical office with mental disorders, their treatment is administered under strict supervision of medical staff. Inmates with mental illnesses also are regularly evaluated by admissions in psychiatric wards of the prison hospital or health network of the Ministry of Health'.

ROMANIA

22.4.5 *Medical & health care personnel*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.5.1 Has your country adopted laws or policies to ensure that every prisoner has access to appropriately qualified medical personnel in the prison at all times? SMR 24, BOP 24, R(98)7:1, 2 & 4, EPR 41.2 & 41.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Romania	X	X			

Analysis

International instrument compliance

Romania has adopted the commitment to ensure that every prisoner has access to appropriately qualified medical staff within the prison at all times. This is in accordance with the majority of the other EU Member States.

22.4.6 *Prisoners with addiction problems*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.6.1 Has your country adopted laws or policies to ensure that prisoners with addiction problems have access to appropriate treatment and support services, including those from external agencies? SMR 62, R(98)7: 7, 43, 44, 45, 46 & 47, EPR 42.3.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	8	0	3
Total Europe - %	88	79	33	0	13
Romania	X	X			

Analysis

International instrument compliance

The commitment to ensure that prisoners with addiction problems have access to appropriate treatment and support services is adopted by Romania.

22.4.7 *Hunger strikes*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.7.1 Has your country adopted laws or policies forbidding the practice of forced feeding of hunger strikers? DOMHS, R(98)7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	37	21	21	0	63
Romania					X

Analysis

International instrument compliance

Romania, like most of the other EU Members has not incorporated the commitment which prohibits the practice of forced feeding of hunger strikers.

22.5 Good order

22.5.1 *General approaches*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.1.1 Has your country adopted laws or policies requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody? R(82)17: 8, EPR 51.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	0	9
Total Europe - %	62	62	13	0	38
Romania	X	X			

Analysis

International instrument compliance

Romania has adopted the commitment requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody. This said, the situation in practice shows some discrepancy.

ROMANIA

Situation in practice

According to the APADOR-CH, the practice of labelling certain prisoners as "dangerous" remained a problem in the absence of clear standards for such classification. Prisoners labelled dangerous were subjected to a variety of restrictions beyond those experienced by the general prison population and had no right to appeal that determination.

The CPT also acknowledges the practice of labelling certain prisoners as "dangerous". Even with the legislative changes², a lack of a coherent policy with a view to integrating persons sentenced to life- imprisonment or other long-term penalties into the general prison population still exists, which leads

to a disproportionate and solely punitive treatment of all life-long prisoners. This category of prisoners classified as dangerous, which includes all life-long prisoners in Bucharest-Jilava and Craiova Prisons were offered no work, no vocational training and hardly any educational activities. Furthermore they were not allowed to associate with any other categories of prisoner.

22.5.2 Safety & Security

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.2.1 Has your country adopted laws or policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat? EPR 51.5, 53.1 & 53.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	63	63	17	0	37
Romania					X

Analysis

International instrument compliance

Romania has not adopted any laws or policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat, unlike the majority of other EU Member States. The lack of legal safeguards proves to be a problem when looking at the situation in practice. However, the NAP is of the opinion that such a requirement exists in OMJ 1077/C/2007 and ANP Order 2903/2003.

Situation in practice

According to the CPT, the use of observation cells at Craiova prison may be justified, in exceptional circumstances, but only for a short time when the risk posed by the prisoner concerned is very high and cannot be controlled without constant supervision.

22.5.3 *Searching of prisoners*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.3.1 Has your country adopted laws or policies requiring that searches conducted on prisoners be carried out with due regard to the prisoner's dignity? ICCPR 10(1), BPTP 1, EPR 54.3 & 54.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	0	1
Total Europe - %	96	92	13	0	4
Romania	X	X			

5.3.2 Has your country adopted laws or policies stipulating that prisoners may only be searched by a staff member of the same gender? ICCPR 10(1), BPTP 1, EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	1	0	1
Total Europe - %	96	92	4	0	4
Romania	X	X			

5.3.3 Has your country adopted laws or policies stipulating that prisoners may only be subjected to a strip search in exceptional circumstances and for good reason and then, only in the presence of two officers in an appropriate place which ensures privacy? ICCPR 10(1), BPTP 1, EPR 54. 3, 54.4 & 54.6, *Van der Van v The Netherlands* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	3	1	13
Total Europe - %	66	54	13	4	54
Romania	X	X			

Analysis

International instrument compliance

All the commitments based on internationally legally binding instruments concerning the searching of prisoners have all been adopted in Romania's national law.

22.5.4 *Criminal acts, discipline & punishment*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

ROMANIA

5.4.1 Has your country adopted laws or policies stipulating that all inquiries into breach of prison discipline or rules shall be conducted in an independent and impartial manner? ICCPR 14(1), UDHR 10, ECHR 6(1), *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	2	1	8
Total Europe - %	67	63	8	4	33
Romania	X	X			

5.4.2 Has your country adopted laws or policies requiring that all incidents of bullying/violence/threatening behaviour between prisoners, and any breach of discipline be reported to an officer of a higher rank, duly recorded and properly investigated? EPR 52.2 & 58

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	62	62	17	0	38
Romania					X

5.4.3 Has your country adopted laws or policies stipulating that when a prisoner has been charged with a disciplinary offence he/she shall be promptly informed of the allegation made against him/her in a language that he/she understands? ICCPR 14(3)(a), CERD 5(a), SMR 30(2), ECHR 6(3)(a), EPR 59.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	3	0	7
Total Europe - %	71	71	13	0	29
Romania					X

5.4.4 Has your country adopted laws or policies stipulating if an inquiry is being conducted into a breach of prison discipline or rules the prisoner shall have adequate time to prepare his/her defence and/or to receive legal assistance? ICCPR 14(3)(b) & (d), SMR 30(2), ECHR 6(3)(b) & (c), EPR 59.b & 59.c, *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	2	0	9
Total Europe - %	62	58	8	0	38
Romania	X	X			

5.4.5 Has your country adopted laws or policies stipulating that in any disciplinary proceedings prisoners must understand the proceedings and if necessary, appropriate interpretation facilities must be provided? ICCPR 14(3)(f), SMR 30(3), ECHR 6(3)(e), EPR 59.e

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Romania					X

5.4.6 Has your country adopted laws or policies stipulating that no prison officer shall impose a punishment/penalty/deprivation on a prisoner without due process and in accordance with law and/or relevant rules or instruments? EPR 57.2.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	2	0	4
Total Europe - %	83	83	8	0	17
Romania	X	X			

5.4.7 Has your country adopted laws or policies stipulating that if a prisoner is found guilty of a disciplinary offence, he/she shall be entitled to exercise his/her right of appeal to an independent and impartial tribunal established by law? ICCPR 14(5), BOP 30(2), EPR 61

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	1	0	5
Total Europe - %	79	79	4	0	21
Romania	X	X			

5.4.8 Has your country adopted laws or policies requiring that when a prisoner is detained in any type of special cell (special observation/cladded/strip) he/she shall be regularly monitored by a prison officer? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	3	0	7
Total Europe - %	71	67	13	0	29
Romania	X	X			

5.4.9 Has your country adopted laws or policies requiring that a detailed record be maintained of, inter alia, the monitoring of such prisoners, their expressed requirements, actions taken in response to such requests and details of visits by officers or others to such prisoners? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	8	8	2	0	16
Total Europe - %	33	33	8	0	67
Romania					X

5.4.10 Has your country adopted laws or policies to ensure that prisoners in a special cell are able to contact a member of staff at all times, including during the night and that a staff member shall respond without delay? ICCPR 6(1), EPR 18.2.c & 52.4, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	4	0	63
Romania					X

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Analysis

International instrument compliance

Five out of ten commitments have been incorporated.

Romania has complied to all international legally binding instruments regarding criminal acts, discipline and punishment except for a law stipulating that when a prisoner has been charged with a disciplinary offence he/she shall be promptly informed of the allegation made against him/her in a language that he/she understands, the access to appropriate interpretation facilities nor additional provisions for detainees in any type of special cell.

The NAP thinks that all ten commitments are incorporated into national law.

22.5.5 Use of force/weapons

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.5.1 Has your country adopted laws or policies stipulating that members of staff will use force only when absolutely necessary and that any force used shall be proportionate to the situation? SMR 54(1), CCLEO 3, BPUF 4, EPR 64 & 6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	4	1	3
Total Europe - %	87	87	17	4	13
Romania					X

Analysis

International instrument compliance

Romania has not adopted any commitment to ensure that the use of force/weapons can only be used when absolutely necessary and in a proportionate manner. The SPOC is not aware of regulations on the proportionate use of force anywhere. according to the NAP, Romania has adopted commitments to ensure that the use of force/weapons can only be used when absolutely necessary and in a proportionate manner, namely art. 37 of Law no. 275/2006, art. 198 of the Government 1897/2006, Ch. Safety reg VII of places of detention and MJ Order 2748/2010 for approving the procedures manual used by negotiators in critical incident management and incident management manual. According to national policy, physical intervention will be attempted only in the following cases: when the detailed risk analysis that the incident may be terminated immediately without substantial risk of physical injury to any party and when in the absence of intervention, predictable and immediate threat to the safety of the prison and the life or integrity of any person on the scene is greater than the risk posed by physical intervention.

Situation in practice

And according to the CPT's report, breaches regarding the use of violence are indeed widespread. The systematic presence of hooded members of the "internal special intervention group", who openly carry truncheons and tear gas and are responsible for

surveillance, escort and searches, caused a lot of tension among the prisoners. In the CPT's opinion, such practices not only dehumanise relations between the prison staff and prisoners and introduce a strong element of intimidation. Further, the wearing of hoods hampers the identification of possible suspects if and when there are allegations of ill-treatment. The CPT also commented that in cases where prisoners were restrained, a number of principles and minimum safeguards must be complied with in practice when securing a prisoner to a bed. Such efforts require the introduction of detailed regulations and the appropriate training for staff.

22.5.6 Requests & complaints

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.6.1 Has your country adopted laws or policies to ensure that prisoners have sufficient opportunity to make requests or complaints to the Governor of the prison or to any other competent authority? SMR 36(1) & (3), BOP 33(1), EPR 70.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	3	0	1
Total Europe - %	96	96	13	0	4
Romania	X	X			

5.6.2 Has your country adopted laws or policies establishing the right of a prisoner's legal advisor or to make a request or a complaint regarding that prisoner's treatment to the prison authorities, or other relevant authorities? BOP 33 (1) & (2), EPR 70.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	1	0	6
Total Europe - %	75	75	4	0	25
Romania	X	X			

5.6.3 Has your country adopted laws or policies requiring that all complaints be promptly investigated in accordance with law? SMR 36(4), BOP 33(4)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	2	0	7
Total Europe - %	71	67	8	0	29
Romania					X

5.6.4 Has your country adopted laws or policies to ensure that where a request is denied or a complaint is rejected, the prisoner is informed promptly as to the reason(s) for such denial or rejection? SMR 36(4), BOP 33(4), EPR 70.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	2	1	7
Total Europe - %	71	63	8	4	29

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Romania					X

5.6.5 Has your country adopted laws or policies to ensure that prisoners are not disadvantaged for exercising their rights to make requests or complaints? BOP 33(4), EPR 70.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	3	0	13
Total Europe - %	46	42	13	0	54
Romania					X

5.6.6 Has your country adopted laws or policies requiring that complaints made by members of staff against other members of staff be properly recorded and investigated in accordance with the law? EPR 88 & 87.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	11	3	0	11
Total Europe - %	54	46	13	0	46
Romania					X

Analysis

International instrument compliance

Two out of six commitments have been adopted.

Romania has adopted policies to ensure that prisoners have sufficient opportunity to make requests or complaints to the Governor of the prison or to any other competent authority as well as a legal safeguard establishing the right of a prisoner's legal advisor or to make a request or a complaint regarding that prisoner's treatment to the prison authorities. The majority of other EU Member States have also adopted both commitments.

The NAP is of the opinion that all commitments are incorporated have been national law.

22.6 Management & Staff

22.6.1 Training of staff

This section focuses on the staff training and prison management. International legal instruments place a series of obligations on States in respect of the training and management of prison staff. The questions in this section are based on these obligations.

6.1.1 Has your country adopted laws or policies to ensure that all prison staff receive appropriate training at regular intervals throughout their career? SMR 47(3), EPR 8, 76 & 81.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	14	7	0	5
Total Europe - %	79	58	29	0	21
Romania	X	X			

6.1.2 Has your country adopted laws or policies to ensure that members of staff who work with particular groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, receive training particular to their individual work? R(82)17: 10, R(2004)10: 12(1), EPR 81.3, ERJO 129

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	38	21	21	0	62
Romania					X

Analysis

International instrument compliance

Although Romania has adopted the commitment to ensure that all prison staff receives appropriate training, there are no legal safeguards to ensure that members of staff who work with particular groups of prisoners receive a particular training. Reports from the situation in practice clearly demonstrate this impairment.

Situation in practice

The European Commissioner for Human Rights highlighted shortcomings in staffing levels within the Romanian prison system. He noted that Romania had on average one prison officer for every seven prisoners compared to a European average of one prison officer for every four prisoners.

The CPT highlighted the need to provide proper training of prison staff to prevent violence and intimidation amongst prisoners and to intervene when necessary.

In addition, qualified training for dealing with juveniles should be priority. A training in interpersonal communication skills as part of the in-service training of prison officers may also prove to be vital.

22.7 Inspection & Monitoring

22.7.1 *Governmental Inspection*

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.1.1 Has your country adopted laws or policies requiring that prisons be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law? SMR 55, EPR 92, R(2004)10 36.1, ERJO 125, PPPMI 22

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	19	4	0	4
Total Europe - %	83	79	17	0	17

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Romania	X	X			

Analysis

International instrument compliance

Romania in common with the vast majority of other EU Member States, has adopted the commitment requiring that prisons be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law. According to the SPOC these inspections are not always as independent as they should be.

22.7.2 Independent monitoring

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.2.1 Has your country adopted laws or policies requiring that the conditions of detention and the treatment of prisoners shall be also monitored by an independent body or bodies, comprised of qualified experienced personnel, and whose findings shall be made public? OPCAT 3, 17, 18, 19, BOP 29.1, EPR 93.1, R(2004)10 36.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Romania					X

7.2.2 Has your country adopted laws or policies granting such an independent body open access to places of detention, to prisoners and others whom it wishes to interview? OPCAT 19, 20, CPT 8,9 BOP 29.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	3	1	9
Total Europe - %	62	58	13	4	38
Romania					X

7.2.3 Has your country adopted laws or policies encouraging such independent bodies to cooperate with those international agencies that are legally entitled to visit prisons? CPT 2,7 EPR 93.2, ERJO 126.

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	6	1	0	17
Total Europe - %	29	25	4	0	71
Romania					X

Analysis

International instrument compliance

No commitments incorporated.

Situation in practice

Romania has signed and ratified the OP-CAT. No decision has as yet been taken on the designation of an NPM. As the country made a declaration under Article 24 of the OP-CAT upon ratification, the country has three years to put in place its NPM from the date of its ratification (July 2009).

22.8 Sentenced Prisoners

This section focuses on the particular provisions relating to convicted prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

8.1.1 Has your country adopted laws or policies requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan? ICCPR 10(3), SMR 80, EPR 6, 103.2 & 103.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	6	2	4
Total Europe - %	83	83	25	8	17
Romania	X	X			

8.1.2 Has your country adopted laws or policies requiring that a sentence management plan be prepared for each prisoner serving a sentence of 12 months or over as soon as practicable after their admission? It should provide for, inter alia, the welfare and health needs of the prisoner, training, employment or education needs he/she may have, and include a release plan for the prisoner. This plan shall be reviewed at regular intervals to take into account the changing circumstances of the prisoner. SMR 65, 66 & 69, R(2003)23: 3 & 9, EPR 6, 103 & 104.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	5	0	10
Total Europe - %	58	54	21	0	42
Romania	X	X			

Analysis

International instrument compliance

Romania has adopted both commitments on the particular provisions relating to convicted prisoners. Defects have been reported in practice, notwithstanding the internationally legally binding provision requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan.

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Situation in practice

See 5.1 above.

22.9 Juveniles

This section focuses on the particular provisions relating to juvenile prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

9.1.1 Has your country adopted laws or policies requiring that juveniles be detained separately from adult offenders? ICCPR 10(3), CRC 37(c), BR 26.3, RPJDL 29, EPR 11.1, ERJO 59.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	1	3
Total Europe - %	87	87	13	4	13
Romania	X	X			

9.1.2 Has your country adopted laws or policies to ensure that, subject to reasonable conditions and restrictions, a sentenced prisoner under the age of 18 shall be entitled to receive a minimum of two weekly visits? CRC 37(c), SMR 37, BOP 19, RPJDL 60, ERJO 83, 84, 85.1 & 85.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	6	3	0	15
Total Europe - %	37	25	13	0	63
Romania					X

Analysis

International instrument compliance

Romania had adopted the commitment ensuring the separate detention of juveniles and adult offenders as have the majority of EU Member States and which is legally binding on an international level. However it has not adopted any national laws or policies to ensure that, subject to reasonable conditions and restrictions, a sentenced prisoner under the age of 18 shall be entitled to receive a minimum of two weekly visits. The situation in practice demonstrates several shortcomings when it comes to the detention of juveniles.

According to the NAP, Romania has adopted laws or policies to ensure that, subject to reasonable conditions and restrictions, a sentenced prisoner under the age of 18 shall be entitled to receive a minimum of two weekly visits.

Situation in practice

During the 2006 visit of Bacău and Ploiești prisons, the CPT took note of the fact that minors, although being allocated to separate cells, were still residing for long periods of time in the same establishments as adults with reports of some evidence of ill-treatment. There was also evidence of the same poor material conditions as the general prison population with the amount of living space and the level of hygiene being of appalling standards.

As regards the program of activities, the juveniles' outdoor exercise in the men's section at Bacău Prison was limited to 10 or 20 minutes per day, which is totally unacceptable.

22.10 Sentence Execution Modalities

This section of the questionnaire is designed to collate information on the differing methods by which custodial sentences and measures involving deprivation of liberty are enforced across EU Member States.

10.1.1. Which of the following modalities of prison sentence execution are provided for in the law of your country?

	Weekend detention	Evening detention	Daytime detention	Home detention	
				no electronic monitoring	electronic monitoring
EUROPE	9 = 38%	10 = 42%	3 = 13%	6 = 25%	14 = 58%
Romania		X			

10.1.2. What is the maximum period for which home detention with electronic monitoring can be imposed?

	Under 12 months	12-24 months	25 months - 36 months	37 months - 50 months	More than 50 months
EUROPE	7 = 29%	4 = 17%	0 = 0%	1 = 4%	2 = 8%
Romania					

10.2.1. In which of the following locations can custodial sentences or measures involving deprivation of liberty be imposed?

	Penitentiary institution	Psychiatric institution	Detoxification institution	Educational institution	Home
EUROPE	24 = 100%	20 = 83%	10 = 42%	7 = 29%	12 = 50%
Romania	X	X		X	

Analysis

Sentence execution modalities

In Romania, the only additional sentence execution modality available is evening detention. Custodial sentences or measures involving deprivation of liberty can be imposed in relation to penitentiary institutions, psychiatric and educational institutions.

22.11 Early release from prison, earned remission and suspension of sentence

22.11.1 Early release

Early release means the release of the offender before their prison term is finished. It is possible only while the sentence is still being served. Early release does not include the suspended enforcement of a penalty which is dealt with later in this questionnaire.

11.1.2.1. Has your country adopted laws and regulations under which prisoners are entitled to early release from prison ?

	Yes	No
EUROPE	24 = 100%	0 = 0%
Romania	X	

11.1.2.2. At what point in a prisoner's sentence do they become eligible for early release?

	One third of sentence or less	One third to one half of a sentence	One half to three quarters of a sentence	More than three quarters of a sentence	Other
EUROPE	2 = 8%	1 = 4%	7 = 29%	0 = 0%	14 = 58%
Romania					X

11.1.2.2. Does your country have different regulations for the early release of prisoners based on:

	A prisoner's nationality (non-EU citizen)	A prisoner's nationality (EU citizen)	The length of sentence imposed
EUROPE	Yes - 3 = 12% No - 21 = 88%	Yes - 3 = 12% No - 21 = 88%	Yes - 24 = 100% No - 0 = 0%
Romania	N	N	Y

11.1.2.3. Are provisions governing the early release of prisoners automatic or discretionary?

	Automatic (prisoners are automatically released at a certain point in their sentence)	Discretionary (prisoners are only released following assessment)
EUROPE	Yes - 7 = 29% No - 17 = 71%	Yes - 20 = 83% No - 4 = 17%
Romania	N	Y

11.1.2.4. What factors are taken into consideration when deciding whether a prisoner will be granted early release?

	The circumstances surrounding the crime	Prior criminal record	The offender's progress during imprisonment	Assessment as to whether the prisoner is likely to reoffend	Recommendation from the sentencing judge
EUROPE	Yes - 24 = 50% No - 24 = 50%	Yes - 15 = 63% No - 9 = 37%	Yes - 22 = 92% No - 2 = 8%	Yes - 19 = 79% No - 5 = 21%	Yes - 4 = 17% No - 20 = 83%
Romania	N	N	Y	N	N

11.1.3.1. What forms of monitoring and conditions can be applied to prisoners' early release?

1. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
2. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
4. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
5. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
6. Electronic monitoring
7. Weekend/evening /daytime detention
8. Requirement containing limitations on leaving the country
9. Requirement to leave the country
10. Requirement to pay compensation
11. Requirement to undertake community service
12. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	Other
EUROPE	Y - 83 N - 17	Y - 8 N - 92	Y - 58 N - 42	Y - 62 N - 38	Y - 33 N - 77	Y - 25 N - 75	Y - 13 N - 87	Y - 42 N - 58	Y - 21 N - 79	Y - 29 N - 71	Y - 21 N - 79	9
Romania	N	N	N	N	N	N	N	N	N	N	N	

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22.11.2 Sentence reduction as a result of prison work

11.2.1.1. Can a prisoner earn remission on their sentence as a result of work carried out in prison?

	Yes	No
EUROPE	9= 38%	15 – 62%
Romania	X	

22.11.3 Suspension of sentence enforcement

11.3.1. Does the national law of your country make provision for the further execution of a prison sentence to be suspended during the course of the sentence?

	Yes	No
EUROPE	10=42%	14= 58%
Romania		X

11.3.2.1. What factors are taken into consideration when deciding whether a prisoner will have the further execution of their prison sentence suspended?

1. The circumstances surrounding the crime
2. Prior criminal record
3. The offender's progress during imprisonment
4. Assessment as to whether the prisoner is likely to reoffend
5. Recommendation from the sentencing judge
6. Suitability of home circumstances
7. Information from victim(s)
8. Willingness of the prisoner to leave the country upon release
9. The prisoner will be deported upon release
10. Other – please specify

	1	2	3	4	5	6	7	8	9	Other
EUROPE	Y - 8 N - 92	Y - 13 N - 78	Y - 17 N - 83	Y - 21 N - 79	Y - 0 N - 100	Y - 4 N - 96	Y - 0 N - 100	Y - 0 N - 100	Y - 0 N - 100	21
Romania	N	N	N	N	N	N	N	N	N	

11.3.3.1. What forms of monitoring and conditions can be applied to prisoners whose further execution of a prison sentence has been suspended?

1. Unconditional supervision
2. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
4. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)

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5. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
6. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
7. Electronic monitoring
8. Weekend/evening /daytime detention
9. Requirement containing limitations on leaving the country
10. Requirement to leave the country
11. Requirement to pay compensation
12. Requirement to undertake community service
13. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	12	Other
EUROPE	Y - 4 N - 96	Y - 38 N - 62	Y - 4 N - 96	Y - 29 N - 71	Y - 17 N - 83	Y - 17 N - 83	Y - 4 N - 96	Y - 4 N - 96	Y - 21 N - 79	Y - 0 N - 100	Y - 17 N - 83	Y - 4 N - 96	2
Romania	N	N	N	N	N	N	N	N	N	N	N	N	

Analysis

Early release from prison, earned remission and suspension of sentence

In common with all EU countries, Romania has adopted measures under which prisoners are entitled to early release from prison. Prisoners become eligible for early release after two thirds of their sentence for a sentence of less than ten years imprisonment and after three quarters for a sentence over ten years imprisonment depending on the length of sentence imposed. The Romanian early release system is based on discretionary provisions. Decisions on a prisoner's early release are based solely on the prisoner's progress during imprisonment. Once a prisoner is granted early release, the only condition consists of not reoffending within conditional term. In contrast to the majority of EU Member States, there is a possibility in Romanian law for prisoners to be granted remission as a result of work carried out in prison. No provision is made for the further execution of a prison sentence to be suspended during the course of the sentence.

Appendix

1. Penal Code
2. HOTARARE Nr. 1897 din 21 decembrie 2006
3. HOTĂRÂRE Nr. 1897 din 21 decembrie 2006
4. LEGE 293_2004 statut
5. LEGE Nr. 275 din 4 iulie 2006
6. OMJ 1676_2010 Regulament privind siguranta locurilor de detinere din subordinea A.N.P.
7. OMS & OMJ 898-725 toxicomani in penitenciare
8. ORDIN Nr. 2714 din 20 octombrie 2008

23 Slovakia

23.1 Introduction

The questionnaire was completed by Ms. Anna Ondrejová who is a Prosecutor at the General Prosecutor's Office in Slovakia.

The CPT visited the Slovak Republic from 24 March to 2 April 2009. This report has been used as a basis for the information on the situation in practice.

Country	SLOVAKIA		
Ministry responsible	Ministry of Justice		
Prison administration	General Directorate of the Corps of Prison and Court Guard		
Contact address	1 Sagatova St., 81304 Bratislava 1, Slovak Republic		
Telephone/fax/website	tel: +421 2 20 83 11 00 fax: +421 2 20 83 16 98 web: www.zvjs.sk		
Head of prison administration (and title)	(Col. Mgr.) Robert Mudroncek Director General		
Prison population total (including pre-trial detainees / remand prisoners)	10,031 at 31.12.2010 (national prison administration)		
Prison population rate (per 100,000 of national population)	184 based on an estimated national population of 5.43 million at end of 2010 (from Eurostat figures)		
Pre-trial detainees / remand prisoners (percentage of prison population)	14.6% (31.12.2010)		
Female prisoners (percentage of prison population)	5.6% (of convicted prisoners, 31.12.2010)		
Juveniles / minors / young prisoners incl. definition (percentage of prison population)	0.8% (of convicted prisoners, 31.12.2010 - under 18)		
Foreign prisoners (percentage of prison population)	2% (31.12.2010)		
Number of establishments / institutions	18 (2010)		
Official capacity of prison system	10,615 (31.12.2010)		
Occupancy level (based on official capacity)	94.5% (31.12.2010)		
Recent prison population trend (year, prison population total, prison population rate)	1992	6,61	124
	1995	7,899	147
	1998	6,628	123
	2001	7,433	138

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	2004	9,422	175
	2007	7,986	148

23.2 Overarching Principles

This section focuses on the overarching principles governing the management of prisons and the treatment of prisoners. International legal instruments place a series of obligations on States in respect of the management of prisons and the treatment of prisoners. The questions in this section are based on these obligations.

2.1.1 Has your country adopted laws or policies specifically requiring that prisoners must be treated with respect for their human rights? ICCPR 10(1), UDHR 1, BOP 1, BPTP 1, EPR 1 & 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	19	7	1	2
Total Europe - %	92	79	29	4	8
Slovakia	X	X			

2.1.2 Has your country adopted laws or policies specifically requiring prisons to be managed in accordance with human rights standards? EPR 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	4	3	3
Total Europe - %	88	75	16	13	12
Slovakia	X	X			

2.1.3 Has your country adopted laws or policies explicitly prohibiting practices that could constitute torture, inhumane or degrading treatment or punishment of prisoners? ICCPR 7, BOP 6, ECHR 3, *Kalashnikov v Russia* (ECtHR 2003)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	1	3	2
Total Europe - %	92	88	4	12	8
Slovakia	X	X			

2.1.4 Has your country adopted laws or policies specifically requiring that prisoners be provided with a range of activities during their sentence (for example - educational, recreational, work/training and welfare programmes)? SMR 77 & 78, BOP 28, BPTP 6 & 8, EPR 25

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	0	0
Total Europe - %	100	96	29	0	0
Slovakia	X	X			

Analysis

International instrument compliance

In common with the majority of EU member states, Slovakia has passed legislation designed to protect the human rights of its prisoners and provide them with a meaningful regime during their time in custody. This legislation includes all of the commitments arising from legally binding international legal instruments.

Situation in practice

The CPT recommends that the Slovak authorities make more efforts to provide purposeful work for sentenced prisoners, and to ensure that these prisoners enjoy a safe and adequate working environment; the Slovak authorities to ensure that all sentenced prisoners benefit from a comprehensive regime of varied and purposeful activities.

23.3 Conditions Of Imprisonment

23.3.1 Admission

This section focuses on the treatment of prisoners upon their admission to prison. International legal instruments place a series of obligations on States in respect of prisoner admission. The questions in this section are based on these obligations.

3.1.1 Has your country adopted laws or policies requiring that all prisoner details are recorded at the time of committal including, inter alia, details of any visible injuries and the prisoner's personal belongings? SMR 7(1), EPR 15.1, 31.1, 31.2 & 31.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	7	1	7
Total Europe - %	71	63	29	4	29
Slovakia	X	X			

3.1.2 Has your country adopted laws or policies requiring that upon admission, each prisoner is given a booklet outlining his/her rights, duties, obligations and privileges and the rules and regulations governing the prison which apply to the individual prisoner? The booklet shall be written in a language that the prisoner understands. CERD 7, SMR 35, BOP 13, EPR 30

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	6	1	6
Total Europe - %	63	54	25	4	25
Slovakia	X	X			

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3.1.3 Has your country adopted laws or policies requiring that upon admission, every prisoner shall undergo a medical examination either by a nurse reporting to a doctor or by a doctor? SMR 24, BOP 24, R(98)7: 1, EPR 42.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	20	6	1	1
Total Europe - %	96	83	25	4	4
Slovakia	X	X	X		

3.1.4 Has your country adopted laws or policies requiring the doctor/nurse to pay particular attention to the detection of injuries, mental illnesses, of withdrawal symptoms resulting from the use of drugs, medication or alcohol, of contagious and chronic conditions, and, to assess the prisoner's suicide/self-harm risk? SMR 24, R(98)7: 1, EPR 42.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	10	8	1	9
Total Europe - %	62	42	33	4	38
Slovakia	X		X		

3.1.5 Has your country adopted laws or policies requiring injuries detected during such an examination to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner? EPR 15.1.e & 42.3.c

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	5	4	1	17
Total Europe - %	29	21	17	4	71
Slovakia	X		X		

3.1.6 Has your country adopted laws or policies requiring upon admission that each prisoner be assessed to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves? ICCPR 6, UDHR 3, ECHR 2, R(2003)23: 12, EPR 52.1, *Keenan v The United Kingdom* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	5	1	13
Total Europe - %	46	42	21	4	54
Slovakia	X	X			

3.1.7 Has your country adopted laws or policies requiring that such risks be managed for the duration of the prisoner's sentence? ICCPR 6, UDHR 3, ECHR 2, EPR 52.2, *Osman v The United Kingdom* (ECtHR 2000)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	3	1	12
Total Europe - %	50	50	13	4	50
Slovakia	X	X			

Analysis

International instrument compliance

All commitments relating to admission of prisoners to custodial institutions, have been adopted. The commitments set out in question 3.1.4 and 3.1.5 however, have only been incorporated into (voluntary) policy.

Situation in practice

The CPT recommends that the Slovak prison classification model should be revised, in the sense that 'allocation and classification of prisoners, enabling each person to be assessed in terms of security risk, skills, and needs, should occur on admission to prison and not at the sentencing stage'.

23.3.2 Allocation

This section focuses on the allocation of prisoners to a particular prison. International legal instruments place a series of obligations on States in respect of prisoner allocation. The question in this section is based on these obligations.

3.2.1 Has your country adopted laws or policies requiring prisoners to be assigned to a prison as near to their home area as possible in order to maintain relationships with families and friends, subject to the maintenance of good order and security? BOP 20, EPR 17.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	15	6	1	5
Total Europe - %	79	63	25	4	21
Slovakia	X	X			

Analysis

International instrument compliance

In common with the majority of the EU Member States, Slovakia has adopted legislation relating to prisoner allocation.

23.3.3 Accommodation

This section focuses on the living conditions of prisoners. International legal instruments place a series of obligations on States in respect of the accommodation of prisoners. The questions in this section are based on these obligations.

3.3.1 Has your country adopted laws or policies requiring that where possible prisoners should have individual cells to sleep in? SMR 9(1), EPR 18.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	3	0	10

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	58	54	13	0	42
Slovakia	X	X			

3.3.2. Has your country adopted laws or policies stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation? ICCPR 6(1), UDHR 3, SMR 9(2), ECHR 2, EPR 18.6 & 18.7, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	4	0	14
Total Europe - %	42	29	17	0	58
Slovakia	X	X			

3.3.3 Has your country adopted laws or policies requiring that the size of a cell must be suitable for its purpose? The suitability of the cell size should be dependent on the number of hours spent in the cell, the number of prisoners accommodated in the cell and the availability of in cell-sanitation facilities that ensure privacy. SMR 9, 10, 11 & 12, EPR 18 & 19.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	8	2	1	15
Total Europe - %	37	33	8	4	63
Slovakia	X	X			

3.3.4 Has your country adopted laws or policies requiring that cells should not be used to accommodate more prisoners than the intended design capacity, unless justified in exceptional circumstances? SMR 9(1) & 10, EPR 18.1, 18.3, 18.4 & 18.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Slovakia	X	X			

3.3.5 Has your country adopted laws or policies requiring that cells be suitable for accommodating prisoners in respect of size, lighting, heating, ventilation and fittings? SMR 9, 10, 11, 12 & 13, EPR 18

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	16	4	0	6
Total Europe - %	75	67	17	0	25
Slovakia	X	X			

3.3.6 Has your country adopted laws or policies requiring that all prisoners have in-cell access to a working alarm bell that attracts the attention of staff at all times? ICCPR 6(1), UDHR 3, ECHR 2, EPR 18.2.c & 52.4, IPR 18(4), *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	13	2	0	4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	83	54	8	0	17
Slovakia	X	X			

Analysis

International instrument compliance

All commitments relating to prisoner accommodation have been incorporated into Slovakian law.

Situation in practice

The CPT notes that each prisoner housed in a multi-occupancy cell should be provided with 4m² within the cell.

23.3.4 Hygiene & Sanitation

This section focuses on the hygiene and sanitation facilities for prisoners. International legal instruments place a series of obligations on States in respect of hygiene and sanitation. The questions in this section are based on these obligations.

3.4.1 Has your country adopted laws or policies to ensure that all prisoners have access to adequate and appropriate sanitary and washing facilities that respect their privacy? SMR 12 & 13, EPR 19.3, 19.4 & 19.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	2	0	10
Total Europe - %	58	58	8	0	42
Slovakia	X	X			

3.4.2 Has your country adopted laws or policies requiring that all In-cell sanitation facilities must be adequately screened? ICCPR 10(1), SMR 12, BOP 1, BPTP 1, ECHR 3, EPR 19.3, *Peers v Greece* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	4	1	9
Total Europe - %	62	54	17	4	38
Slovakia	X	X			

Analysis

International instrument compliance

Both commitments regarding hygiene and sanitation in prisons have been adopted.

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23.3.5 Clothing & Bedding

This section focuses on clothing and bedding provisions for prisoners. International legal instruments place a series of obligations on States in respect of the provision of clothing and bedding. The questions in this section are based on these obligations.

3.5.1 Has your country adopted laws or policies to ensure that prisoners are provided with clothing that is suitable for the climate, is not degrading or humiliating and is age appropriate? SMR 17(1), EPR 20.1 & 20.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	10	0	7
Total Europe - %	71	71	42	0	29
Slovakia	X	X			

3.5.2 Has your country adopted laws or policies requiring each prisoner to be provided with a bed and appropriate bedding and to ensure that all bedding is in good condition, is changed regularly and laundered? SMR 19, EPR 21

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	2	0	6
Total Europe - %	75	71	8	0	25
Slovakia	X	X			

Analysis

International instrument compliance

Slovakia has incorporated both commitments regarding clothing and bedding in prison.

23.3.6 Nutrition

This section focuses on the nutrition requirements of prisoners. International legal instruments place a series of obligations on States in respect of prisoner's nutrition. The questions in this section are based on these obligations.

3.6.1 Has your country adopted laws or policies to ensure that prisoners are provided with a sufficient quantity of nutritious food taking into account their health, physical condition, special dietary requirements, religion and culture? SMR 20(1), EPR 22.1 & 22.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	5	1	4
Total Europe - %	83	83	21	4	17
Slovakia	X	X	X		

3.6.2 Has your country adopted laws or policies to ensure that prisoners have access to clean drinking water? SMR 20(2), EPR 22.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	16	5	1	5
Total Europe - %	79	67	21	4	21
Slovakia	X	X	X		

Analysis

International instrument compliance

Slovakia has incorporated both commitments relating to nutrition in its law and policy.

23.3.7 *Legal advice, info & rights*

This section focuses on the entitlement of prisoners to legal advice and information. International legal instruments place a series of obligations on States in respect of access to legal advice and information. The questions in this section are based on these obligations.

3.7.1 Has your country adopted laws or policies requiring that adequate time and facilities be provided to prisoners to receive professional visits from their legal advisers? BOP 18(2), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	4	1	2
Total Europe - %	92	92	17	4	8
Slovakia	X	X			

3.7.2 Has your country adopted laws or policies establishing the right of prisoners to communicate with their legal advisers by telephone and by letter? BOP 18(1), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	3	3	3
Total Europe - %	87	83	13	13	13
Slovakia	X	X			

3.7.3 Has your country adopted laws or policies requiring that communications between a prisoner and his/her legal adviser remain confidential and can only be restricted by law or judicial authority? ICCPR 17, BOP 18(3) & (4), ECHR 8, EPR 23.4 & 23.5, *Campbell v The United Kingdom* (ECtHR 1992)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	3	1	2
Total Europe - %	92	92	13	4	8
Slovakia	X	X			

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Analysis

International instrument compliance

All commitments (both legally binding and voluntary) have been adopted.

23.3.8 Contact with the outside world

23.3.8.1 *Visits*

This section focuses on the entitlement of prisoners to maintain contacts with the outside world. International legal instruments place a series of obligations on states in respect of prisoners' on-going contact with the outside world. The questions in this section are based on these obligations.

3.8.1.1 Has your country adopted laws or policies establishing the right of prisoners to communicate with their family and friends by correspondence and by receiving visits, subject to reasonable conditions/restrictions imposed by law or another authority? ICCPR 23(1), UDHR 16(3), SMR 37, BOP 15 & 19, EPR 24.1 & 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	2	0
Total Europe - %	100	96	29	8	0
Slovakia	X	X			

3.8.1.2 Has your country adopted laws or policies requiring that visits take place in an environment that enables prisoners to maintain and develop family and other relationships in as normal a manner as is possible subject to the maintenance of good order and security in the prison? SMR 79, EPR 24.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	6	0	2
Total Europe - %	92	88	25	0	8
Slovakia	X	X			

23.3.8.2 *Searching of visitors*

3.8.2.1 Has your country adopted laws or policies requiring that searching procedures for visitors be undertaken in a manner that respects a person's dignity? SMR 27, BOP 19, EPR 54.1.c, 54.3, 54.4 & 54.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	4	0	7
Total Europe - %	71	63	17	0	29
Slovakia	X	X			

3.8.2.2 Has your country adopted laws or policies requiring that prison officers only be permitted to search visitors of the same gender? EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	9	1	0	12
Total Europe - %	50	38	4	0	50
Slovakia	X	X			

23.3.8.3 Restrictions on visits

3.8.3.1 Has your country adopted laws or policies requiring the authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party(ies) and to review these circumstances on a regular basis? SMR 27, 79 & 80, EPR 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	0	0	63
Slovakia	X	X			

3.8.3.2 Has your country adopted laws or policies preventing the withdrawal of contact for female prisoners with their children as a disciplinary action except in exceptional circumstances? SMR 27, 79 & 80, EPR 24.2 & 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	2	0	12
Total Europe - %	50	50	8	0	50
Slovakia	X	X			

23.3.8.4 Death, illness & transfer

3.8.4.1 Has your country adopted laws or policies requiring that prisoners be informed of the death/serious illness of a close relative/ friend without delay? SMR 44(2), EPR 24.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	2	0	13
Total Europe - %	46	42	8	0	54
Slovakia	X	X			

3.8.4.2 Has your country adopted laws or policies allowing a prisoner to leave the prison to visit a sick relative/friend, attend a funeral or for other humanitarian reasons? SMR 44(2), EPR 24.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Slovakia	X	X			

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3.8.4.3 Has your country adopted laws or policies ensuring that prisoners are allowed to inform their families or other nominated persons without delay of their imprisonment, transfer to another institution or of any serious illness that they may suffer from? SMR 44(1) & (3), BOP 16(1), EPR 24.8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Slovakia	X	X			

3.8.4.4 Has your country adopted laws or policies requiring the prison authorities to immediately inform the spouse or the nearest relative to the prisoner (or any other person previously nominated), if the prisoner dies in custody, is removed to a hospital or suffers a serious injury/illness? SMR 44(1), EPR 24.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	3	0	6
Total Europe - %	75	75	13	0	25
Slovakia	X	X			

23.3.8.5 Telephone and letters

3.8.5.1 Has your country adopted laws or policies preventing the monitoring or censoring of telephone calls unless the prisoner or the recipient of the call is informed of the possibility of such monitoring or, such monitoring has been agreed by any lawful authority? ICCPR 17, UDHR 12, SMR 37, BOP 19, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	3	1	5
Total Europe - %	79	79	13	4	21
Slovakia	X	X			

3.8.5.2 Has your country adopted laws or policies permitting prisoners to send a minimum of 7 letters a week free of charge and more if he/she can afford it, and to receive as many letters as are sent to him/her? SMR 37, BOP 19, EPR 24.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	11	1	0	12
Total Europe - %	50	46	4	0	50
Slovakia	X	X			

3.8.5.3 Has your country adopted laws or policies preventing the prison authorities from opening prisoners' private correspondence subject to the maintenance of good order and safe and secure custody in the prison? ICCPR 17, UDHR 12, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	1	9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	62	62	13	4	38
Slovakia					X

23.3.8.6 Media

3.8.6.1 Has your country adopted laws or policies entitling prisoners to be kept informed of current affairs and other developments outside the prison by reading newspapers and periodicals and by listening to radio or television broadcasts (subject to the maintenance of good order and safe and secure custody)? SMR 39, BOP 28, EPR 24.10

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	1	1
Total Europe - %	96	92	21	4	4
Slovakia	X	X			

Analysis

International instrument compliance

13 of the 14 commitments relating to prisoner's contact with the outside world have been incorporated. The omission comprises the commitment which prevents the prison authorities from opening prisoners' private correspondence.

23.3.9 Work

This section focuses on work in prison. International legal instruments place a series of obligations on States in respect of work in prison. The questions in this section are based on these obligations.

3.9.1 Has your country adopted laws or policies requiring work to be incorporated as a positive aspect of prison regimes and prohibiting its use as a form of punishment? SMR 71(1), EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Slovakia	X	X			

3.9.2 Has your country adopted laws or policies requiring that prison work provided should prepare prisoners for worthwhile work on their release and facilitate their reintegration into the workforce? SMR 71(3) & (4), BPTP 8, EPR 26.3 & 26.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	18	7	0	4
Total Europe - %	83	75	29	0	17
Slovakia	X	X			

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3.9.3 Has your country adopted laws or policies entitling prisoners to be remunerated in respect of prison work carried out? ICESCR 7(a), UDHR 23, SMR 76(1), BPTP 8, EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	1	1
Total Europe - %	96	92	13	4	4
Slovakia	X	X			

Analysis

International instrument compliance

All commitments relating to prison work arising from international legal instruments have been incorporated into Slovakian law including the legally binding commitment entitling prisoners to be remunerated for work undertaken.

23.3.10 Exercise & recreation

This section focuses on facilities for exercise and recreation in prison. International legal instruments place a series of obligations on States in respect of exercise and recreational facilities. The questions in this section are based on these obligations.

3.10.1 Has your country adopted laws or policies ensuring that, subject to the constraints of the particular prison and the maintenance of good order and security, prisoners shall be entitled to spend as much time out of their cells as is possible? EPR 25(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Slovakia	X	X			

3.10.2 Has your country adopted laws or policies ensuring that prisoners receive at least one hours exercise each day in the open air, weather permitting? SMR 21, EPR 27.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	2	1
Total Europe - %	96	92	21	8	4
Slovakia	X	X			

3.10.3 Has your country adopted laws or policies ensuring that prisoners shall have access to a well-stocked library at least once a week (subject to the maintenance of good order and safe and secure custody)? R(89)12: 10, EPR 28.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	13	0	0	11

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	54	54	0	0	46
Slovakia	X	X			

Analysis

International instrument compliance

All commitments relating to exercise and recreation have been incorporated into Slovakian law.

23.3.11 Education

This section focuses on facilities for education in prison. International legal instruments place a series of obligations on States in respect of prison education facilities. The questions in this section are based on these obligations.

3.11.1 Has your country adopted laws or policies requiring, as far as practicable, that prisoners have access to educational programmes that can meet their individual needs? ICESCR 13, UDHR 26, SMR 77(1), BPTP 6, R(89)12: 1, EPR 28.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	5	1	1
Total Europe - %	96	96	21	4	4
Slovakia	X	X			

3.11.2 Has your country adopted laws or policies requiring that education provided in prisons shall be integrated, in so far as is practicable, with national educational systems/programmes enabling prisoners to continue their education following their release? SMR 77(2), R(89)12: 16, EPR 28.7.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	5	0	3
Total Europe - %	87	75	21	0	13
Slovakia	X	X			

3.11.3 Has your country adopted laws or policies requiring that vocational training be available for those prisoners who are able to benefit from it, particularly young prisoners? SMR 71(5), BPTP 8, R(89)12: 9, EPR 26.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	20	5	0	2
Total Europe - %	92	83	21	0	8
Slovakia	X	X			

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Analysis

International instrument compliance

All commitments relating to education have been incorporated into Slovenian law including the legally binding commitment regarding access to education to meet the prisoner’s individual needs.

23.3.12 Freedom of thought, conscience & religion

3.12.1 Has your country adopted laws or policies ensuring that prisoners have the opportunity to practice their religion and to follow their beliefs whilst in custody? ICCPR 18(1), CERD 5 (d) (vii), UDHR 18, SMR 42, BPTP 3, EPR 29.1 & 29.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	5	0	0
Total Europe - %	100	96	21	0	0
Slovakia	X	X			

Analysis

International instrument compliance

In common with all the other EU Member States, Slovakia has adopted the commitment protecting the freedom thought, conscience and religion.

23.4 Health

23.4.1 Core principles

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.1.1 Has your country adopted laws or policies requiring that primary healthcare services to meet the needs of all prisoners be provided in each prison to a standard equivalent to that available to the community in general? ICESCR 12(1), SMR 22(1), PME 1, R(98)7: 10, 11, 12 & 19, EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	6	0	1
Total Europe - %	96	92	25	0	4
Slovakia	X	X			

4.1.2 Has your country adopted laws or policies to ensure that where a sick prisoner requires treatment that cannot be provided by the medical staff in the prison he/she shall be transferred to an appropriate hospital without undue delay? SMR 22(2), BPTP 9, R(98)7: 3, EPR 46.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	3	1	2
Total Europe - %	92	88	13	4	8
Slovakia	X		X		

4.1.3 Has your country adopted laws or policies requiring that medical records be created and accurately maintained on all prisoners and that such records be treated as confidential? BOP 26, R(98)7: 13, EPR 42.3.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	5	0	3
Total Europe - %	87	83	21	0	13
Slovakia	X	X	X		

Analysis

International instrument compliance

All commitments relating to the core principles of health care in prisons have been adopted. However, the commitment set out in question 4.1.2 is incorporated only into (non-binding) policy.

23.4.2 Women and children

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations

4.2.1 Has your country adopted laws or policies to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor? CEDAW 12, SMR 23, BOP 5(2), R(98)7: 8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	7	3	0	17
Total Europe - %	29	29	13	0	71
Slovakia	X	X	X		

4.2.2 Has your country adopted laws or policies requiring that appropriate care be afforded to all pregnant prisoners and nursing mothers? CEDAW 12(2), SMR 23, R(98)7: 8 & 69, EPR 34.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	87	87	13	0	13
Slovakia	X	X			

Analysis

International instrument compliance

Both commitments based on legally binding international legal instruments have been incorporated into Slovakian law.

23.4.3 Mental health care

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.3.1 Has your country adopted laws or policies requiring that prisoners with mental health difficulties be entitled to care appropriate to their circumstances, commensurate to the type of care available for people with similar mental health difficulties in the community? SMR 22(1), PPPMI 1 & 20, R(98)7:10, 11 & 52, R(2004)10: 35(1) & (2), EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	4	0	3
Total Europe - %	87	79	17	0	13
Slovakia	X	X	X		

4.3.2 Has your country adopted laws or policies to ensure that prisoners who require psychiatric in-patient care are transferred to a suitable hospital facility of an appropriate security level without undue delay? SMR 22(2), PPPMI 9(1) & 20, R(98)7: 3 & 55, R(2004)10: 8, 9(1) & 35(1), EPR 12(1) & 46(1)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	3	0	6
Total Europe - %	75	71	13	0	25
Slovakia	X	X	X		

Analysis

International instrument compliance

In common with the majority of the other EU Member States, Slovakia has adopted both commitments concerning mental health care.

Situation in practice

With respect to the Leopoldov High Security Department, the CPT recommends to take measures to ensure the appropriate care for prisoners. These measures include 'basic training

about relevant mental health issues for staff working on the High Security Department; increased staff surveillance of prisoners; the adaptation of cells where mentally ill-prisoners are accommodated so as to reduce the risk of self harm; and an increased presence of the psychiatrist in the department and the introduction of a psychiatric team' (§84).

23.4.4 Vulnerable prisoners

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.4.1 Has your country adopted laws or policies requiring that prisoners assessed as vulnerable be accommodated in areas of the prison which are most convenient and appropriate for their monitoring and treatment by the medical personnel and other relevant agencies? SMR 22(2) & 62, EPR 12.2, 39, 43.1, 46.2, 47.1 & 47.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	3	0	8
Total Europe - %	67	63	13	0	33
Slovakia	X	X			

4.4.2 Has your country adopted laws or policies requiring that prisoners assessed as being at risk of suicide/self-harm be continuously monitored by both medical and prison staff throughout the prisoner's time in custody and that records are kept of such monitoring? R(98)7: 58, EPR 47(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	5	0	14
Total Europe - %	42	29	21	0	58
Slovakia	X		X		

4.4.3 Has your country adopted laws or policies requiring that prisoners detained in a special cell be visited daily, and as frequently as is necessary by a doctor who shall, inter alia, monitor his/ her physical and mental health? SMR 25(1) & 32(3), R(98)7: 66, EPR 43.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Slovakia	X		X		

Analysis

International instrument compliance

Slovakia has passed legislation to protect vulnerable prisoners. Two commitments have been incorporated into (voluntary) policy and one commitment has been incorporated into Slovakian law.

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23.4.5 Medical & health care personnel

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.5.1 Has your country adopted laws or policies to ensure that every prisoner has access to appropriately qualified medical personnel in the prison at all times? SMR 24, BOP 24, R(98)7:1, 2 & 4, EPR 41.2 & 41.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Slovakia	X	X	X		

Analysis

International instrument compliance

The commitment relating to access to appropriately qualified personnel has been incorporated into Slovakian law and policy.

Situation in practice

With regard to health care services within prisons, the CPT recommends that ‘someone competent to provide first aid, preferably a person with a recognised nursing qualification, is always present on prison premises’ (§103). Hand/ and ankle cuffs should not be used when a doctor examines a prisoner. Regarding the treatment of sex offenders, the CPT recommends that the Slovak authorities take steps to ensure ‘that anti-androgen treatment of sex offenders is surrounded by appropriate safeguards’.

23.4.6 Prisoners with addiction problems

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.6.1 Has your country adopted laws or policies to ensure that prisoners with addiction problems have access to appropriate treatment and support services, including those from external agencies? SMR 62, R(98)7: 7, 43, 44, 45, 46 & 47, EPR 42.3.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	8	0	3
Total Europe - %	88	79	33	0	13
Slovakia	X		X		

Analysis

International instrument compliance

Commitment relating to prisoners with addiction problems, has been incorporated into (non-binding) policy.

23.4.7 Hunger strikes

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.7.1 Has your country adopted laws or policies forbidding the practice of forced feeding of hunger strikers? DOMHS, R(98)7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	37	21	21	0	63
Slovakia	X		X		

Analysis

International instrument compliance

Commitment incorporated into Slovakian policy.

23.5 Good order**23.5.1 General approaches**

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.1.1 Has your country adopted laws or policies requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody? R(82)17: 8, EPR 51.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	0	9
Total Europe - %	62	62	13	0	38
Slovakia	X	X			

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Analysis

International instrument compliance

Commitment is incorporated into Slovakian law.

Situation in practice

With regard to the placement in a high security regime, the CPT recommends that strict criteria in respect to which placement is possible, should be developed. A prisoner, who is subject to high security measures, should be given 'an opportunity to express his/her views on the matter after having been informed in writing of the reasons for the measure' (§81). The placement in a high security department should be reviewed on a regular basis and persons subject to such regime should have a right to appeal to an independent authority against the imposition of the measure of placement in a high security regime.

23.5.2 Safety & Security

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.2.1 Has your country adopted laws or policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat? EPR 51.5, 53.1 & 53.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	63	63	17	0	37
Slovakia	X	X			

Analysis

International instrument compliance

Commitment relating to prisoners on protection has been adopted.

Situation in practice

See 5.1 above.

23.5.3 Searching of prisoners

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.3.1 Has your country adopted laws or policies requiring that searches conducted on prisoners be carried out with due regard to the prisoner's dignity? ICCPR 10(1), BPTP 1, EPR 54.3 & 54.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	0	1
Total Europe - %	96	92	13	0	4
Slovakia	X	X			

5.3.2 Has your country adopted laws or policies stipulating that prisoners may only be searched by a staff member of the same gender? ICCPR 10(1), BPTP 1, EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	1	0	1
Total Europe - %	96	92	4	0	4
Slovakia	X	X			

5.3.3 Has your country adopted laws or policies stipulating that prisoners may only be subjected to a strip search in exceptional circumstances and for good reason and then, only in the presence of two officers in an appropriate place which ensures privacy? ICCPR 10(1), BPTP 1, EPR 54. 3, 54.4 & 54.6, *Van der Van v The Netherlands* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	3	1	13
Total Europe - %	66	54	13	4	54
Slovakia	X	X			

Analysis

International instrument compliance

All three commitments based on legally binding international instruments regarding the searching of prisoners have been incorporated into Slovakian law.

Situation in practice

Persons placed in life sentence units should be allowed to retain their underwear when they are subjected to full-body searches (§59). The practice of collective strip searches should immediately be put to an end. Strip searches should, according to the CPT, be based on an individual assessment and respect the prisoner's dignity. The use of dogs in routine prison duties and strip searches should be stopped.

23.5.4 *Criminal acts, discipline & punishment*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

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5.4.1 Has your country adopted laws or policies stipulating that all inquiries into breach of prison discipline or rules shall be conducted in an independent and impartial manner? ICCPR 14(1), UDHR 10, ECHR 6(1), *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	2	1	8
Total Europe - %	67	63	8	4	33
Slovakia	X	X			

5.4.2 Has your country adopted laws or policies requiring that all incidents of bullying/violence/threatening behaviour between prisoners, and any breach of discipline be reported to an officer of a higher rank, duly recorded and properly investigated? EPR 52.2 & 58

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	62	62	17	0	38
Slovakia	X	X			

5.4.3 Has your country adopted laws or policies stipulating that when a prisoner has been charged with a disciplinary offence he/she shall be promptly informed of the allegation made against him/her in a language that he/she understands? ICCPR 14(3)(a), CERD 5(a), SMR 30(2), ECHR 6(3)(a), EPR 59.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	3	0	7
Total Europe - %	71	71	13	0	29
Slovakia	X	X			

5.4.4 Has your country adopted laws or policies stipulating if an inquiry is being conducted into a breach of prison discipline or rules the prisoner shall have adequate time to prepare his/her defence and/or to receive legal assistance? ICCPR 14(3)(b) & (d), SMR 30(2), ECHR 6(3)(b) & (c), EPR 59.b & 59.c, *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	2	0	9
Total Europe - %	62	58	8	0	38
Slovakia	X	X			

5.4.5 Has your country adopted laws or policies stipulating that in any disciplinary proceedings prisoners must understand the proceedings and if necessary, appropriate interpretation facilities must be provided? ICCPR 14(3)(f), SMR 30(3), ECHR 6(3)(e), EPR 59.e

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Slovakia	X	X			

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5.4.6 Has your country adopted laws or policies stipulating that no prison officer shall impose a punishment/penalty/deprivation on a prisoner without due process and in accordance with law and/or relevant rules or instruments? EPR 57.2.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	2	0	4
Total Europe - %	83	83	8	0	17
Slovakia	X	X			

5.4.7 Has your country adopted laws or policies stipulating that if a prisoner is found guilty of a disciplinary offence, he/she shall be entitled to exercise his/her right of appeal to an independent and impartial tribunal established by law? ICCPR 14(5), BOP 30(2), EPR 61

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	1	0	5
Total Europe - %	79	79	4	0	21
Slovakia	X	X			

5.4.8 Has your country adopted laws or policies requiring that when a prisoner is detained in any type of special cell (special observation/cladded/strip) he/she shall be regularly monitored by a prison officer? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	3	0	7
Total Europe - %	71	67	13	0	29
Slovakia	X	X			

5.4.9 Has your country adopted laws or policies requiring that a detailed record be maintained of, inter alia, the monitoring of such prisoners, their expressed requirements, actions taken in response to such requests and details of visits by officers or others to such prisoners? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	8	8	2	0	16
Total Europe - %	33	33	8	0	67
Slovakia	X	X			

5.4.10 Has your country adopted laws or policies to ensure that prisoners in a special cell are able to contact a member of staff at all times, including during the night and that a staff member shall respond without delay? ICCPR 6(1), EPR 18.2.c & 52.4, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	4	0	63
Slovakia	X	X			

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Analysis

International instrument compliance

Slovakia has incorporated all ten (legally binding and voluntary) commitments which relate to prison discipline procedures.

23.5.5 Use of force/weapons

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.5.1 Has your country adopted laws or policies stipulating that members of staff will use force only when absolutely necessary and that any force used shall be proportionate to the situation? SMR 54(1), CCLEO 3, BPUF 4, EPR 64 & 6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	4	1	3
Total Europe - %	87	87	17	4	13
Slovakia	X	X			

Analysis

International instrument compliance

In common with the majority of other EU Member States, Slovakia has adopted the commitment stipulating that members of staff will use force only when absolutely necessary and this force shall be proportionate to the situation.

23.5.6 Requests & complaints

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.6.1 Has your country adopted laws or policies to ensure that prisoners have sufficient opportunity to make requests or complaints to the Governor of the prison or to any other competent authority? SMR 36(1) & (3), BOP 33(1), EPR 70.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	3	0	1
Total Europe - %	96	96	13	0	4
Slovakia	X	X			

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5.6.2 Has your country adopted laws or policies establishing the right of a prisoner's legal advisor or to make a request or a complaint regarding that prisoner's treatment to the prison authorities, or other relevant authorities? BOP 33 (1) & (2), EPR 70.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	1	0	6
Total Europe - %	75	75	4	0	25
Slovakia	X	X			

5.6.3 Has your country adopted laws or policies requiring that all complaints be promptly investigated in accordance with law? SMR 36(4), BOP 33(4)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	2	0	7
Total Europe - %	71	67	8	0	29
Slovakia	X	X			

5.6.4 Has your country adopted laws or policies to ensure that where a request is denied or a complaint is rejected, the prisoner is informed promptly as to the reason(s) for such denial or rejection? SMR 36(4), BOP 33(4), EPR 70.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	2	1	7
Total Europe - %	71	63	8	4	29
Slovakia	X	X			

5.6.5 Has your country adopted laws or policies to ensure that prisoners are not disadvantaged for exercising their rights to make requests or complaints? BOP 33(4), EPR 70.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	3	0	13
Total Europe - %	46	42	13	0	54
Slovakia	X	X			

5.6.6 Has your country adopted laws or policies requiring that complaints made by members of staff against other members of staff be properly recorded and investigated in accordance with the law? EPR 88 & 87.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	11	3	0	11
Total Europe - %	54	46	13	0	46
Slovakia	X	X			

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Analysis

International instrument compliance

Slovakia has adopted all commitments concerning prisoner's requests and complaints.

23.6 Management & Staff

23.6.1 *Training of staff*

This section focuses on the staff training and prison management. International legal instruments place a series of obligations on States in respect of the training and management of prison staff. The questions in this section are based on these obligations.

6.1.1 Has your country adopted laws or policies to ensure that all prison staff receive appropriate training at regular intervals throughout their career? SMR 47(3), EPR 8, 76 & 81.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	14	7	0	5
Total Europe - %	79	58	29	0	21
Slovakia	X	X			

6.1.2 Has your country adopted laws or policies to ensure that members of staff who work with particular groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, receive training particular to their individual work? R(82)17: 10, R(2004)10: 12(1), EPR 81.3, ERJO 129

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	38	21	21	0	62
Slovakia					X

Analysis

International instrument compliance

The commitment relating to specialized training of personnel has not been adopted.

23.7 Inspection & Monitoring

23.7.1 *Governmental Inspection*

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.1.1 Has your country adopted laws or policies requiring that prisons be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law? SMR 55, EPR 92, R(2004)10 36.1, ERJO 125, PPPMI 22

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	19	4	0	4
Total Europe - %	83	79	17	0	17
Slovakia	X	X			

Analysis

International instrument compliance

Commitment relating to governmental monitoring has been incorporated.

23.7.2 *Independent monitoring*

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.2.1 Has your country adopted laws or policies requiring that the conditions of detention and the treatment of prisoners shall be also monitored by an independent body or bodies, comprised of qualified experienced personnel, and whose findings shall be made public? OPCAT 3, 17, 18, 19, BOP 29.1, EPR 93.1, R(2004)10 36.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Slovakia	X	X			

7.2.2 Has your country adopted laws or policies granting such an independent body open access to places of detention, to prisoners and others whom it wishes to interview? OPCAT 19, 20, CPT 8,9 BOP 29.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	3	1	9
Total Europe - %	62	58	13	4	38
Slovakia	X	X			X

7.2.3 Has your country adopted laws or policies encouraging such independent bodies to cooperate with those international agencies that are legally entitled to visit prisons? CPT 2,7 EPR 93.2, ERJO 126.

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	6	1	0	17

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	29	25	4	0	71
Slovakia	X	X			X

Analysis

International instrument compliance

All (legally binding and voluntary) commitments relating to independent monitoring have been incorporated.

Situation in practice

Slovakia has not ratified the OPCAT.

23.8 Sentenced Prisoners

This section focuses on the particular provisions relating to convicted prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

8.1.1 Has your country adopted laws or policies requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan? ICCPR 10(3), SMR 80, EPR 6, 103.2 & 103.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	6	2	4
Total Europe - %	83	83	25	8	17
Slovakia	X	X			

8.1.2 Has your country adopted laws or policies requiring that a sentence management plan be prepared for each prisoner serving a sentence of 12 months or over as soon as practicable after their admission? It should provide for, inter alia, the welfare and health needs of the prisoner, training, employment or education needs he/she may have, and include a release plan for the prisoner. This plan shall be reviewed at regular intervals to take into account the changing circumstances of the prisoner. SMR 65, 66 & 69, R(2003)23: 3 & 9, EPR 6, 103 & 104.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	5	0	10
Total Europe - %	58	54	21	0	42
Slovakia	X	X			

Analysis

International instrument compliance

Both commitments regarding the sentence objective have been adopted by Slovakia.

Situation in practice

The CPT recommends furthermore that the Slovak authorities 'rethink fundamentally the regime applied to life-sentenced prisoners, with the objective to move away from the current policy of having life-sentenced prisoners locked up for most of the time in their cells and to integrate them at some point into the mainstream prison population'.

23.9 Juveniles

This section focuses on the particular provisions relating to juvenile prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

9.1.1 Has your country adopted laws or policies requiring that juveniles be detained separately from adult offenders? ICCPR 10(3), CRC 37(c), BR 26.3, RPJDL 29, EPR 11.1, ERJO 59.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	1	3
Total Europe - %	87	87	13	4	13
Slovakia	X	X			

9.1.2 Has your country adopted laws or policies to ensure that, subject to reasonable conditions and restrictions, a sentenced prisoner under the age of 18 shall be entitled to receive a minimum of two weekly visits? CRC 37(c), SMR 37, BOP 19, RPJDL 60, ERJO 83, 84, 85.1 & 85.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	6	3	0	15
Total Europe - %	37	25	13	0	63
Slovakia					X

Analysis

International instrument compliance

The voluntary commitment set out in question 9.1.2 has not been adopted.

Situation in practice

According to the CPT, "particular efforts should be made to guarantee juveniles on remand a regime adapted to their needs, including education and sports activities. An action plan for the implementation of this recommendation should be drawn up".

23.10 Sentence Execution Modalities

This section of the questionnaire is designed to collate information on the differing methods by which custodial sentences and measures involving deprivation of liberty are enforced across EU Member States.

10.1.1. Which of the following modalities of prison sentence execution are provided for in the law of your country?

	Weekend detention	Evening detention	Daytime detention	Home detention	
				no electronic monitoring	electronic monitoring
EUROPE	9 = 38%	10 = 42%	3 = 13%	6 = 25%	14 = 58%
Slovakia				X	

10.1.2. What is the maximum period for which home detention with electronic monitoring can be imposed?

	Under 12 months	12-24 months	25 months - 36 months	37 months - 50 months	More than 50 months
EUROPE	7 = 29%	4 = 17%	0 = 0%	1 = 4%	2 = 8%

10.2.1. In which of the following locations can custodial sentences or measures involving deprivation of liberty be imposed?

	Penitentiary institution	Psychiatric institution	Detoxification institution	Educational institution	Home
EUROPE	24 = 100%	20 = 83%	10 = 42%	7 = 29%	12 = 50%
Slovakia	X				X

Analysis

Sentence execution modalities

In Slovakia, the only additional sentence execution modality available is home detention without electronic monitoring. Custodial sentences or measures involving deprivation of liberty can only be imposed in penitentiary institutions and at home.

23.11 Early release from prison, earned remission and suspension of sentence

23.11.1 Early release

Early release means the release of the offender before their prison term is finished. It is possible only while the sentence is still being served. Early release does not include the suspended enforcement of a penalty which is dealt with later in this questionnaire.

11.1.2.1. Has your country adopted laws and regulations under which prisoners are entitled to early release from prison ?

	Yes	No
EUROPE	24 = 100%	0 = 0%
Slovakia	X	

11.1.2.2. At what point in a prisoner's sentence do they become eligible for early release?

	One third of sentence or less	One third to one half of a sentence	One half to three quarters of a sentence	More than three quarters of a sentence	Other
EUROPE	2 = 8%	1 = 4%	7 = 29%	0 = 0%	14 = 58%
Slovakia			X		

11.1.2.2. Does your country have different regulations for the early release of prisoners based on:

	A prisoner's nationality (non-EU citizen)	A prisoner's nationality (EU citizen)	The length of sentence imposed
EUROPE	Yes - 3 = 12% No - 21 = 88%	Yes - 3 = 12% No - 21 = 88%	Yes - 24 = 100% No - 0 = 0%
Slovakia	N	N	Y

11.1.2.3. Are provisions governing the early release of prisoners automatic or discretionary?

	Automatic (prisoners are automatically released at a certain point in their sentence)	Discretionary (prisoners are only released following assessment)
EUROPE	Yes - 7 = 29% No - 17 = 71%	Yes - 20 = 83% No - 4 = 17%
Slovakia	N	Y

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11.1.2.4. What factors are taken into consideration when deciding whether a prisoner will be granted early release?

	The circumstances surrounding the crime	Prior criminal record	The offender's progress during imprisonment	Assessment as to whether the prisoner is likely to reoffend	Recommendation from the sentencing judge
EUROPE	Yes - 24 = 50% No - 24 = 50%	Yes - 15 = 63% No - 9 = 37%	Yes - 22 = 92% No - 2 = 8%	Yes - 19 = 79% No - 5 = 21%	Yes - 4 = 17% No - 20 = 83%
Slovakia	Y	Y	Y	Y	N

11.1.3.1. What forms of monitoring and conditions can be applied to prisoners' early release?

1. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
2. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
4. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
5. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
6. Electronic monitoring
7. Weekend/evening /daytime detention
8. Requirement containing limitations on leaving the country
9. Requirement to leave the country
10. Requirement to pay compensation
11. Requirement to undertake community service
12. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	Other
EUROPE	Y - 83 N - 17	Y - 8 N - 92	Y - 58 N - 42	Y - 62 N - 38	Y - 33 N - 77	Y - 25 N - 75	Y - 13 N - 87	Y - 42 N - 58	Y - 21 N - 79	Y - 29 N - 71	Y - 21 N - 79	9
Slovakia	Y	N	N	Y	Y	N	N	N	N	N	N	

23.11.2 Sentence reduction as a result of prison work

11.2.1.1. Can a prisoner earn remission on their sentence as a result of work carried out in prison?

	Yes	No
EUROPE	9= 38%	15 – 62%
Slovakia		X

23.11.3 Suspension of sentence enforcement

11.3.1. Does the national law of your country make provision for the further execution of a prison sentence to be suspended during the course of the sentence?

	Yes	No
EUROPE	10=42%	14= 58%
Slovakia	X	

11.3.2.1. What factors are taken into consideration when deciding whether a prisoner will have the further execution of their prison sentence suspended?

1. The circumstances surrounding the crime
2. Prior criminal record
3. The offender's progress during imprisonment
4. Assessment as to whether the prisoner is likely to reoffend
5. Recommendation from the sentencing judge
6. Suitability of home circumstances
7. Information from victim(s)
8. Willingness of the prisoner to leave the country upon release
9. The prisoner will be deported upon release
10. Other – please specify

	1	2	3	4	5	6	7	8	9	Other
EUROPE	Y - 8 N - 92	Y - 13 N - 78	Y - 17 N - 83	Y - 21 N - 79	Y - 0 N - 100	Y - 4 N - 96	Y - 0 N - 100	Y - 0 N - 100	Y - 0 N - 100	21
Slovakia	N	N	N	N	N	N	N	N	N	X

11.3.3.1. What forms of monitoring and conditions can be applied to prisoners whose further execution of a prison sentence has been suspended?

1. Unconditional supervision
2. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
4. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)

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5. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
6. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
7. Electronic monitoring
8. Weekend/evening /daytime detention
9. Requirement containing limitations on leaving the country
10. Requirement to leave the country
11. Requirement to pay compensation
12. Requirement to undertake community service
13. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	12	Other
EUROPE	Y - 4 N - 96	Y - 38 N - 62	Y - 4 N - 96	Y - 29 N - 71	Y - 17 N - 83	Y - 17 N - 83	Y - 4 N - 96	Y - 4 N - 96	Y - 21 N - 79	Y - 0 N - 100	Y - 17 N - 83	Y - 4 N - 96	2
Slovakia	N	Y	N	Y	N	N	N	N	N	N	N	N	

Analysis

Early release from prison, earned remission and suspension of sentence

In common with all EU countries, Slovakia has adopted measures under which prisoners are entitled to early release from prison. Prisoners become eligible after one half to three quarters of their sentence depending on the length of sentence imposed. The Slovakian early release system is based on discretionary provisions. Decisions on a prisoner's early release are based on five of the ten criteria identified. Once a prisoner is granted early release, three of the twelve forms of monitoring or conditions identified, can be attached. No possibility exists in Slovak law for prisoners to be granted remission as a result of work carried out in prison. Provisions are made for the further execution of a prison sentence to be suspended during the course of the sentence. In case of suspension, two out of thirteen forms of monitoring and conditions can be applied.

Appendix

1. 4_2001 o Zbore vA'â-nženskej a justicnej straze
2. 73_1998 Zakon o statnej sluzbe prislusnikov PZ, SIS,ZVJS a ZP
3. 221_2006
4. 300_2005 Trestny zakon
5. 305_2005 o socialnej kuratele
6. 368_2008 Vyhlaska MS SR, ktorou sa vydava Poriadok vykonu trestu odnatia slobody.doc
7. 437_2006 Vyhlaska MS SR, ktorou sa vydava poriadok vykonu vazby
8. 475_2005
9. RGR6_2008 o poskytovanA'â-j zdravotnej starostlivosti
10. RGR33_2009 o posudzovanA'â-j zdravotnej starostlivosti
11. RMS4_2009 o stravovanA'â-j v Zbore vA'â-nženskej a justicnej strA'â-inej strA'â-íA'â-è-è
12. RMS10_2001 o vystrojovanA'â-j obvinenA'â-èch a odsA'â-í denA'â-èch

24 Slovenia

24.1 Introduction

The questionnaire was completed by Jasmina Arnez, doctoral student in law at the University of Ljubljana.

Slovenia has been visited once by the Committee for the Prevention of Torture in the last five years (2006) and was the subject of a report by the European Commissioner for Human Rights in 2006. Additional information has been sourced from the 2009 UNHCR Country Report on Human Rights Practices for Slovenia (drawing on source material provided by the US Department of State) and the International Centre for Prison Studies.

Country	SLOVENIA
Ministry responsible	Ministry of Justice
Prison administration	National Prison Administration
Contact address	Tivolska 42, 1000 Ljubljana, Slovenia
Telephone/fax/website	tel: +386 1 478 5270 fax: +386 1 478 5470 Web: ursiks@gov.si
Head of prison administration (and title)	Dusan Valentincic Acting Director General
Prison population total (including pre-trial detainees / remand prisoners)	1,311 at 26.5.2011 (national prison administration)
Prison population rate (per 100,000 of national population)	64 based on an estimated national population of 2.06 million at May 2011 (from Eurostat figures)
Pre-trial detainees / remand prisoners (percentage of prison population)	22.7% (26.5.2011)
Female prisoners (percentage of prison population)	3.8% (26.5.2011)
Juveniles / minors / young prisoners incl. definition (percentage of prison population)	3.1% (26.5.2011 - under 18)
Foreign prisoners (percentage of prison population)	11.7% (26.5.2011)
Number of establishments / institutions	7 (2011 - 6 prisons, 1 correctional home for juveniles. The 6 prisons have facilities at 14 different locations.)
Official capacity of prison system	1,115 (26.5.2010)
Occupancy level (based on official capacity)	117.6% (26.5.2011)

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Recent prison population trend (year, prison population total, prison population rate)	1992 900 (45) 1995 635 (32) 1998 848 (43) 2001 1,092 (55) 2004 1.085 (54) 2007 1,333 (66) 2010 1,304 (63)
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24.2 Overarching Principles

This section focuses on the overarching principles governing the management of prisons and the treatment of prisoners. International legal instruments place a series of obligations on States in respect of the management of prisons and the treatment of prisoners. The questions in this section are based on these obligations.

2.1.1 Has your country adopted laws or policies specifically requiring that prisoners must be treated with respect for their human rights? ICCPR 10(1), UDHR 1, BOP 1, BPTP 1, EPR 1 & 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	19	7	1	2
Total Europe - %	92	79	29	4	8
Slovenia	X	X			

2.1.2 Has your country adopted laws or policies specifically requiring prisons to be managed in accordance with human rights standards? EPR 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	4	3	3
Total Europe - %	88	75	16	13	12
Slovenia	X	X			

2.1.3 Has your country adopted laws or policies explicitly prohibiting practices that could constitute torture, inhumane or degrading treatment or punishment of prisoners? ICCPR 7, BOP 6, ECHR 3, *Kalashnikov v Russia* (ECtHR 2003)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	1	3	2
Total Europe - %	92	88	4	12	8
Slovenia	X	X			

2.1.4 Has your country adopted laws or policies specifically requiring that prisoners be provided with a range of activities during their sentence (for example - educational, recreational, work/training and welfare programmes)? SMR 77 & 78, BOP 28, BPTP 6 & 8, EPR 25

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	0	0

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	100	96	29	0	0
Slovenia	X	X			

Analysis

International instrument compliance

In common with the majority of EU member states, Slovenia has passed legislation designed to protect the human rights of its prisoners and provide them with a meaningful regime during their time in custody. This legislation includes all of the commitments arising from legally binding international legal instruments.

Situation in practice

Notwithstanding the legal framework highlighted above, during its visit to Slovenia in 2006 the CPT was informed about allegations of ill-treatment of prisoners by prison staff in Ljubljana and Koper prisons, such abuse largely consisting of punches and kicks. Furthermore the CPT deemed the use of restraints to be disproportionate to requirements. Whilst there was a low incidence of inter-prisoner violence in general, some prisoners reported feeling unable to use the exercise grounds because of threats.

24.3 Conditions Of Imprisonment

24.3.1 Admission

This section focuses on the treatment of prisoners upon their admission to prison. International legal instruments place a series of obligations on States in respect of prisoner admission. The questions in this section are based on these obligations.

3.1.1 Has your country adopted laws or policies requiring that all prisoner details are recorded at the time of committal including, inter alia, details of any visible injuries and the prisoner's personal belongings? SMR 7(1), EPR 15.1, 31.1, 31.2 & 31.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	7	1	7
Total Europe - %	71	63	29	4	29
Slovenia	X	X			

3.1.2 Has your country adopted laws or policies requiring that upon admission, each prisoner is given a booklet outlining his/her rights, duties, obligations and privileges and the rules and regulations governing the prison which apply to the individual prisoner? The booklet shall be written in a language that the prisoner understands. CERD 7, SMR 35, BOP 13, EPR 30

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	6	1	6
Total Europe - %	63	54	25	4	25
Slovenia					X

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3.1.3 Has your country adopted laws or policies requiring that upon admission, every prisoner shall undergo a medical examination either by a nurse reporting to a doctor or by a doctor? SMR 24, BOP 24, R(98)7: 1, EPR 42.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	20	6	1	1
Total Europe - %	96	83	25	4	4
Slovenia	X	X			

3.1.4 Has your country adopted laws or policies requiring the doctor/nurse to pay particular attention to the detection of injuries, mental illnesses, of withdrawal symptoms resulting from the use of drugs, medication or alcohol, of contagious and chronic conditions, and, to assess the prisoner's suicide/self-harm risk? SMR 24, R(98)7: 1, EPR 42.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	10	8	1	9
Total Europe - %	62	42	33	4	38
Slovenia	X	X	X		

3.1.5 Has your country adopted laws or policies requiring injuries detected during such an examination to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner? EPR 15.1.e & 42.3.c

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	5	4	1	17
Total Europe - %	29	21	17	4	71
Slovenia					X

3.1.6 Has your country adopted laws or policies requiring upon admission that each prisoner be assessed to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves? ICCPR 6, UDHR 3, ECHR 2, R(2003)23: 12, EPR 52.1, *Keenan v The United Kingdom* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	5	1	13
Total Europe - %	46	42	21	4	54
Slovenia	X	X	X		

3.1.7 Has your country adopted laws or policies requiring that such risks be managed for the duration of the prisoner's sentence? ICCPR 6, UDHR 3, ECHR 2, EPR 52.2, *Osman v The United Kingdom* (ECtHR 2000)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	3	1	12
Total Europe - %	50	50	13	4	50
Slovenia	X	X	X		

Analysis

International instrument compliance

Slovenia has adopted laws or policies complying with 5 of the 7 commitments established by international legal instruments relating to the procedures governing admission of prisoners to custodial institutions: this includes the legally binding commitments relating to the risk management of prisoners throughout the duration of their sentence and the need to assess prisoners to see whether they pose a threat to themselves or others. Commitments not adopted relate to the need to seek a medical opinion on prisoner's injuries in cases where allegations of mistreatment have been made and the provision of a book outlining a prisoner's rights at the time of admission. With regards to the latter, information from the SPOC indicates that these responsibilities may in fact be being discharged in practice albeit without the use of written materials.

24.3.2 Allocation

This section focuses on the allocation of prisoners to a particular prison. International legal instruments place a series of obligations on States in respect of prisoner allocation. The question in this section is based on these obligations.

3.2.1 Has your country adopted laws or policies requiring prisoners to be assigned to a prison as near to their home area as possible in order to maintain relationships with families and friends, subject to the maintenance of good order and security? BOP 20, EPR 17.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	15	6	1	5
Total Europe - %	79	63	25	4	21
Slovenia					X

Analysis

International instrument compliance

The commitment regarding prisoner allocation has not been adopted in Slovenia. See comments from SPOC over the manner in which prisoner allocation often takes place in practice.

24.3.3 Accommodation

This section focuses on the living conditions of prisoners. International legal instruments place a series of obligations on States in respect of the accommodation of prisoners. The questions in this section are based on these obligations.

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3.3.1 Has your country adopted laws or policies requiring that where possible prisoners should have individual cells to sleep in? SMR 9(1), EPR 18.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	3	0	10
Total Europe - %	58	54	13	0	42
Slovenia	X	X	X		

3.3.2. Has your country adopted laws or policies stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation? ICCPR 6(1), UDHR 3, SMR 9(2), ECHR 2, EPR 18.6 & 18.7, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	4	0	14
Total Europe - %	42	29	17	0	58
Slovenia					X

3.3.3 Has your country adopted laws or policies requiring that the size of a cell must be suitable for its purpose? The suitability of the cell size should be dependent on the number of hours spent in the cell, the number of prisoners accommodated in the cell and the availability of in-cell-sanitation facilities that ensure privacy. SMR 9, 10, 11 & 12, EPR 18 & 19.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	8	2	1	15
Total Europe - %	37	33	8	4	63
Slovenia					X

3.3.4 Has your country adopted laws or policies requiring that cells should not be used to accommodate more prisoners than the intended design capacity, unless justified in exceptional circumstances? SMR 9(1) & 10, EPR 18.1, 18.3, 18.4 & 18.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Slovenia	X	X			

3.3.5 Has your country adopted laws or policies requiring that cells be suitable for accommodating prisoners in respect of size, lighting, heating, ventilation and fittings? SMR 9, 10, 11, 12 & 13, EPR 18

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	16	4	0	6
Total Europe - %	75	67	17	0	25
Slovenia	X	X			

3.3.6 Has your country adopted laws or policies requiring that all prisoners have in-cell access to a working alarm bell that attracts the attention of staff at all times? ICCPR 6(1), UDHR 3, ECHR 2, EPR 18.2.c & 52.4, IPR 18(4), *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	13	2	0	4
Total Europe - %	83	54	8	0	17
Slovenia					X

Analysis

International instrument compliance

Slovenia has incorporated 3 of the 6 commitments relating to accommodation in its law and policy. Further information is provided by the SPOC in her comments above and in particular with regards to the criteria used to determine the number of prisoners who can be accommodated in a cell which differ substantially from the provisions set out in question 3.3.3 above. The provisos in Slovenian law relating to the allocation of prisoners to single cells are also highly conditional. Commitments arising from legally binding international legal instruments relating to the assessment of prisoners to share a cell and the need for all cells to have a working alarm bell have not been adopted.

Situation in practice

The International Centre for Prison Studies reported that the prison system in Slovenia was operating at 124% of design capacity as of May 2010.

The CPT found that material conditions of detention varied from establishment to establishment. Despite a largely successful programme of measures to reduce overcrowding, Ljubljana Prison remained very cramped. Very few prisoners were able to access work of any description and the Committee was highly critical of the regime, or lack thereof, available to prisoners. However, this situation can be contrasted with the findings regarding conditions in Ig and Koper Prisons. In the first, prison material conditions were deemed to be of a very high standard with all cells benefiting from an internal sanitary complex (although it was found that privacy could be a problem as all cells had windows facing the internal courtyard). The Prison was excellently equipped with a highly praiseworthy kitchen and numerous communal areas. Similarly at Ig, the Committee found the prisoners enjoyed adequate space and that the cells were well lit, ventilated and equipped. Again however, privacy was deemed an issue with many prisoners living in large dormitories.

24.3.4 *Hygiene & Sanitation*

This section focuses on the hygiene and sanitation facilities for prisoners. International legal instruments place a series of obligations on States in respect of hygiene and sanitation. The questions in this section are based on these obligations.

SLOVENIA

3.4.1 Has your country adopted laws or policies to ensure that all prisoners have access to adequate and appropriate sanitary and washing facilities that respect their privacy? SMR 12 & 13, EPR 19.3, 19.4 & 19.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	2	0	10
Total Europe - %	58	58	8	0	42
Slovenia					X

3.4.2 Has your country adopted laws or policies requiring that all In-cell sanitation facilities must be adequately screened? ICCPR 10(1), SMR 12, BOP 1, BTP 1, ECHR 3, EPR 19.3, *Peers v Greece* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	4	1	9
Total Europe - %	62	54	17	4	38
Slovenia					X

Analysis

International instrument compliance

Neither of the 2 commitments relating to hygiene and sanitation have been incorporated into Slovenian law. This includes the legally binding commitment relating to the screening of in-cell sanitation facilities.

24.3.5 *Clothing & Bedding*

This section focuses on clothing and bedding provisions for prisoners. International legal instruments place a series of obligations on States in respect of the provision of clothing and bedding. The questions in this section are based on these obligations.

3.5.1 Has your country adopted laws or policies to ensure that prisoners are provided with clothing that is suitable for the climate, is not degrading or humiliating and is age appropriate? SMR 17(1), EPR 20.1 & 20.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	10	0	7
Total Europe - %	71	71	42	0	29
Slovenia					X

3.5.2 Has your country adopted laws or policies requiring each prisoner to be provided with a bed and appropriate bedding and to ensure that all bedding is in good condition, is changed regularly and laundered? SMR 19, EPR 21

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	2	0	6
Total Europe - %	75	71	8	0	25
Slovenia	X	X			

Analysis

International instrument compliance

Slovenia has incorporated one of the two commitments concerning prisoners clothing and bedding into its national law. Comments from the SPOC indicate the clothing provisions are being complied with in part.

24.3.6 Nutrition

This section focuses on the nutrition requirements of prisoners. International legal instruments place a series of obligations on States in respect of prisoner's nutrition. The questions in this section are based on these obligations.

3.6.1 Has your country adopted laws or policies to ensure that prisoners are provided with a sufficient quantity of nutritious food taking into account their health, physical condition, special dietary requirements, religion and culture? SMR 20(1), EPR 22.1 & 22.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	5	1	4
Total Europe - %	83	83	21	4	17
Slovenia	X	X			

3.6.2 Has your country adopted laws or policies to ensure that prisoners have access to clean drinking water? SMR 20(2), EPR 22.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	16	5	1	5
Total Europe - %	79	67	21	4	21
Slovenia	X	X			

Analysis

International instrument compliance

Both commitments relating to nutrition have been incorporated into Slovenian law.

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24.3.7 Legal advice, info & rights

This section focuses on the entitlement of prisoners to legal advice and information. International legal instruments place a series of obligations on States in respect of access to legal advice and information. The questions in this section are based on these obligations.

3.7.1 Has your country adopted laws or policies requiring that adequate time and facilities be provided to prisoners to receive professional visits from their legal advisers? BOP 18(2), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	4	1	2
Total Europe - %	92	92	17	4	8
Slovenia	X	X			

3.7.2 Has your country adopted laws or policies establishing the right of prisoners to communicate with their legal advisers by telephone and by letter? BOP 18(1), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	3	3	3
Total Europe - %	87	83	13	13	13
Slovenia	X	X			

3.7.3 Has your country adopted laws or policies requiring that communications between a prisoner and his/her legal adviser remain confidential and can only be restricted by law or judicial authority? ICCPR 17, BOP 18(3) & (4), ECHR 8, EPR 23.4 & 23.5, *Campbell v The United Kingdom* (ECtHR 1992)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	3	1	2
Total Europe - %	92	92	13	4	8
Slovenia	X	X			

Analysis

International instrument compliance

All commitments (both legally binding and voluntary) have been incorporated into Slovenian law.

24.3.8 Contact with the outside world

24.3.8.1 Visits

This section focuses on the entitlement of prisoners to maintain contacts with the outside world. International legal instruments place a series of obligations on states in respect of prisoners' on-going contact with the outside world. The questions in this section are based on these obligations.

3.8.1.1 Has your country adopted laws or policies establishing the right of prisoners to communicate with their family and friends by correspondence and by receiving visits, subject to reasonable conditions/restrictions imposed by law or another authority? ICCPR 23(1), UDHR 16(3), SMR 37, BOP 15 & 19, EPR 24.1 & 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	2	0
Total Europe - %	100	96	29	8	0
Slovenia	X	X	X	X	

3.8.1.2 Has your country adopted laws or policies requiring that visits take place in an environment that enables prisoners to maintain and develop family and other relationships in as normal a manner as is possible subject to the maintenance of good order and security in the prison? SMR 79, EPR 24.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	6	0	2
Total Europe - %	92	88	25	0	8
Slovenia	X	X	X		

24.3.8.2 Searching of visitors

3.8.2.1 Has your country adopted laws or policies requiring that searching procedures for visitors be undertaken in a manner that respects a person's dignity? SMR 27, BOP 19, EPR 54.1.c, 54.3, 54.4 & 54.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	4	0	7
Total Europe - %	71	63	17	0	29
Slovenia					X

3.8.2.2 Has your country adopted laws or policies requiring that prison officers only be permitted to search visitors of the same gender? EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	9	1	0	12
Total Europe - %	50	38	4	0	50
Slovenia					X

24.3.8.3 Restrictions on visits

3.8.3.1 Has your country adopted laws or policies requiring the authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party(ies) and to review these circumstances on a regular basis? SMR 27, 79 & 80, EPR 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	0	0	63

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Slovenia	X	X			

3.8.3.2 Has your country adopted laws or policies preventing the withdrawal of contact for female prisoners with their children as a disciplinary action except in exceptional circumstances? SMR 27, 79 & 80, EPR 24.2 & 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	2	0	12
Total Europe - %	50	50	8	0	50
Slovenia					X

24.3.8.4 *Death, illness & transfer*

3.8.4.1 Has your country adopted laws or policies requiring that prisoners be informed of the death/serious illness of a close relative/ friend without delay? SMR 44(2), EPR 24.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	2	0	13
Total Europe - %	46	42	8	0	54
Slovenia	X	X			

3.8.4.2 Has your country adopted laws or policies allowing a prisoner to leave the prison to visit a sick relative/friend, attend a funeral or for other humanitarian reasons? SMR 44(2), EPR 24.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Slovenia	X	X			

3.8.4.3 Has your country adopted laws or policies ensuring that prisoners are allowed to inform their families or other nominated persons without delay of their imprisonment, transfer to another institution or of any serious illness that they may suffer from? SMR 44(1) & (3), BOP 16(1), EPR 24.8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Slovenia					X

3.8.4.4 Has your country adopted laws or policies requiring the prison authorities to immediately inform the spouse or the nearest relative to the prisoner (or any other person previously nominated), if the prisoner dies in custody, is removed to a hospital or suffers a serious injury/illness? SMR 44(1), EPR 24.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	3	0	6
Total Europe - %	75	75	13	0	25
Slovenia	X	X			

24.3.8.5 Telephone and letters

3.8.5.1 Has your country adopted laws or policies preventing the monitoring or censoring of telephone calls unless the prisoner or the recipient of the call is informed of the possibility of such monitoring or, such monitoring has been agreed by any lawful authority? ICCPR 17, UDHR 12, SMR 37, BOP 19, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	3	1	5
Total Europe - %	79	79	13	4	21
Slovenia	X	X			

3.8.5.2 Has your country adopted laws or policies permitting prisoners to send a minimum of 7 letters a week free of charge and more if he/she can afford it, and to receive as many letters as are sent to him/her? SMR 37, BOP 19, EPR 24.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	11	1	0	12
Total Europe - %	50	46	4	0	50
Slovenia	X	X			

3.8.5.3 Has your country adopted laws or policies preventing the prison authorities from opening prisoners' private correspondence subject to the maintenance of good order and safe and secure custody in the prison? ICCPR 17, UDHR 12, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	1	9
Total Europe - %	62	62	13	4	38
Slovenia	X	X			

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24.3.8.6 *Media*

3.8.6.1 Has your country adopted laws or policies entitling prisoners to be kept informed of current affairs and other developments outside the prison by reading newspapers and periodicals and by listening to radio or television broadcasts (subject to the maintenance of good order and safe and secure custody)? SMR 39, BOP 28, EPR 24.10

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	1	1
Total Europe - %	96	92	21	4	4
Slovenia	X	X			

Analysis

International instrument compliance

Ten of the fourteen commitments relating to prisoners' contact with the outside world have been incorporated into Slovenian law. These include the legally binding commitments relating to prisoners' rights to maintain contact with family and friends by means of visits or letters and the circumstances in which prisoners' telephone and written correspondence can be legitimately monitored. Provisions relating to the searching of prisoners have not, however, been incorporated. Comments relating to two other unincorporated commitments – the withdrawal of an imprisoned mother's right to have contact with her children as a disciplinary sanction (or the prohibition of the same) and the right of a prisoner to inform their family about their imprisonment, illness or transfer have been provided by the SPOC above (3.8.3.2 and 3.8.4.3).

24.3.9 *Work*

This section focuses on work in prison. International legal instruments place a series of obligations on States in respect of work in prison. The questions in this section are based on these obligations.

3.9.1 Has your country adopted laws or policies requiring work to be incorporated as a positive aspect of prison regimes and prohibiting its use as a form of punishment? SMR 71(1), EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Slovenia					X

3.9.2 Has your country adopted laws or policies requiring that prison work provided should prepare prisoners for worthwhile work on their release and facilitate their reintegration into the workforce? SMR 71(3) & (4), BPTP 8, EPR 26.3 & 26.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	18	7	0	4
Total Europe - %	83	75	29	0	17

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Slovenia	X	X	X		

3.9.3 Has your country adopted laws or policies entitling prisoners to be remunerated in respect of prison work carried out? ICESCR 7(a), UDHR 23, SMR 76(1), BPTP 8, EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	1	1
Total Europe - %	96	92	13	4	4
Slovenia	X	X			

Analysis

International instrument compliance

Two out of the three commitments relating to prison work arising from international legal instruments have been incorporated into Slovenian law including the legally binding commitment entitling prisoners to be remunerated for work undertaken.

Situation in practice

During its visit to Slovenia in 2006, the CPT commented that work opportunities for prisoners in Ljubljana were limited in contrast to the other establishments visited.

24.3.10 Exercise & recreation

This section focuses on facilities for exercise and recreation in prison. International legal instruments place a series of obligations on States in respect of exercise and recreational facilities. The questions in this section are based on these obligations.

3.10.1 Has your country adopted laws or policies ensuring that, subject to the constraints of the particular prison and the maintenance of good order and security, prisoners shall be entitled to spend as much time out of their cells as is possible? EPR 25(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Slovenia	X	X			

3.10.2 Has your country adopted laws or policies ensuring that prisoners receive at least one hours exercise each day in the open air, weather permitting? SMR 21, EPR 27.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	2	1
Total Europe - %	96	92	21	8	4
Slovenia	X	X			

SLOVENIA

3.10.3 Has your country adopted laws or policies ensuring that prisoners shall have access to a well-stocked library at least once a week (subject to the maintenance of good order and safe and secure custody)? R(89)12: 10, EPR 28.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	13	0	0	11
Total Europe - %	54	54	0	0	46
Slovenia	X	X			

Analysis

International instrument compliance

All commitments relating to exercise and recreation have been incorporated into Slovenian law except that regarding weekly access to a library.

24.3.11 Education

This section focuses on facilities for education in prison. International legal instruments place a series of obligations on States in respect of prison education facilities. The questions in this section are based on these obligations.

3.11.1 Has your country adopted laws or policies requiring, as far as practicable, that prisoners have access to educational programmes that can meet their individual needs? ICESCR 13, UDHR 26, SMR 77(1), BPTP 6, R(89)12: 1, EPR 28.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	5	1	1
Total Europe - %	96	96	21	4	4
Slovenia	X	X			

3.11.2 Has your country adopted laws or policies requiring that education provided in prisons shall be integrated, in so far as is practicable, with national educational systems/programmes enabling prisoners to continue their education following their release? SMR 77(2), R(89)12: 16, EPR 28.7.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	5	0	3
Total Europe - %	87	75	21	0	13
Slovenia	X	X			

3.11.3 Has your country adopted laws or policies requiring that vocational training be available for those prisoners who are able to benefit from it, particularly young prisoners? SMR 71(5), BPTP 8, R(89)12: 9, EPR 26.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	20	5	0	2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	92	83	21	0	8
Slovenia	X	X			

Analysis

International instrument compliance

All commitments relating to education have been incorporated into Slovenian law including the legally binding commitment regarding access to education as set out in question 3.11.1.

Situation in practice

During its 2006 visit to Slovenia, the CPT commented critically on the provision of educational facilities and vocational training noting that these were not as widely available as they should have been.

24.3.12 Freedom of thought, conscience & religion

3.12.1 Has your country adopted laws or policies ensuring that prisoners have the opportunity to practice their religion and to follow their beliefs whilst in custody? ICCPR 18(1), CERD 5 (d) (vii), UDHR 18, SMR 42, BPTP 3, EPR 29.1 & 29.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	5	0	0
Total Europe - %	100	96	21	0	0
Slovenia	X	X			

Analysis

International instrument compliance

Commitment relating to freedom of thought, conscience and religion has been incorporated into Slovenian law.

24.4 Health

24.4.1 Core principles

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

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4.1.1 Has your country adopted laws or policies requiring that primary healthcare services to meet the needs of all prisoners be provided in each prison to a standard equivalent to that available to the community in general? ICESCR 12(1), SMR 22(1), PME 1, R(98)7: 10, 11, 12 & 19, EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	6	0	1
Total Europe - %	96	92	25	0	4
Slovenia	X	X			

4.1.2 Has your country adopted laws or policies to ensure that where a sick prisoner requires treatment that cannot be provided by the medical staff in the prison he/she shall be transferred to an appropriate hospital without undue delay? SMR 22(2), BPTP 9, R(98)7: 3, EPR 46.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	3	1	2
Total Europe - %	92	88	13	4	8
Slovenia	X	X			

4.1.3 Has your country adopted laws or policies requiring that medical records be created and accurately maintained on all prisoners and that such records be treated as confidential? BOP 26, R(98)7: 13, EPR 42.3.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	5	0	3
Total Europe - %	87	83	21	0	13
Slovenia	X	X			

Analysis

International instrument compliance

All commitments relating to the core principles of prison health care have been incorporated into Slovenian law including the legally binding commitment regarding the need to ensure that prisoners have access to health care of an equivalent standard to that available in the community at large.

Situation in practice

The CPT found that the provision of healthcare at Ljubljana and Koper prisons was significantly hampered by inadequate staffing levels. The Committee received complaints regarding the length of time prisoners had to wait before receiving medical attention. No healthcare staff were present at night or at weekends in any Slovenian Prisons: this led to custodial staff handing out medication.

24.4.2 *Women and children*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations

4.2.1 Has your country adopted laws or policies to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor? CEDAW 12, SMR 23, BOP 5(2), R(98)7: 8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	7	3	0	17
Total Europe - %	29	29	13	0	71
Slovenia					X

4.2.2 Has your country adopted laws or policies requiring that appropriate care be afforded to all pregnant prisoners and nursing mothers? CEDAW 12(2), SMR 23, R(98)7: 8 & 69, EPR 34.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Slovenia	X	X			

Analysis

International instrument compliance

Legally binding commitment set out in question 4.2.1 has not been incorporated into Slovenian law.

24.4.3 *Mental health care*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.3.1 Has your country adopted laws or policies requiring that prisoners with mental health difficulties be entitled to care appropriate to their circumstances, commensurate to the type of care available for people with similar mental health difficulties in the community? SMR 22(1), PPPMI 1 & 20, R(98)7:10, 11 & 52, R(2004)10: 35(1) & (2), EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	4	0	3
Total Europe - %	87	79	17	0	13
Slovenia	X		X		

4.3.2 Has your country adopted laws or policies to ensure that prisoners who require psychiatric in-patient care are transferred to a suitable hospital facility of an appropriate security

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level without undue delay? SMR 22(2), PPPMI 9(1) & 20, R(98)7: 3 & 55, R(2004)10: 8, 9(1) & 35(1), EPR 12(1) & 46(1)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	3	0	6
Total Europe - %	75	71	13	0	25
Slovenia	X		X		

Analysis

International instrument compliance

Specific commitments relating to mental health care only have a basis in policy rather than law, albeit that Slovenian law establish the right of general access to health care services.

Situation in practice

SPOC highlights in her comments the shortages of psychological and psychiatric staff in the Slovenian prisons. These problems were also highlighted by the CPT who were concerned by the low levels of psychiatric and psychological care throughout the prison system. The Committee also highlighted a particular problem at Ig prison where many prisoners did not trust the psychologist because of their involvement in the process of making decisions regarding allocation and privileges for prisoners.

24.4.4 Vulnerable prisoners

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.4.1 Has your country adopted laws or policies requiring that prisoners assessed as vulnerable be accommodated in areas of the prison which are most convenient and appropriate for their monitoring and treatment by the medical personnel and other relevant agencies? SMR 22(2) & 62, EPR 12.2, 39, 43.1, 46.2, 47.1 & 47.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	3	0	8
Total Europe - %	67	63	13	0	33
Slovenia	X	X	X		

4.4.2 Has your country adopted laws or policies requiring that prisoners assessed as being at risk of suicide/self-harm be continuously monitored by both medical and prison staff throughout the prisoner's time in custody and that records are kept of such monitoring? R(98)7: 58, EPR 47(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	5	0	14
Total Europe - %	42	29	21	0	58
Slovenia					X

4.4.3 Has your country adopted laws or policies requiring that prisoners detained in a special cell be visited daily, and as frequently as is necessary by a doctor who shall, inter alia, monitor his/ her physical and mental health? SMR 25(1) & 32(3), R(98)7: 66, EPR 43.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Slovenia	X	X			

Analysis

International instrument compliance

Two out of the three commitments regarding vulnerable prisoners have been incorporated into Slovenian law. See comments above from the SPOC regarding question 4.4.2.

24.4.5 *Medical & health care personnel*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.5.1 Has your country adopted laws or policies to ensure that every prisoner has access to appropriately qualified medical personnel in the prison at all times? SMR 24, BOP 24, R(98)7:1, 2 & 4, EPR 41.2 & 41.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Slovenia	X	X			

Analysis

International instrument compliance

Commitment relating to access to appropriately qualified personnel has been incorporated into Slovenian law.

Situation in practice

This commitment notwithstanding, both the SPOC and international organisations have pointed out that staffing shortages remain a significant problem within the Slovenian prison health care system. See comments at section 4.1 above.

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24.4.6 Prisoners with addiction problems

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.6.1 Has your country adopted laws or policies to ensure that prisoners with addiction problems have access to appropriate treatment and support services, including those from external agencies? SMR 62, R(98)7: 7, 43, 44, 45, 46 & 47, EPR 42.3.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	8	0	3
Total Europe - %	88	79	33	0	13
Slovenia	X	X	X		

Analysis

International instrument compliance

Commitment incorporated within Slovenian law.

24.4.7 Hunger strikes

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.7.1 Has your country adopted laws or policies forbidding the practice of forced feeding of hunger strikers? DOMHS, R(98)7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	37	21	21	0	63
Slovenia					X

Analysis

International instrument compliance

Commitment prohibiting forced feeding of hunger strikers not incorporated.

24.5 Good order

24.5.1 General approaches

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.1.1 Has your country adopted laws or policies requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody? R(82)17: 8, EPR 51.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	0	9
Total Europe - %	62	62	13	0	38
Slovenia	X	X			

Analysis

International instrument compliance

Commitment incorporated into Slovenian law.

24.5.2 Safety & Security

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.2.1 Has your country adopted laws or policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat? EPR 51.5, 53.1 & 53.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	63	63	17	0	37
Slovenia	X	X			

Analysis

International instrument compliance

Commitment incorporated.

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24.5.3 Searching of prisoners

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.3.1 Has your country adopted laws or policies requiring that searches conducted on prisoners be carried out with due regard to the prisoner's dignity? ICCPR 10(1), BPTP 1, EPR 54.3 & 54.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	0	1
Total Europe - %	96	92	13	0	4
Slovenia	X	X			

5.3.2 Has your country adopted laws or policies stipulating that prisoners may only be searched by a staff member of the same gender? ICCPR 10(1), BPTP 1, EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	1	0	1
Total Europe - %	96	92	4	0	4
Slovenia					X

5.3.3 Has your country adopted laws or policies stipulating that prisoners may only be subjected to a strip search in exceptional circumstances and for good reason and then, only in the presence of two officers in an appropriate place which ensures privacy? ICCPR 10(1), BPTP 1, EPR 54. 3, 54.4 & 54.6, *Van der Van v The Netherlands* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	3	1	13
Total Europe - %	66	54	13	4	54
Slovenia					X

Analysis

International instrument compliance

Two of the legally binding commitments relating to the searching of prisoners – stipulating that such searches should only be carried out by prison staff of the same sex as the prisoner and, that such searches should be carried out in a manner which respects the prisoners dignity, have not been adopted as part of Slovenian law. Comments from the SPOC above indicate that some aspects of these provisions are, however, encompassed in other aspects of Slovenian penal legislation.

24.5.4 Criminal acts, discipline & punishment

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.4.1 Has your country adopted laws or policies stipulating that all inquiries into breach of prison discipline or rules shall be conducted in an independent and impartial manner? ICCPR 14(1), UDHR 10, ECHR 6(1), *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	2	1	8
Total Europe - %	67	63	8	4	33
Slovenia	X	X			

5.4.2 Has your country adopted laws or policies requiring that all incidents of bullying/violence/threatening behaviour between prisoners, and any breach of discipline be reported to an officer of a higher rank, duly recorded and properly investigated? EPR 52.2 & 58

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	62	62	17	0	38
Slovenia	X	X			

5.4.3 Has your country adopted laws or policies stipulating that when a prisoner has been charged with a disciplinary offence he/she shall be promptly informed of the allegation made against him/her in a language that he/she understands? ICCPR 14(3)(a), CERD 5(a), SMR 30(2), ECHR 6(3)(a), EPR 59.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	3	0	7
Total Europe - %	71	71	13	0	29
Slovenia	X	X			

5.4.4 Has your country adopted laws or policies stipulating if an inquiry is being conducted into a breach of prison discipline or rules the prisoner shall have adequate time to prepare his/her defence and/or to receive legal assistance? ICCPR 14(3)(b) & (d), SMR 30(2), ECHR 6(3)(b) & (c), EPR 59.b & 59.c, *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	2	0	9
Total Europe - %	62	58	8	0	38
Slovenia	X	X			

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5.4.5 Has your country adopted laws or policies stipulating that in any disciplinary proceedings prisoners must understand the proceedings and if necessary, appropriate interpretation facilities must be provided? ICCPR 14(3)(f), SMR 30(3), ECHR 6(3)(e), EPR 59.e

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Slovenia	X	X			

5.4.6 Has your country adopted laws or policies stipulating that no prison officer shall impose a punishment/penalty/deprivation on a prisoner without due process and in accordance with law and/or relevant rules or instruments? EPR 57.2.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	2	0	4
Total Europe - %	83	83	8	0	17
Slovenia	X	X			

5.4.7 Has your country adopted laws or policies stipulating that if a prisoner is found guilty of a disciplinary offence, he/she shall be entitled to exercise his/her right of appeal to an independent and impartial tribunal established by law? ICCPR 14(5), BOP 30(2), EPR 61

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	1	0	5
Total Europe - %	79	79	4	0	21
Slovenia	X	X			

5.4.8 Has your country adopted laws or policies requiring that when a prisoner is detained in any type of special cell (special observation/cladded/strip) he/she shall be regularly monitored by a prison officer? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	3	0	7
Total Europe - %	71	67	13	0	29
Slovenia	X	X			

5.4.9 Has your country adopted laws or policies requiring that a detailed record be maintained of, inter alia, the monitoring of such prisoners, their expressed requirements, actions taken in response to such requests and details of visits by officers or others to such prisoners? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	8	8	2	0	16
Total Europe - %	33	33	8	0	67
Slovenia					X

5.4.10 Has your country adopted laws or policies to ensure that prisoners in a special cell are able to contact a member of staff at all times, including during the night and that a staff member shall respond without delay? ICCPR 6(1), EPR 18.2.c & 52.4, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	4	0	63
Slovenia					X

Analysis

International instrument compliance

Slovenia has adopted eight of the ten commitments arising from international Legal instruments which relate to prison disciplinary procedures. This includes the legally binding commitments relating to the independent investigation of prison disciplinary offences and associated procedural guarantees. Two of the three legally binding commitments relating to the monitoring of prisoners in special cells have not, however, been incorporated.

Situation in practice

The legal framework highlighted above notwithstanding, the CPT during its visit heard allegations from prisoners that there was infrequent resort to formal disciplinary procedures with prisoners being often punished through other channels. In the prison at Koper, the Committee found that prisoners waiting for a disciplinary hearing were detained in a special unit largely similar to segregation units and privileges were withdrawn. It was perceived by the Committee that this was used frequently as an alternative to actual disciplinary action. Similarly in Radece prison, juveniles who did not comply with the education group regime were placed in a special educational group. The cells for this group were situated beside (and were physically materially identical to) the disciplinary cells. The inmates viewed this as a punishment rather than an administrative decision: it was, however, taken without due procedural safeguards.

Finally, the CPT called for the practice of requiring doctors to certify that prisoners were fit for punishment to come to a halt as it undermined the trust in the doctor-patient relationship.

24.5.5 *Use of force/weapons*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.5.1 Has your country adopted laws or policies stipulating that members of staff will use force only when absolutely necessary and that any force used shall be proportionate to the situation? SMR 54(1), CCLEO 3, BPUF 4, EPR 64 & 6

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	4	1	3
Total Europe - %	87	87	17	4	13
Slovenia	X	X			

Analysis

International instrument compliance

Commitment adopted.

24.5.6 Requests & complaints

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.6.1 Has your country adopted laws or policies to ensure that prisoners have sufficient opportunity to make requests or complaints to the Governor of the prison or to any other competent authority? SMR 36(1) & (3), BOP 33(1), EPR 70.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	3	0	1
Total Europe - %	96	96	13	0	4
Slovenia	X	X			

5.6.2 Has your country adopted laws or policies establishing the right of a prisoner's legal advisor or to make a request or a complaint regarding that prisoner's treatment to the prison authorities, or other relevant authorities? BOP 33 (1) & (2), EPR 70.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	1	0	6
Total Europe - %	75	75	4	0	25
Slovenia	X	X			

5.6.3 Has your country adopted laws or policies requiring that all complaints be promptly investigated in accordance with law? SMR 36(4), BOP 33(4)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	2	0	7
Total Europe - %	71	67	8	0	29
Slovenia	X	X			

5.6.4 Has your country adopted laws or policies to ensure that where a request is denied or a complaint is rejected, the prisoner is informed promptly as to the reason(s) for such denial or rejection? SMR 36(4), BOP 33(4), EPR 70.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	2	1	7
Total Europe - %	71	63	8	4	29
Slovenia	X	X			

5.6.5 Has your country adopted laws or policies to ensure that prisoners are not disadvantaged for exercising their rights to make requests or complaints? BOP 33(4), EPR 70.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	3	0	13
Total Europe - %	46	42	13	0	54
Slovenia					X

5.6.6 Has your country adopted laws or policies requiring that complaints made by members of staff against other members of staff be properly recorded and investigated in accordance with the law? EPR 88 & 87.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	11	3	0	11
Total Europe - %	54	46	13	0	46
Slovenia					X

Analysis

International instrument compliance

Slovenia has adopted four of the six commitments relating to prison requests and complaints. Omissions are the obligation to investigate complaints made by members of staff against other members of staff in accordance with the law and non-discrimination protection to be afforded to prisoners who complain.

24.6 Management & Staff

24.6.1 *Training of staff*

This section focuses on the staff training and prison management. International legal instruments place a series of obligations on States in respect of the training and management of prison staff. The questions in this section are based on these obligations.

SLOVENIA

6.1.1 Has your country adopted laws or policies to ensure that all prison staff receive appropriate training at regular intervals throughout their career? SMR 47(3), EPR 8, 76 & 81.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	14	7	0	5
Total Europe - %	79	58	29	0	21
Slovenia	X	X	X		

6.1.2 Has your country adopted laws or policies to ensure that members of staff who work with particular groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, receive training particular to their individual work? R(82)17: 10, R(2004)10: 12(1), EPR 81.3, ERJO 129

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	38	21	21	0	62
Slovenia					X

Analysis

International instrument compliance

The commitment regarding specialist training for staff has not been incorporated.

24.7 Inspection & Monitoring

24.7.1 Governmental Inspection

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.1.1 Has your country adopted laws or policies requiring that prisons be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law? SMR 55, EPR 92, R(2004)10 36.1, ERJO 125, PPPMI 22

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	19	4	0	4
Total Europe - %	83	79	17	0	17
Slovenia	X	X			

Analysis

International instrument compliance

Commitment relating to governmental monitoring has been incorporated.

24.7.2 *Independent monitoring*

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.2.1 Has your country adopted laws or policies requiring that the conditions of detention and the treatment of prisoners shall be also monitored by an independent body or bodies, comprised of qualified experienced personnel, and whose findings shall be made public? OPCAT 3, 17, 18, 19, BOP 29.1, EPR 93.1, R(2004)10 36.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Slovenia	X	X			

7.2.2 Has your country adopted laws or policies granting such an independent body open access to places of detention, to prisoners and others whom it wishes to interview? OPCAT 19, 20, CPT 8,9 BOP 29.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	3	1	9
Total Europe - %	62	58	13	4	38
Slovenia	X	X			

7.2.3 Has your country adopted laws or policies encouraging such independent bodies to cooperate with those international agencies that are legally entitled to visit prisons? CPT 2,7 EPR 93.2, ERJO 126.

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	6	1	0	17
Total Europe - %	29	25	4	0	71
Slovenia					X

Analysis

International instrument compliance

All commitments relating to independent monitoring have been incorporated except that requiring national independent inspection bodies to cooperate with international prison inspection organisations.

Situation in practice

Slovenia ratified OP-CAT on the 23rd of January 2001. The designated NPMs are the Human Rights' Ombudsperson's Office and three NGOs.

24.8 Sentenced Prisoners

This section focuses on the particular provisions relating to convicted prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

8.1.1 Has your country adopted laws or policies requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan? ICCPR 10(3), SMR 80, EPR 6, 103.2 & 103.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	6	2	4
Total Europe - %	83	83	25	8	17
Slovenia	X	X	X		

8.1.2 Has your country adopted laws or policies requiring that a sentence management plan be prepared for each prisoner serving a sentence of 12 months or over as soon as practicable after their admission? It should provide for, inter alia, the welfare and health needs of the prisoner, training, employment or education needs he/she may have, and include a release plan for the prisoner. This plan shall be reviewed at regular intervals to take into account the changing circumstances of the prisoner. SMR 65, 66 & 69, R(2003)23: 3 & 9, EPR 6, 103 & 104.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	5	0	10
Total Europe - %	58	54	21	0	42
Slovenia	X	X			

Analysis

International instrument compliance

All commitments have been incorporated.

Situation in practice

Prisoners in Slovenia can be allocated to either open, semi-open or closed conditions. To move towards more open conditions it is necessary for the prisoner to have worked. The CPT found that the other criteria on which this decision was based were much less transparent.

24.9 Juveniles

This section focuses on the particular provisions relating to juvenile prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

9.1.1 Has your country adopted laws or policies requiring that juveniles be detained separately from adult offenders? ICCPR 10(3), CRC 37(c), BR 26.3, RPJDL 29, EPR 11.1, ERJO 59.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	1	3
Total Europe - %	87	87	13	4	13
Slovenia	X	X			

9.1.2 Has your country adopted laws or policies to ensure that, subject to reasonable conditions and restrictions, a sentenced prisoner under the age of 18 shall be entitled to receive a minimum of two weekly visits? CRC 37(c), SMR 37, BOP 19, RPJDL 60, ERJO 83, 84, 85.1 & 85.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	6	3	0	15
Total Europe - %	37	25	13	0	63
Slovenia	X	X			

Analysis

International instrument compliance

Both commitments have been adopted.

24.10 Sentence Execution Modalities

This section of the questionnaire is designed to collate information on the differing methods by which custodial sentences and measures involving deprivation of liberty are enforced across EU Member States.

10.1.1. Which of the following modalities of prison sentence execution are provided for in the law of your country?

	Weekend detention	Evening detention	Daytime detention	Home detention	
				no electronic monitoring	electronic monitoring
EUROPE	9 = 38%	10 = 42%	3 = 13%	6 = 25%	14 = 58%
Slovenia	X	X		X	

10.1.2. What is the maximum period for which home detention with electronic monitoring can be imposed?

	Under 12 months	12-24 months	25 months - 36 months	37 months - 50 months	More than 50 months
EUROPE	7 = 29%	4 = 17%	0 = 0%	1 = 4%	2 = 8%
Slovenia					

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10.2.1. In which of the following locations can custodial sentences or measures involving deprivation of liberty be imposed?

	Penitentiary institution	Psychiatric institution	Detoxification institution	Educational institution	Home
EUROPE	24 = 100%	20 = 83%	10 = 42%	7 = 29%	12 = 50%
Slovenia	X	X	X	X	

Analysis

Sentence execution modalities

In Slovenia, three additional sentence execution modalities are provided for: weekend detention, evening detention and home detention without electronic monitoring. Comments from the SPOC indicate that evening detention is not per se specified in Slovenian law but in practice occurs because in exceptional circumstances, prisoners are allowed to work unsupervised outside of the prison facilities during the day returning to prison in the evening only. Custodial sentences or measures involving deprivation of liberty can be imposed in relation to penitentiary, psychiatric, detoxification and educational institutions. Comments from the SPOC indicate that only criminally non-culpable perpetrators are sent to psychiatric institutions which are not organized under the management of the prison administration. Instead, they are medical institutions housing both high- and low-risk perpetrators. These measures are described as "safety" measures rather than a prison sentence per se. of a prison sentence. Prisoners can, furthermore, be sent to a detoxification institution as a safety- measure BESIDE a prison sentence, for offenders who are drug-addicts. Only juvenile detainees can be "sentenced" to spend time or work in an educational institution. Home detention is only allowed in exceptional circumstances, for prisoners who are sentenced to serve a maximum of 9 months in prison: it is imposed instead of a custodial sentence).

24.11 Early release from prison, earned remission and suspension of sentence

24.11.1 Early release

Early release means the release of the offender before their prison term is finished. It is possible only while the sentence is still being served. Early release does not include the suspended enforcement of a penalty which is dealt with later in this questionnaire.

11.1.2.1. Has your country adopted laws and regulations under which prisoners are entitled to early release from prison ?

	Yes	No
EUROPE	24 = 100%	0 = 0%
Slovenia	X	

11.1.2.2. At what point in a prisoner's sentence do they become eligible for early release?

	One third of sentence or less	One third to one half of a sentence	One half to three quarters of a sentence	More than three quarters of a sentence	Other
EUROPE	2 = 8%	1 = 4%	7 = 29%	0 = 0%	14 = 58%
Slovenia		X			

11.1.2.2. Does your country have different regulations for the early release of prisoners based on:

	A prisoner's nationality (non-EU citizen)	A prisoner's nationality (EU citizen)	The length of sentence imposed
EUROPE	Yes - 3 = 12% No - 21 = 88%	Yes - 3 = 12% No - 21 = 88%	Yes - 24 = 100% No - 0 = 0%
Slovenia	N	N	Y

11.1.2.3. Are provisions governing the early release of prisoners automatic or discretionary?

	Automatic (prisoners are automatically released at a certain point in their sentence)	Discretionary (prisoners are only released following assessment)
EUROPE	Yes - 7 = 29% No - 17 = 71%	Yes - 20 = 83% No - 4 = 17%
Slovenia	N	Y

11.1.2.4. What factors are taken into consideration when deciding whether a prisoner will be granted early release?

	The circumstances surrounding the crime	Prior criminal record	The offender's progress during imprisonment	Assessment as to whether the prisoner is likely to reoffend	Recommendation from the sentencing judge
EUROPE	Yes - 24 = 50% No - 24 = 50%	Yes - 15 = 63% No - 9 = 37%	Yes - 22 = 92% No - 2 = 8%	Yes - 19 = 79% No - 5 = 21%	Yes - 4 = 17% No - 20 = 83%
Slovenia	Y	Y	Y	Y	N

11.1.3.1. What forms of monitoring and conditions can be applied to prisoners' early release?

1. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
2. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)

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3. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
4. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
5. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
6. Electronic monitoring
7. Weekend/evening /daytime detention
8. Requirement containing limitations on leaving the country
9. Requirement to leave the country
10. Requirement to pay compensation
11. Requirement to undertake community service
12. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	Other
EUROPE	Y - 83	Y - 8	Y - 58	Y - 62	Y - 33	Y - 25	Y - 13	Y - 42	Y - 21	Y - 29	Y - 21	
	N - 17	N - 92	N - 42	N - 38	N - 77	N - 75	N - 87	N - 58	N - 79	N - 71	N - 79	9
Slovenia	Y	N	Y	Y	Y	N	N	N	N	N	N	

24.11.2 Sentence reduction as a result of prison work

11.2.1.1. Can a prisoner earn remission on their sentence as a result of work carried out in prison?

	Yes	No
EUROPE	9= 38%	15 – 62%
Slovenia		

24.11.3 Suspension of sentence enforcement

11.3.1. Does the national law of your country make provision for the further execution of a prison sentence to be suspended during the course of the sentence?

	Yes	No
EUROPE	10=42%	14= 58%
Slovenia		X

11.3.2.1. What factors are taken into consideration when deciding whether a prisoner will have the further execution of their prison sentence suspended?

1. The circumstances surrounding the crime
2. Prior criminal record
3. The offender's progress during imprisonment
4. Assessment as to whether the prisoner is likely to reoffend
5. Recommendation from the sentencing judge
6. Suitability of home circumstances
7. Information from victim(s)

8. Willingness of the prisoner to leave the country upon release
9. The prisoner will be deported upon release
10. Other – please specify

	1	2	3	4	5	6	7	8	9	Other
EUROPE	Y - 8 N - 92	Y - 13 N - 78	Y - 17 N - 83	Y - 21 N - 79	Y - 0 N - 100	Y - 4 N - 96	Y - 0 N - 100	Y - 0 N - 100	Y - 0 N - 100	21
Slovenia	N	N	N	N	N	N	N	N	N	

11.3.3.1. What forms of monitoring and conditions can be applied to prisoners whose further execution of a prison sentence has been suspended?

1. Unconditional supervision
2. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
4. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
5. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
6. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
7. Electronic monitoring
8. Weekend/evening /daytime detention
9. Requirement containing limitations on leaving the country
10. Requirement to leave the country
11. Requirement to pay compensation
12. Requirement to undertake community service
13. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	12	Other
EUROPE	Y - 4 N - 96	Y - 38 N - 62	Y - 4 N - 96	Y - 29 N - 71	Y - 17 N - 83	Y - 17 N - 83	Y - 4 N - 96	Y - 4 N - 96	Y - 21 N - 79	Y - 0 N - 100	Y - 17 N - 83	Y - 4 N - 96	2
Slovenia	N	N	N	N	N	N	N	N	N	N	N	N	

Analysis

Early release from prison, earned remission and suspension of sentence

In common with all EU countries, Slovenia has adopted measures under which prisoners are entitled to early release from prison. Slovenian prisoners become eligible for early release

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between one half and two thirds of the way through their prison sentence albeit that regulations differ depending on the length of sentence imposed. Slovenia employs a discretionary system of early release. Decisions on a prisoner's early release are based on four of the ten criteria identified. Four differing forms of monitoring and conditions can be applied to a prisoner granted early release. Slovenian prisoners are able to earn remission from their sentence as a result of work undertaken in prison. No provision is made, however, for the further execution of a prison sentence to be suspended during the course of the sentence .

Appendix

1. Kazenski zakonik (KZ-1) – Criminal Code Primary Legislation
2. Porcilo UKIS – A Yearly Report on the Execution of Sentences prepared by the Ministry of Justice
3. Pravilnik o izvrševanju kazni zapora – Regulations on the Execution of Sentences and the Government of Prison Life (Secondary Legislation)
4. P r a v i l n i k o organizaciji in izvajanju verske duhovne oskrbe v zavodih za prestajanja kazni zapora, vzgojnih zavodih, prevzgojnih domovih in v zavodih za usposabljanje – Regulations governing the right of prisoners to practice their religion (Secondary Legislation)
5. Resolution no. 1
6. Sodba in sklep U 210 2005 (pravica do zasebnosti in druÖ_inskega Ö_ivljenja)
7. Ustavo Republike Slovenije – Slovenian Constitution
8. Zakon o izvrševanju kazenskih sankcij (ZIKS-1), Basic Penitentiary Law (Primary Legislation)
9. Zakon o izvrševanju kazenskih sankcij (ZIKS-1)

25 Spain

25.1 Introduction

This questionnaire was completed by Professor José Luis De La Cuesta. He is professor of criminal law at the Universidad del Pais Vasco.

Spain has been visited thrice by the Committee for the Prevention of Torture in the past five years (2005 and two visits in 2007; one an issue specific visit relating to a prisoner on hunger strike and the second a generic country visit the report of which is as yet unpublished). Spain was also the subject of a report by the European Commissioner of Human Rights in 2005 and more recently from the United Nations Committee Against Torture in 2009. Additional information has also been sourced from the 2009 UNHCR Country Report on Human Rights Practices for Spain (drawing on source material provided by the US Department of State) and the International Centre for Prison Studies. All these reports have been used as information on the situation in practice.

Country	SPAIN
Ministry responsible	Ministry of the Interior (in Catalonia: Department of Justice)
Prison administration	General Secretariat for Penitentiary Institutions (in Catalonia: General Directorate of Penitentiary Regime and Resources)
Contact address	Calle Alcalá 38-40, E-28014 Madrid (Catalonia: Carrer Arago 332, 08009 Barcelona)
	tel: +34 91 335 48 81 (Catalonia: +34 93 214 01 00)
	fax: +34 91 335 40 64 (Catalonia: +34 93 214 01 79)
Telephone/fax/website	web: www.institucionpenitenciaria.es ; Catalonia, www.gencat.cat/portal/site/Justicia
Head of prison administration (and title)	Mercedes Gallizo Llamas (in Catalonia: Ramon Pares Galles) Director General (in Catalonia: Secretary for Prisons, Rehabilitation and Juvenile Justice)
Prison population total (including pre-trial detainees / remand prisoners)	73,459 at 29.4.2011 (national prison administration - including 10,823 in Catalonia)
Prison population rate (per 100,000 of national population)	159 based on an estimated national population of 46.20 million at end of April 2011 (from Eurostat figures)
Pre-trial detainees / remand prisoners (percentage of prison population)	18.5% (29.4.2011)
Female prisoners (percentage of prison population)	7.7% (29.4.2011)

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Juveniles / minors / young prisoners incl. definition (percentage of prison population)	0.00% (March 2011 - under 18; 2.1% under 21)		
Foreign prisoners (percentage of prison population)	35.7% (March 2011)		
Number of establishments / institutions	82 (2010)		
Official capacity of prison system	55,421 (1.9.2009 - 44,434 in State Administration, 10,987 in Catalonia)		
Occupancy level (based on official capacity)	138.0% (1.9.2009 - 148.9 in State Administration, 94.3% in Catalonia)		
Recent prison population trend (year, prison population total, prison population rate)	1992	40,95	105
	1995	45,198	115
	1998	44,747	113
	2001	46,594	114
	2004	58,655	137
	2007	65,812	147

25.2 Overarching Principles

This section focuses on the overarching principles governing the management of prisons and the treatment of prisoners. International legal instruments place a series of obligations on States in respect of the management of prisons and the treatment of prisoners. The questions in this section are based on these obligations.

2.1.1 Has your country adopted laws or policies specifically requiring that prisoners must be treated with respect for their human rights? ICCPR 10(1), UDHR 1, BOP 1, BPTP 1, EPR 1 & 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	19	7	1	2
Total Europe – %	92	79	29	4	8
Spain	X	X			

2.1.2 Has your country adopted laws or policies specifically requiring prisons to be managed in accordance with human rights standards? EPR 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	21	18	4	3	3
Total Europe – %	88	75	16	13	12
Spain	X	X			

2.1.3 Has your country adopted laws or policies explicitly prohibiting practices that could constitute torture, inhumane or degrading treatment or punishment of prisoners? ICCPR 7, BOP 6, ECHR 3, *Kalashnikov v Russia* (ECtHR 2003)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	1	3	2
Total Europe - %	92	88	4	12	8
Spain	X	X			

2.1.4 Has your country adopted laws or policies specifically requiring that prisoners be provided with a range of activities during their sentence (for example - educational, recreational, work/training and welfare programmes)? SMR 77 & 78, BOP 28, BPTP 6 & 8, EPR 25

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	0	0
Total Europe - %	100	96	29	0	0
Spain	X	X			

Analysis

International instrument compliance

In common with the majority of EU member states, Spain has passed legislation designed to protect the human rights of its prisoners and provide them with a meaningful regime during their time in custody. This legislation includes all of the commitments arising from legally binding international legal instruments.

25.3 Conditions Of Imprisonment

25.3.1 Admission

This section focuses on the treatment of prisoners upon their admission to prison. International legal instruments place a series of obligations on States in respect of prisoner admission. The questions in this section are based on these obligations.

3.1.1 Has your country adopted laws or policies requiring that all prisoner details are recorded at the time of committal including, inter alia, details of any visible injuries and the prisoner's personal belongings? SMR 7(1), EPR 15.1, 31.1, 31.2 & 31.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	7	1	7
Total Europe - %	71	63	29	4	29
Spain	X	X			

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3.1.2 Has your country adopted laws or policies requiring that upon admission, each prisoner is given a booklet outlining his/her rights, duties, obligations and privileges and the rules and regulations governing the prison which apply to the individual prisoner? The booklet shall be written in a language that the prisoner understands. CERD 7, SMR 35, BOP 13, EPR 30

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	6	1	6
Total Europe - %	63	54	25	4	25
Spain	X	X			

3.1.3 Has your country adopted laws or policies requiring that upon admission, every prisoner shall undergo a medical examination either by a nurse reporting to a doctor or by a doctor? SMR 24, BOP 24, R(98)7: 1, EPR 42.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	20	6	1	1
Total Europe - %	96	83	25	4	4
Spain	X	X			

3.1.4 Has your country adopted laws or policies requiring the doctor/nurse to pay particular attention to the detection of injuries, mental illnesses, of withdrawal symptoms resulting from the use of drugs, medication or alcohol, of contagious and chronic conditions, and, to assess the prisoner's suicide/self-harm risk? SMR 24, R(98)7: 1, EPR 42.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	10	8	1	9
Total Europe - %	62	42	33	4	38
Spain					X

3.1.5 Has your country adopted laws or policies requiring injuries detected during such an examination to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner? EPR 15.1.e & 42.3.c

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	5	4	1	17
Total Europe - %	29	21	17	4	71
Spain					X

3.1.6 Has your country adopted laws or policies requiring upon admission that each prisoner be assessed to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves? ICCPR 6, UDHR 3, ECHR 2, R(2003)23: 12, EPR 52.1, *Keenan v The United Kingdom* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	5	1	13
Total Europe - %	46	42	21	4	54
Spain					X

3.1.7 Has your country adopted laws or policies requiring that such risks be managed for the duration of the prisoner's sentence? ICCPR 6, UDHR 3, ECHR 2, EPR 52.2, *Osman v The United Kingdom* (ECtHR 2000)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	3	1	12
Total Europe - %	50	50	13	4	50
Spain	X	X			

Analysis

International instrument compliance

Spain has adopted four out of seven commitments concerning admission of prisoners. This includes the internationally legally binding commitment regarding the distribution of a booklet with useful information. Commitments not adopted include a commitment requiring upon admission that each prisoner be assessed to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves.

According to the SPOC, even if the answer to the question was no, most of the elements in these commitments can be found in the rules concerning classification of inmates and in the internal regulations in sanitary intervention.

Situation in practice

The Council of Europe's Committee for the Prevention of Torture's 2007 report on its 2005 visit to the country cited numerous allegations of mistreatment by the police and other judicial authorities of prisoners arrested and subsequently detained in custody pending trial. The CPT's delegation examined the recording and transmission of medical and other information concerning injuries on entry to prison, as part of the process of communication of information necessary to enable oversight by the judicial authorities of alleged ill-treatment. Their report noted that inmates lacked adequate protection against mistreatment, and recommended that jails maintain a log of inmate injuries and possible origins observed during the admission medical examination.

25.3.2 Allocation

This section focuses on the allocation of prisoners to a particular prison. International legal instruments place a series of obligations on States in respect of prisoner allocation. The question in this section is based on these obligations.

3.2.1 Has your country adopted laws or policies requiring prisoners to be assigned to a prison as near to their home area as possible in order to maintain relationships with families and friends, subject to the maintenance of good order and security? BOP 20, EPR 17.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	15	6	1	5
Total Europe - %	79	63	25	4	21

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Spain	X		X		

Analysis

International instrument compliance

In common with the majority of the other EU Members, Spain has adopted the commitment requiring prisoners to be assigned to a prison as near to their home area as possible. However, in contrast to the majority of the other countries, Spain has formulated this into a policy, which is not legally binding. The SPOC also adds that the policy does not literally state that the allocation of a prisoners to a prison as close to their home as possible is required, but instead establishes that there must be enough prisons in order to satisfy the penitentiary needs and to avoid social eradication.

25.3.3 Accommodation

This section focuses on the living conditions of prisoners. International legal instruments place a series of obligations on States in respect of the accommodation of prisoners. The questions in this section are based on these obligations.

3.3.1 Has your country adopted laws or policies requiring that where possible prisoners should have individual cells to sleep in? SMR 9(1), EPR 18.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	3	0	10
Total Europe - %	58	54	13	0	42
Spain	X	X			

3.3.2. Has your country adopted laws or policies stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation? ICCPR 6(1), UDHR 3, SMR 9(2), ECHR 2, EPR 18.6 & 18.7, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	4	0	14
Total Europe - %	42	29	17	0	58
Spain	X	X			

3.3.3 Has your country adopted laws or policies requiring that the size of a cell must be suitable for its purpose? The suitability of the cell size should be dependent on the number of hours spent in the cell, the number of prisoners accommodated in the cell and the availability of in-cell-sanitation facilities that ensure privacy. SMR 9, 10, 11 & 12, EPR 18 & 19.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	8	2	1	15
Total Europe - %	37	33	8	4	63
Spain					X

3.3.4 Has your country adopted laws or policies requiring that cells should not be used to accommodate more prisoners than the intended design capacity, unless justified in exceptional circumstances? SMR 9(1) & 10, EPR 18.1, 18.3, 18.4 & 18.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Spain	X	X			

3.3.5 Has your country adopted laws or policies requiring that cells be suitable for accommodating prisoners in respect of size, lighting, heating, ventilation and fittings? SMR 9, 10, 11, 12 & 13, EPR 18

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	16	4	0	6
Total Europe - %	75	67	17	0	25
Spain	X	X			

3.3.6 Has your country adopted laws or policies requiring that all prisoners have in-cell access to a working alarm bell that attracts the attention of staff at all times? ICCPR 6(1), UDHR 3, ECHR 2, EPR 18.2.c & 52.4, IPR 18(4), *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	13	2	0	4
Total Europe - %	83	54	8	0	17
Spain					X

Analysis

International instrument compliance

Spain has adopted four out of six commitments concerning the accommodation in its national law, including the commitment based on legally binding international legal instruments, stipulating that prisoners who are have to share a cell, should be assessed adequately for suitable sharing. However the internationally legally binding commitment requiring all prisoners to have access to an in-cell working alarm bell has not been adopted.

As can be seen from the situation in practice, Spain suffers from overcrowding in its penitentiary institutions. In this light, the SPOC mentions that concerning the maximum amount of prisoners compared to the design capacity of the cell, the article contains the omission of 'exceptional circumstances' and the possibility of 'temporal insufficiency'.

Situation in practice

The UNHCR reported in 2009 that prison conditions generally met international standards. Prisons were, however, overcrowded, with an overall inmate-per-cell ratio of approximately 1.7 for cells that were designed for one inmate. Concerns about overcrowding have been longstanding in Spain and were also highlighted in detail by the European Commissioner of

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Human Rights in his 2005 report which noted that the vast majority of the 77 prisons under central government jurisdiction and the 11 in Catalonia were at saturation point. The prison population when the report was written stood at 60,716, having increased by 33.4% over the last eight years. The report highlighted the consequences of these developments which included physical overcrowding (resulting in uprooting of prisoners, who could not therefore serve their sentences in a prison close to their place of origin or their family's home), difficult working conditions for prison officers (whose numbers had remained virtually unchanged unlike that of the prison population), and an environment that made pursuit of a rehabilitation policy extremely difficult. In addition, the Commissioner highlighted that a policy of dispersion, isolation and direct surveillance of particularly dangerous prisoners was being implemented, which considerably enhanced the need for additional space and isolation areas.

The International Centre for Prison Studies reported that the prison system in Spain was operating at 136% of design capacity as of August 2008.

Furthermore, the Commissioner found material detention conditions to be varied across the four prisons visited. Common concerns related to the small size of cells and the lack of screened in-cell sanitation facilities and the poor state of repair of many prison buildings. In contrast, leisure and recreation facilities were found to be of an acceptable standard. Visiting facilities were also the subject of favourable comment and no allegations of ill treatment of prisoners at the hands of prison staff were reported.

25.3.4 Hygiene & Sanitation

This section focuses on the hygiene and sanitation facilities for prisoners. International legal instruments place a series of obligations on States in respect of hygiene and sanitation. The questions in this section are based on these obligations.

3.4.1 Has your country adopted laws or policies to ensure that all prisoners have access to adequate and appropriate sanitary and washing facilities that respect their privacy? SMR 12 & 13, EPR 19.3, 19.4 & 19.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	2	0	10
Total Europe - %	58	58	8	0	42
Spain					X

3.4.2 Has your country adopted laws or policies requiring that all In-cell sanitation facilities must be adequately screened? ICCPR 10(1), SMR 12, BOP 1, BPTP 1, ECHR 3, EPR 19.3, *Peers v Greece* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	4	1	9
Total Europe - %	62	54	17	4	38
Spain					X

Analysis

International instrument compliance

Spain has incorporated neither of the 2 commitments relating to hygiene and sanitation have been incorporated into its national law. This includes the legally binding commitment relating to the screening of in-cell sanitation facilities. According to the SPOC however several elements pertaining to these commitments can be found in national law and policy.

25.3.5 Clothing & Bedding

This section focuses on clothing and bedding provisions for prisoners. International legal instruments place a series of obligations on States in respect of the provision of clothing and bedding. The questions in this section are based on these obligations.

3.5.1 Has your country adopted laws or policies to ensure that prisoners are provided with clothing that is suitable for the climate, is not degrading or humiliating and is age appropriate? SMR 17(1), EPR 20.1 & 20.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	10	0	7
Total Europe - %	71	71	42	0	29
Spain					X

3.5.2 Has your country adopted laws or policies requiring each prisoner to be provided with a bed and appropriate bedding and to ensure that all bedding is in good condition, is changed regularly and laundered? SMR 19, EPR 21

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	2	0	6
Total Europe - %	75	71	8	0	25
Spain					X

Analysis

International instrument compliance

No commitments concerning clothing or bedding have been incorporated in Spanish law. However, certain aspects can be found in a number of laws according to the SPOC.

25.3.6 Nutrition

This section focuses on the nutrition requirements of prisoners. International legal instruments place a series of obligations on States in respect of prisoner's nutrition. The questions in this section are based on these obligations.

SPAIN

3.6.1 Has your country adopted laws or policies to ensure that prisoners are provided with a sufficient quantity of nutritious food taking into account their health, physical condition, special dietary requirements, religion and culture? SMR 20(1), EPR 22.1 & 22.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	5	1	4
Total Europe - %	83	83	21	4	17
Spain	X	X			

3.6.2 Has your country adopted laws or policies to ensure that prisoners have access to clean drinking water? SMR 20(2), EPR 22.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	16	5	1	5
Total Europe - %	79	67	21	4	21
Spain	X	X			

Analysis

International instrument compliance

Spain has adopted both commitments on nutrition in its national law.

25.3.7 *Legal advice, info & rights*

This section focuses on the entitlement of prisoners to legal advice and information. International legal instruments place a series of obligations on States in respect of access to legal advice and information. The questions in this section are based on these obligations.

3.7.1 Has your country adopted laws or policies requiring that adequate time and facilities be provided to prisoners to receive professional visits from their legal advisers? BOP 18(2), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	4	1	2
Total Europe - %	92	92	17	4	8
Spain	X	X			

3.7.2 Has your country adopted laws or policies establishing the right of prisoners to communicate with their legal advisers by telephone and by letter? BOP 18(1), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	3	3	3
Total Europe - %	87	83	13	13	13
Spain	X	X			

3.7.3 Has your country adopted laws or policies requiring that communications between a prisoner and his/her legal adviser remain confidential and can only be restricted by law or

judicial authority? ICCPR 17, BOP 18(3) & (4), ECHR 8, EPR 23.4 & 23.5, *Campbell v The United Kingdom* (ECtHR 1992)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	3	1	2
Total Europe - %	92	92	13	4	8
Spain	X	X			

Analysis

International instrument compliance

In common with the majority of other EU Member States, Spain has adopted all commitments relating to the entitlement of prisoners to legal advice and information.

25.3.8 *Contact with the outside world*

25.3.8.1 *Visits*

This section focuses on the entitlement of prisoners to maintain contacts with the outside world. International legal instruments place a series of obligations on states in respect of prisoners' on-going contact with the outside world. The questions in this section are based on these obligations.

3.8.1.1 Has your country adopted laws or policies establishing the right of prisoners to communicate with their family and friends by correspondence and by receiving visits, subject to reasonable conditions/restrictions imposed by law or another authority? ICCPR 23(1), UDHR 16(3), SMR 37, BOP 15 & 19, EPR 24.1 & 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	2	0
Total Europe - %	100	96	29	8	0
Spain	X	X			

3.8.1.2 Has your country adopted laws or policies requiring that visits take place in an environment that enables prisoners to maintain and develop family and other relationships in as normal a manner as is possible subject to the maintenance of good order and security in the prison? SMR 79, EPR 24.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	6	0	2
Total Europe - %	92	88	25	0	8
Spain	X	X			

SPAIN

25.3.8.2 *Searching of visitors*

3.8.2.1 Has your country adopted laws or policies requiring that searching procedures for visitors be undertaken in a manner that respects a person's dignity? SMR 27, BOP 19, EPR 54.1.c, 54.3, 54.4 & 54.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	4	0	7
Total Europe - %	71	63	17	0	29
Spain	X	X			

3.8.2.2 Has your country adopted laws or policies requiring that prison officers only be permitted to search visitors of the same gender? EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	9	1	0	12
Total Europe - %	50	38	4	0	50
Spain	X	X			

25.3.8.3 *Restrictions on visits*

3.8.3.1 Has your country adopted laws or policies requiring the authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party(ies) and to review these circumstances on a regular basis? SMR 27, 79 & 80, EPR 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	0	0	63
Spain					X

3.8.3.2 Has your country adopted laws or policies preventing the withdrawal of contact for female prisoners with their children as a disciplinary action except in exceptional circumstances? SMR 27, 79 & 80, EPR 24.2 & 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	2	0	12
Total Europe - %	50	50	8	0	50
Spain	X	X			

25.3.8.4 *Death, illness & transfer*

3.8.4.1 Has your country adopted laws or policies requiring that prisoners be informed of the death/serious illness of a close relative/ friend without delay? SMR 44(2), EPR 24.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	2	0	13
Total Europe - %	46	42	8	0	54
Spain	X	X			

3.8.4.2 Has your country adopted laws or policies allowing a prisoner to leave the prison to visit a sick relative/friend, attend a funeral or for other humanitarian reasons? SMR 44(2), EPR 24.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Spain	X	X			

3.8.4.3 Has your country adopted laws or policies ensuring that prisoners are allowed to inform their families or other nominated persons without delay of their imprisonment, transfer to another institution or of any serious illness that they may suffer from? SMR 44(1) & (3), BOP 16(1), EPR 24.8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Spain	X	X			

3.8.4.4 Has your country adopted laws or policies requiring the prison authorities to immediately inform the spouse or the nearest relative to the prisoner (or any other person previously nominated), if the prisoner dies in custody, is removed to a hospital or suffers a serious injury/illness? SMR 44(1), EPR 24.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	3	0	6
Total Europe - %	75	75	13	0	25
Spain	X	X			

25.3.8.5 Telephone and letters

3.8.5.1 Has your country adopted laws or policies preventing the monitoring or censoring of telephone calls unless the prisoner or the recipient of the call is informed of the possibility of such monitoring or, such monitoring has been agreed by any lawful authority? ICCPR 17, UDHR 12, SMR 37, BOP 19, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	3	1	5
Total Europe - %	79	79	13	4	21
Spain	X	X			

3.8.5.2 Has your country adopted laws or policies permitting prisoners to send a minimum of 7 letters a week free of charge and more if he/she can afford it, and to receive as many letters as are sent to him/her? SMR 37, BOP 19, EPR 24.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	11	1	0	12

SPAIN

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	50	46	4	0	50
Spain	X	X			

3.8.5.3 Has your country adopted laws or policies preventing the prison authorities from opening prisoners' private correspondence subject to the maintenance of good order and safe and secure custody in the prison? ICCPR 17, UDHR 12, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	1	9
Total Europe - %	62	62	13	4	38
Spain	X	X			

25.3.8.6 *Media*

3.8.6.1 Has your country adopted laws or policies entitling prisoners to be kept informed of current affairs and other developments outside the prison by reading newspapers and periodicals and by listening to radio or television broadcasts (subject to the maintenance of good order and safe and secure custody)? SMR 39, BOP 28, EPR 24.10

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	1	1
Total Europe - %	96	92	21	4	4
Spain	X	X			

Analysis

International instrument compliance

Thirteen of the fourteen commitments relating to prisoners' contact with the outside world have been incorporated into Spanish law. The only commitment that has not been adopted, is the requirement of authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party and to review these circumstances on a regular basis. The SPOC indicates that despite the omission of specific provisions, the right to visitation can never be revoked by disciplinary sanctions.

25.3.9 *Work*

This section focuses on work in prison. International legal instruments place a series of obligations on States in respect of work in prison. The questions in this section are based on these obligations.

3.9.1 Has your country adopted laws or policies requiring work to be incorporated as a positive aspect of prison regimes and prohibiting its use as a form of punishment? SMR 71(1), EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	67	67	17	0	33
Spain	X	X			

3.9.2 Has your country adopted laws or policies requiring that prison work provided should prepare prisoners for worthwhile work on their release and facilitate their reintegration into the workforce? SMR 71(3) & (4), BPTP 8, EPR 26.3 & 26.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	18	7	0	4
Total Europe - %	83	75	29	0	17
Spain	X	X			

3.9.3 Has your country adopted laws or policies entitling prisoners to be remunerated in respect of prison work carried out? ICESCR 7(a), UDHR 23, SMR 76(1), BPTP 8, EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	1	1
Total Europe - %	96	92	13	4	4
Spain	X	X			

Analysis

International instrument compliance

Spain has incorporated all three commitments concerning work in prison in its national law.

25.3.10 *Exercise & recreation*

This section focuses on facilities for exercise and recreation in prison. International legal instruments place a series of obligations on States in respect of exercise and recreational facilities. The questions in this section are based on these obligations.

3.10.1 Has your country adopted laws or policies ensuring that, subject to the constraints of the particular prison and the maintenance of good order and security, prisoners shall be entitled to spend as much time out of their cells as is possible? EPR 25(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
Spain	X	X			

SPAIN

3.10.2 Has your country adopted laws or policies ensuring that prisoners receive at least one hours exercise each day in the open air, weather permitting? SMR 21, EPR 27.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	2	1
Total Europe - %	96	92	21	8	4
Spain	X	X			

3.10.3 Has your country adopted laws or policies ensuring that prisoners shall have access to a well-stocked library at least once a week (subject to the maintenance of good order and safe and secure custody)? R(89)12: 10, EPR 28.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	13	0	0	11
Total Europe - %	54	54	0	0	46
Spain					X

Analysis

International instrument compliance

All commitments relating to exercise and recreation have been incorporated into Spanish law except the one regarding weekly access to a library. The SPOC adds that the existence of a library and the right to visit it, are guaranteed, though no minimum access was established.

25.3.11 Education

This section focuses on facilities for education in prison. International legal instruments place a series of obligations on States in respect of prison education facilities. The questions in this section are based on these obligations.

3.11.1 Has your country adopted laws or policies requiring, as far as practicable, that prisoners have access to educational programmes that can meet their individual needs? ICESCR 13, UDHR 26, SMR 77(1), BPTP 6, R(89)12: 1, EPR 28.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	5	1	1
Total Europe - %	96	96	21	4	4
Spain	X	X			

3.11.2 Has your country adopted laws or policies requiring that education provided in prisons shall be integrated, in so far as is practicable, with national educational systems/programmes enabling prisoners to continue their education following their release? SMR 77(2), R(89)12: 16, EPR 28.7.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	5	0	3
Total Europe - %	87	75	21	0	13
Spain	X	X			

3.11.3 Has your country adopted laws or policies requiring that vocational training be available for those prisoners who are able to benefit from it, particularly young prisoners? SMR 71(5), BPTP 8, R(89)12: 9, EPR 26.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	20	5	0	2
Total Europe - %	92	83	21	0	8
Spain	X	X			

Analysis

International instrument compliance

All commitments relating to education have been incorporated into Spanish law including the legally binding commitment which requires, as far as practicable, that prisoners have access to educational programs that can meet their individual needs access to education.

25.3.12 *Freedom of thought, conscience & religion*

3.12.1 Has your country adopted laws or policies ensuring that prisoners have the opportunity to practice their religion and to follow their beliefs whilst in custody? ICCPR 18(1), CERD 5 (d) (vii), UDHR 18, SMR 42, BPTP 3, EPR 29.1 & 29.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	5	0	0
Total Europe - %	100	96	21	0	0
Spain	X	X			

Analysis

International instrument compliance

In accordance with all the other EU Member States, Spain has adopted the commitment ensuring the prisoner's rights to freedom of thought, conscience and religion.

SPAIN

25.4 Health

25.4.1 Core principles

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.1.1 Has your country adopted laws or policies requiring that primary healthcare services to meet the needs of all prisoners be provided in each prison to a standard equivalent to that available to the community in general? ICESCR 12(1), SMR 22(1), PME 1, R(98)7: 10, 11, 12 & 19, EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	6	0	1
Total Europe - %	96	92	25	0	4
Spain	X	X			

4.1.2 Has your country adopted laws or policies to ensure that where a sick prisoner requires treatment that cannot be provided by the medical staff in the prison he/she shall be transferred to an appropriate hospital without undue delay? SMR 22(2), BPTP 9, R(98)7: 3, EPR 46.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	3	1	2
Total Europe - %	92	88	13	4	8
Spain	X	X			

4.1.3 Has your country adopted laws or policies requiring that medical records be created and accurately maintained on all prisoners and that such records be treated as confidential? BOP 26, R(98)7: 13, EPR 42.3.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	5	0	3
Total Europe - %	87	83	21	0	13
Spain	X	X			

Analysis

International instrument compliance

All commitments relating to the core principles of prison health care have been incorporated into Spanish law including the legally binding commitment regarding the need to ensure that prisoners have access to health care of an equivalent standard to that available in the community in general. Still, a lot of health problems were found among Spanish inmates.

Situation in practice

General prisoner health care was a cause for concern. The Commissioner noted that many inmates had serious health problems, including infectious or contagious diseases such as HIV,

hepatitis B and C, tuberculosis and certain sexually transmitted diseases and, considerable dental problems.

25.4.2 *Women and children*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations

4.2.1 Has your country adopted laws or policies to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor? CEDAW 12, SMR 23, BOP 5(2), R(98)7: 8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	7	3	0	17
Total Europe - %	29	29	13	0	71
Spain					X

4.2.2 Has your country adopted laws or policies requiring that appropriate care be afforded to all pregnant prisoners and nursing mothers? CEDAW 12(2), SMR 23, R(98)7: 8 & 69, EPR 34.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Spain	X	X			

Analysis

International instrument compliance

Spain has adopted one out of two commitments based on international legally binding legal instruments concerning the healthcare of women and children in incarceration. It has not complied to the commitment which ensures that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor.

25.4.3 *Mental health care*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

SPAIN

4.3.1 Has your country adopted laws or policies requiring that prisoners with mental health difficulties be entitled to care appropriate to their circumstances, commensurate to the type of care available for people with similar mental health difficulties in the community? SMR 22(1), PPPMI 1 & 20, R(98)7:10, 11 & 52, R(2004)10: 35(1) & (2), EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	4	0	3
Total Europe - %	87	79	17	0	13
Spain	X	X			

4.3.2 Has your country adopted laws or policies to ensure that prisoners who require psychiatric in-patient care are transferred to a suitable hospital facility of an appropriate security level without undue delay? SMR 22(2), PPPMI 9(1) & 20, R(98)7: 3 & 55, R(2004)10: 8, 9(1) & 35(1), EPR 12(1) & 46(1)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	3	0	6
Total Europe - %	75	71	13	0	25
Spain					X

Analysis

International instrument compliance

In contrast to most other EU Member States, Spain has not incorporated the commitment ensuring prisoners who require psychiatric in-patient care, are transferred to a suitable hospital facility without unduly delay. Despite the fact that the commitment under question 4.3.1 regarding access to adequate mental health care similar to the care outside of prison, has been adopted, problems in practice can still be noted.

Situation in practice

Wide varieties in the quality of psychiatric care available in prisons were reported by the European Commissioner of Human Rights who recommended that mechanisms for the provision of proper psychiatric care in each prison and a network of specialist establishments for the most difficult cases where the patient could not remain within the ordinary prison regime be established.

25.4.4 Vulnerable prisoners

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.4.1 Has your country adopted laws or policies requiring that prisoners assessed as vulnerable be accommodated in areas of the prison which are most convenient and appropriate for their monitoring and treatment by the medical personnel and other relevant agencies? SMR 22(2) & 62, EPR 12.2, 39, 43.1, 46.2, 47.1 & 47.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	3	0	8
Total Europe - %	67	63	13	0	33
Spain	X	X			

4.4.2 Has your country adopted laws or policies requiring that prisoners assessed as being at risk of suicide/self-harm be continuously monitored by both medical and prison staff throughout the prisoner's time in custody and that records are kept of such monitoring? R(98)7: 58, EPR 47(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	5	0	14
Total Europe - %	42	29	21	0	58
Spain					X

4.4.3 Has your country adopted laws or policies requiring that prisoners detained in a special cell be visited daily, and as frequently as is necessary by a doctor who shall, inter alia, monitor his/ her physical and mental health? SMR 25(1) & 32(3), R(98)7: 66, EPR 43.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Spain	X	X			

Analysis

International instrument compliance

Two out of three commitments concerning vulnerable prisoners has been incorporated in Spanish law. Evidence of shortcomings pertaining to this category of prisoners exists.

Situation in practice

The Commissioner also expressed concern regarding the level of suicides within the Spanish prison system. Although recognising that it was difficult to establish a causal link between conditions of detention and the number of suicides, he emphasised that the deficiencies in psychiatric care for prisoners, the stringent policies applied (with emphasis on full serving of sentences and a crackdown on granting of prison privileges) and a form of social pressure exerted by other prisoners on those convicted of certain offences could help to explain this worrying state of affairs. On-going concerns relating to the number of suicides in prison were also highlighted by the UN Committee Against Torture in 2009 who, whilst recognising that the Suicide Prevention Programme established by the Directorate-General of Correctional Institutions had helped to lower the number of deaths, also found the number of suicides in prisons to be unacceptably high.

SPAIN

25.4.5 *Medical & health care personnel*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.5.1 Has your country adopted laws or policies to ensure that every prisoner has access to appropriately qualified medical personnel in the prison at all times? SMR 24, BOP 24, R(98)7:1, 2 & 4, EPR 41.2 & 41.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
Spain	X	X			

Analysis

International instrument compliance

In common with the majority of EU Member States, the commitment ensuring that every prisoner has access to appropriately qualified medical staff has been adopted in Spain.

25.4.6 *Prisoners with addiction problems*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.6.1 Has your country adopted laws or policies to ensure that prisoners with addiction problems have access to appropriate treatment and support services, including those from external agencies? SMR 62, R(98)7: 7, 43, 44, 45, 46 & 47, EPR 42.3.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	8	0	3
Total Europe - %	88	79	33	0	13
Spain	X	X			

Analysis

International instrument compliance

Spain has incorporated a commitment on the right to access to appropriate treatment for prisoners with addiction problems.

Situation in practice

The high percentage of prisoners with drug addiction problems was also emphasised although the Commissioner recognised that heroin consumption and the use of syringes had

decreased. The Commissioner also praised the various drug rehabilitation and severance programs but noted that drug trafficking remained a routine fact of life in many prisons.

25.4.7 *Hunger strikes*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.7.1 Has your country adopted laws or policies forbidding the practice of forced feeding of hunger strikers? DOMHS, R(98)7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	37	21	21	0	63
Spain					X

Analysis

International instrument compliance

Spain has not incorporated the commitment prohibiting forced feeding of hunger strikers. See comments of SPOC and situation in practice.

Situation in practice

As indicated above, one of the CPT's 2007 visits to Spain related to information received concerning a prisoner on hunger strike and hospitalised in the Doce de Octubre Hospital in Madrid who was being fed against his will by naso-gastric tube following an authorisation from the competent judicial authorities. According to some reports, he was attached by his hands and feet to the hospital bed for this purpose. The CPT requested the Spanish authorities to provide a full account of all the measures taken in respect of the management of the prisoner's hunger strike. In assessing the situation, the Committee asserted that State authorities have a duty of care with respect to persons in their custody. Such a duty of care includes the protection of a detained person's life, including the prevention of suicide and of any other act by the person concerned likely to cause death or irreversible physical damage. Therefore, a decision to feed a prisoner on hunger strike against his will can in principle be justified in order to prevent the prisoner from suffering irreversible physical damage or death. Such interventions must, however, be based upon medical necessity and should be carried out under suitable conditions that reflect the medical nature of the measure. Furthermore, the decision-making process should follow an established procedure, which contains sufficient safeguards, including independent medical decision-making. Also, legal recourse should be available and all aspects of the implementation of the decision should be adequately monitored. After consideration of all the issues in question, the CP was of the view that the various actors responsible for implementing the decision to force-feed the prisoner had acted accordance with the principles outlined above.

SPAIN

25.5 Good order

25.5.1 General approaches

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.1.1 Has your country adopted laws or policies requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody? R(82)17: 8, EPR 51.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	0	9
Total Europe - %	62	62	13	0	38
Spain	X	X			

Analysis

International instrument compliance

Commitment is incorporated in Spanish law.

25.5.2 Safety & Security

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.2.1 Has your country adopted laws or policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat? EPR 51.5, 53.1 & 53.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	63	63	17	0	37
Spain	X	X			

Analysis

International instrument compliance

Commitment is incorporated in Spanish law.

25.5.3 Searching of prisoners

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.3.1 Has your country adopted laws or policies requiring that searches conducted on prisoners be carried out with due regard to the prisoner's dignity? ICCPR 10(1), BPTP 1, EPR 54.3 & 54.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	0	1
Total Europe - %	96	92	13	0	4
Spain	X	X			

5.3.2 Has your country adopted laws or policies stipulating that prisoners may only be searched by a staff member of the same gender? ICCPR 10(1), BPTP 1, EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	1	0	1
Total Europe - %	96	92	4	0	4
Spain	X	X			

5.3.3 Has your country adopted laws or policies stipulating that prisoners may only be subjected to a strip search in exceptional circumstances and for good reason and then, only in the presence of two officers in an appropriate place which ensures privacy? ICCPR 10(1), BPTP 1, EPR 54. 3, 54.4 & 54.6, *Van der Van v The Netherlands* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	3	1	13
Total Europe - %	66	54	13	4	54
Spain					X

Analysis

International instrument compliance

Two out of three commitments based on legally binding international instruments have been adopted. The commitment concerning the exceptional use of the strip search however, has not been adopted.

25.5.4 Criminal acts, discipline & punishment

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

SPAIN

5.4.1 Has your country adopted laws or policies stipulating that all inquiries into breach of prison discipline or rules shall be conducted in an independent and impartial manner? ICCPR 14(1), UDHR 10, ECHR 6(1), *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	2	1	8
Total Europe - %	67	63	8	4	33
Spain	X			X	

5.4.2 Has your country adopted laws or policies requiring that all incidents of bullying/violence/threatening behaviour between prisoners, and any breach of discipline be reported to an officer of a higher rank, duly recorded and properly investigated? EPR 52.2 & 58

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	62	62	17	0	38
Spain					X

5.4.3 Has your country adopted laws or policies stipulating that when a prisoner has been charged with a disciplinary offence he/she shall be promptly informed of the allegation made against him/her in a language that he/she understands? ICCPR 14(3)(a), CERD 5(a), SMR 30(2), ECHR 6(3)(a), EPR 59.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	3	0	7
Total Europe - %	71	71	13	0	29
Spain					X

5.4.4 Has your country adopted laws or policies stipulating if an inquiry is being conducted into a breach of prison discipline or rules the prisoner shall have adequate time to prepare his/her defence and/or to receive legal assistance? ICCPR 14(3)(b) & (d), SMR 30(2), ECHR 6(3)(b) & (c), EPR 59.b & 59.c, *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	2	0	9
Total Europe - %	62	58	8	0	38
Spain	X	X			

5.4.5 Has your country adopted laws or policies stipulating that in any disciplinary proceedings prisoners must understand the proceedings and if necessary, appropriate interpretation facilities must be provided? ICCPR 14(3)(f), SMR 30(3), ECHR 6(3)(e), EPR 59.e

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
Spain					X

5.4.6 Has your country adopted laws or policies stipulating that no prison officer shall impose a punishment/penalty/deprivation on a prisoner without due process and in accordance with law and/or relevant rules or instruments? EPR 57.2.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	2	0	4
Total Europe - %	83	83	8	0	17
Spain	X	X			

5.4.7 Has your country adopted laws or policies stipulating that if a prisoner is found guilty of a disciplinary offence, he/she shall be entitled to exercise his/her right of appeal to an independent and impartial tribunal established by law? ICCPR 14(5), BOP 30(2), EPR 61

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	1	0	5
Total Europe - %	79	79	4	0	21
Spain	X	X			

5.4.8 Has your country adopted laws or policies requiring that when a prisoner is detained in any type of special cell (special observation/cladded/strip) he/she shall be regularly monitored by a prison officer? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	3	0	7
Total Europe - %	71	67	13	0	29
Spain	X	X			

5.4.9 Has your country adopted laws or policies requiring that a detailed record be maintained of, inter alia, the monitoring of such prisoners, their expressed requirements, actions taken in response to such requests and details of visits by officers or others to such prisoners? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	8	8	2	0	16
Total Europe - %	33	33	8	0	67
Spain					X

5.4.10 Has your country adopted laws or policies to ensure that prisoners in a special cell are able to contact a member of staff at all times, including during the night and that a staff member shall respond without delay? ICCPR 6(1), EPR 18.2.c & 52.4, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	4	0	63
Spain					X

SPAIN

Analysis

International instrument compliance

Spain has adopted five of the ten commitments arising from international legal instruments which relate to prison disciplinary procedures. This includes the legally binding commitment requiring that when a prisoner is detained in any type of special cell he/she shall be regularly monitored by a prison officer. The commitment stipulating that all inquiries into breach of prison discipline or rules shall be conducted in an independent and impartial manner and the one ensuring appropriate interpretation facilities be provided, have not been adopted.

Situation in practice

The Commissioner drew attention to incidents at Quatre Camíns prison in Catalonia in April 2004. Those incidents were preceded by a major disturbance led by a number of prisoners, in which the Deputy Governor and other prison officers were seriously hurt. Subsequently, prison officers inflicted various injuries on 28 prisoners being transferred to other prisons. More precisely, on learning of the attack on their colleagues, a group of prison officers not on duty went to the prison, breaking all the rules, and apparently formed a human corridor through which the transferred prisoners were obliged to pass, thereby being subjected to the ill-treatment complained of. The Department of Justice of the Catalanian Generalitat carried out an internal investigation during which various prison officers were questioned but it proved impossible to identify those physically responsible for the ill-treatment.

25.5.5 Use of force/weapons

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.5.1 Has your country adopted laws or policies stipulating that members of staff will use force only when absolutely necessary and that any force used shall be proportionate to the situation? SMR 54(1), CCLEO 3, BPUF 4, EPR 64 & 6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	4	1	3
Total Europe - %	87	87	17	4	13
Spain	X	X			

Analysis

International instrument compliance

The commitment on the use of force/weapons has been adopted.

25.5.6 Requests & complaints

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.6.1 Has your country adopted laws or policies to ensure that prisoners have sufficient opportunity to make requests or complaints to the Governor of the prison or to any other competent authority? SMR 36(1) & (3), BOP 33(1), EPR 70.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	3	0	1
Total Europe - %	96	96	13	0	4
Spain	X	X			

5.6.2 Has your country adopted laws or policies establishing the right of a prisoner's legal advisor or to make a request or a complaint regarding that prisoner's treatment to the prison authorities, or other relevant authorities? BOP 33 (1) & (2), EPR 70.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	1	0	6
Total Europe - %	75	75	4	0	25
Spain					X

5.6.3 Has your country adopted laws or policies requiring that all complaints be promptly investigated in accordance with law? SMR 36(4), BOP 33(4)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	2	0	7
Total Europe - %	71	67	8	0	29
Spain					X

5.6.4 Has your country adopted laws or policies to ensure that where a request is denied or a complaint is rejected, the prisoner is informed promptly as to the reason(s) for such denial or rejection? SMR 36(4), BOP 33(4), EPR 70.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	2	1	7
Total Europe - %	71	63	8	4	29
Spain	X			X	

5.6.5 Has your country adopted laws or policies to ensure that prisoners are not disadvantaged for exercising their rights to make requests or complaints? BOP 33(4), EPR 70.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	3	0	13

SPAIN

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	46	42	13	0	54
Spain	X	X			

5.6.6 Has your country adopted laws or policies requiring that complaints made by members of staff against other members of staff be properly recorded and investigated in accordance with the law? EPR 88 & 87.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	11	3	0	11
Total Europe - %	54	46	13	0	46
Spain					X

Analysis

International instrument compliance

Three out of six commitments has been incorporated in Spanish law. Omissions include different aspects of the investigation of complaints and requests and establishing the right of a prisoner's legal advisor or to make a request or a complaint regarding that prisoner's treatment to the prison authorities.

25.6 Management & Staff

25.6.1 Training of staff

This section focuses on the staff training and prison management. International legal instruments place a series of obligations on States in respect of the training and management of prison staff. The questions in this section are based on these obligations.

6.1.1 Has your country adopted laws or policies to ensure that all prison staff receive appropriate training at regular intervals throughout their career? SMR 47(3), EPR 8, 76 & 81.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	14	7	0	5
Total Europe - %	79	58	29	0	21
Spain	X		X		

6.1.2 Has your country adopted laws or policies to ensure that members of staff who work with particular groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, receive training particular to their individual work? R(82)17: 10, R(2004)10: 12(1), EPR 81.3, ERJO 129

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	38	21	21	0	62
Spain	X		X		

Analysis

International instrument compliance

Both commitments regarding training of staff have been incorporated.

25.7 Inspection & Monitoring

25.7.1 Governmental Inspection

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.1.1 Has your country adopted laws or policies requiring that prisons be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law? SMR 55, EPR 92, R(2004)10 36.1, ERJO 125, PPPMI 22

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	19	4	0	4
Total Europe - %	83	79	17	0	17
Spain	X	X			

Analysis

International instrument compliance

In accordance with the majority of other EU Member States, Spain has adopted the commitment on governmental inspection in prisons.

25.7.2 Independent monitoring

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.2.1 Has your country adopted laws or policies requiring that the conditions of detention and the treatment of prisoners shall be also monitored by an independent body or bodies, comprised of qualified experienced personnel, and whose findings shall be made public? OPCAT 3, 17, 18, 19, BOP 29.1, EPR 93.1, R(2004)10 36.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
Spain	X	X			

SPAIN

7.2.2 Has your country adopted laws or policies granting such an independent body open access to places of detention, to prisoners and others whom it wishes to interview? OPCAT 19, 20, CPT 8,9 BOP 29.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	3	1	9
Total Europe - %	62	58	13	4	38
Spain					X

7.2.3 Has your country adopted laws or policies encouraging such independent bodies to cooperate with those international agencies that are legally entitled to visit prisons? CPT 2,7 EPR 93.2, ERJO 126.

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	6	1	0	17
Total Europe - %	29	25	4	0	71
Spain					X

Analysis

International instrument compliance

Spain has incorporated one of the two commitments regarding independent monitoring. See comments SPOC above and situation in practice.

Situation in practice

Spain has signed and ratified the OP-CAT. On 15 October 2009, the Spanish Ombudsperson's Office was designated as NPM. The functions of NPM will be delegated to the Deputy Ombudsperson, who will also preside over a Consultative Council which will cooperate with the NPM on technical and legal matters. During its consideration of Spain's periodic report, the UN Committee Against Torture emphasised that Spain needed to ensure that the Ombudsman had sufficient human, material and financial resources to discharge his prevention mandate throughout the country independently and effectively. The Committee also asked Spain to ensure that the Consultative Council had a clear jurisdiction and role and that the relationship between the national preventive mechanism and the Council was clearly defined. The Committee further encouraged the Spain to have members of the Council selected through a process that is public and transparent and to include on the Council recognised experts in various areas pertaining to the prevention of torture, including representatives of civil society.

25.8 Sentenced Prisoners

This section focuses on the particular provisions relating to convicted prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

8.1.1 Has your country adopted laws or policies requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan? ICCPR 10(3), SMR 80, EPR 6, 103.2 & 103.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	6	2	4
Total Europe - %	83	83	25	8	17
Spain	X	X			

8.1.2 Has your country adopted laws or policies requiring that a sentence management plan be prepared for each prisoner serving a sentence of 12 months or over as soon as practicable after their admission? It should provide for, inter alia, the welfare and health needs of the prisoner, training, employment or education needs he/she may have, and include a release plan for the prisoner. This plan shall be reviewed at regular intervals to take into account the changing circumstances of the prisoner. SMR 65, 66 & 69, R(2003)23: 3 & 9, EPR 6, 103 & 104.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	5	0	10
Total Europe - %	58	54	21	0	42
Spain	X	X			

Analysis

International instrument compliance

All commitments have been incorporated.

25.9 Juveniles

This section focuses on the particular provisions relating to juvenile prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

9.1.1 Has your country adopted laws or policies requiring that juveniles be detained separately from adult offenders? ICCPR 10(3), CRC 37(c), BR 26.3, RPJDL 29, EPR 11.1, ERJO 59.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	1	3
Total Europe - %	87	87	13	4	13
Spain	X	X			

9.1.2 Has your country adopted laws or policies to ensure that, subject to reasonable conditions and restrictions, a sentenced prisoner under the age of 18 shall be entitled to receive a minimum of two weekly visits? CRC 37(c), SMR 37, BOP 19, RPJDL 60, ERJO 83, 84, 85.1 & 85.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	6	3	0	15

SPAIN

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - %	37	25	13	0	63
Spain	X	X			

Analysis

International instrument compliance

All commitments regarding juveniles have been adopted.

25.10 Sentence Execution Modalities

This section of the questionnaire is designed to collate information on the differing methods by which custodial sentences and measures involving deprivation of liberty are enforced across EU Member States.

10.1.1. Which of the following modalities of prison sentence execution are provided for in the law of your country?

	Weekend detention	Evening detention	Daytime detention	Home detention	
				no electronic monitoring	electronic monitoring
EUROPE	9 = 38%	10 = 42%	3 = 13%	6 = 25%	14 = 58%
Spain	X	X		X	X

10.1.2. What is the maximum period for which home detention with electronic monitoring can be imposed?

	Under 12 months	12-24 months	25 months - 36 months	37 months - 50 months	More than 50 months
EUROPE	7 = 29%	4 = 17%	0 = 0%	1 = 4%	2 = 8%
Spain	X				

10.2.1. In which of the following locations can custodial sentences or measures involving deprivation of liberty be imposed?

	Penitentiary institution	Psychiatric institution	Detoxification institution	Educational institution	Home
EUROPE	24 = 100%	20 = 83%	10 = 42%	7 = 29%	12 = 50%
Spain	X	X	X		X

Analysis

Sentence execution modalities

In Spain, the additional sentence execution modalities consist of weekend detention, evening detention, home detention with and without electronic monitoring. Such electronic monitoring can be used for a period up to twelve months. Custodial sentences or measures involving

deprivation of liberty can be imposed in penitentiary institutions, psychiatry and detoxification institutions and also at home. According to the SPOC, juveniles can serve their sentence in an educational setting in certain circumstances.

25.11 Early release from prison, earned remission and suspension of sentence

25.11.1 Early release

Early release means the release of the offender before their prison term is finished. It is possible only while the sentence is still being served. Early release does not include the suspended enforcement of a penalty which is dealt with later in this questionnaire.

11.1.2.1. Has your country adopted laws and regulations under which prisoners are entitled to early release from prison ?

	Yes	No
EUROPE	24 = 100%	0 = 0%
Spain	X	

11.1.2.2. At what point in a prisoner's sentence do they become eligible for early release?

	One third of sentence or less	One third to one half of a sentence	One half to three quarters of a sentence	More than three quarters of a sentence	Other
EUROPE	2 = 8%	1 = 4%	7 = 29%	0 = 0%	14 = 58%
Spain					X

11.1.2.2. Does your country have different regulations for the early release of prisoners based on:

	A prisoner's nationality (non-EU citizen)	A prisoner's nationality (EU citizen)	The length of sentence imposed
EUROPE	Yes - 3 = 12% No - 21 = 88%	Yes - 3 = 12% No - 21 = 88%	Yes - 24 = 100% No - 0 = 0%
Spain	Y	Y	Y

11.1.2.3. Are provisions governing the early release of prisoners automatic or discretionary?

	Automatic (prisoners are automatically released at a certain point in their sentence)	Discretionary (prisoners are only released following assessment)
EUROPE	Yes - 7 = 29% No - 17 = 71%	Yes - 20 = 83% No - 4 = 17%
Spain	Y	N

SPAIN

11.1.2.4. What factors are taken into consideration when deciding whether a prisoner will be granted early release?

	The circumstances surrounding the crime	Prior criminal record	The offender's progress during imprisonment	Assessment as to whether the prisoner is likely to reoffend	Recommendation from the sentencing judge
EUROPE	Yes - 24 = 50% No - 24 = 50%	Yes - 15 = 63% No - 9 = 37%	Yes - 22 = 92% No - 2 = 8%	Yes - 19 = 79% No - 5 = 21%	Yes - 4 = 17% No - 20 = 83%
Spain	N	N	Y	Y	N

11.1.3.1. What forms of monitoring and conditions can be applied to prisoners' early release?

1. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
2. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
4. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
5. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
6. Electronic monitoring
7. Weekend/evening /daytime detention
8. Requirement containing limitations on leaving the country
9. Requirement to leave the country
10. Requirement to pay compensation
11. Requirement to undertake community service
12. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	Other
EUROPE	Y - 83 N - 17	Y - 8 N - 92	Y - 58 N - 42	Y - 62 N - 38	Y - 33 N - 77	Y - 25 N - 75	Y - 13 N - 87	Y - 42 N - 58	Y - 21 N - 79	Y - 29 N - 71	Y - 21 N - 79	9
Spain	Y	N	Y	N	Y	N	N	N	Y	N	N	X

25.11.2 Sentence reduction as a result of prison work

11.2.1.1. Can a prisoner earn remission on their sentence as a result of work carried out in prison?

	Yes	No
EUROPE	9= 38%	15 – 62%
Spain		X

25.11.3 Suspension of sentence enforcement

11.3.1. Does the national law of your country make provision for the further execution of a prison sentence to be suspended during the course of the sentence?

	Yes	No
EUROPE	10=42%	14= 58%
Spain		X

11.3.2.1. What factors are taken into consideration when deciding whether a prisoner will have the further execution of their prison sentence suspended?

1. The circumstances surrounding the crime
2. Prior criminal record
3. The offender's progress during imprisonment
4. Assessment as to whether the prisoner is likely to reoffend
5. Recommendation from the sentencing judge
6. Suitability of home circumstances
7. Information from victim(s)
8. Willingness of the prisoner to leave the country upon release
9. The prisoner will be deported upon release
10. Other – please specify

	1	2	3	4	5	6	7	8	9	Other
EUROPE	Y - 8 N - 92	Y - 13 N - 78	Y - 17 N - 83	Y - 21 N - 79	Y - 0 N - 100	Y - 4 N - 96	Y - 0 N - 100	Y - 0 N - 100	Y - 0 N - 100	21
Spain	N	N	N	N	N	N	N	N	N	

11.3.3.1. What forms of monitoring and conditions can be applied to prisoners whose further execution of a prison sentence has been suspended?

1. Unconditional supervision
2. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
4. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)

SPAIN

5. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
6. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
7. Electronic monitoring
8. Weekend/evening /daytime detention
9. Requirement containing limitations on leaving the country
10. Requirement to leave the country
11. Requirement to pay compensation
12. Requirement to undertake community service
13. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	12	Other
EUROPE	Y - 4 N - 96	Y - 38 N - 62	Y - 4 N - 96	Y - 29 N - 71	Y - 17 N - 83	Y - 17 N - 83	Y - 4 N - 96	Y - 4 N - 96	Y - 21 N - 79	Y - 0 N - 100	Y - 17 N - 83	Y - 4 N - 96	2
Spain	N	N	N	N	N	N	N	N	N	N	N	N	

Analysis

Early release from prison, earned remission and suspension of sentence

In common with all EU countries, Spain has adopted measures under which prisoners are entitled to early release from prison. Prisoners generally become eligible for early release after three quarters of their sentence. However, there are several exceptions (see 11.1.2.1 above). Early release depends both on the length of sentence imposed and on the nationality of the prisoner. The Spanish early release system is based on automatic provisions although certain requirements must always be fulfilled. Decisions on a prisoner's early release are based on four of the ten criteria identified. Once a prisoner is granted early release, five of the twelve forms of monitoring or conditions identified, can be attached. No possibility exists in Spanish law for prisoners to be granted remission as a result of work carried out in prison. Neither is provision made for the further execution of a prison sentence to be suspended during the course of the sentence.

Appendix

1. Constitucion 1978
2. Instruccion 4 2005
3. Instruccion 4 2006
4. Instruccion 6 2006
5. Instruccion 9 2007
6. Ley Organica General Penitenciaria 1979
7. Programa prevencion de suicidios Instruccion 14 2005
8. RD 1774 2004 reglamento LO 5 2000 responsabilidad penal de menores
9. Real Decreto 782 2001 Trabajo penitenciario
10. Reglamento penitenciario 1996

26 United Kingdom

26.1 Introduction

The questionnaire was completed by Professor Andrew Coyle, Director of the International Centre for Prison Studies at Kings College University, London assisted by Helen Fair.

England and Wales was visited by the Committee for the Prevention of Torture five times recently (twice in 2010 ((reports unpublished)), 2008, 2007 and 2005) and by the European Commissioner for Human Rights once (2005). Additional information has been sourced from Amnesty International's 2007 Country Report for the United Kingdom and 2009 UNHCR Country Report on Human Rights Practices for the United Kingdom (drawing on source material provided by the US Department of State) and the International Centre for Prison Studies

Country	UNITED KINGDOM: ENGLAND & WALES
Ministry responsible	Ministry of Justice
Prison administration	Her Majesty's Prison Service/National Offender Management Service (NOMS)
Contact address	Cleland House, Page Street, London SW1P 4LN, England
Telephone/fax/website	tel: +44 207 217 6000 +44 207 217 6000 fax: +44 207 217 6961 Web: www.hmprisonservice.gov.uk
Head of prison administration (and title)	Michael Spurr Director General/Chief Executive
Prison population total (including pre-trial detainees / remand prisoners)	84,529 at 27.5.2011 (MoJ - not including juveniles in Secure Training Centres and Local Authority Secure Children's Homes)
Prison population rate (per 100,000 of national population)	152 based on an estimated national population of 55.49 million at end of May 2011 (from Office for National Statistics figures)
Pre-trial detainees / remand prisoners (percentage of prison population)	14.4% (31.3.2011 - 9.7% untried, 4.7% convicted unsentenced)
Female prisoners (percentage of prison population)	4.9% (27.5.2011)
Juveniles / minors / young prisoners incl. definition (percentage of prison population)	1.8% (31.3.2011 - under 18. In addition to these 1,572 juveniles, a further 273 were being held in Secure Training Centres and 157 in Local Authority Secure Children's Homes)
Foreign prisoners (percentage of prison population)	12.6% (31.3.2011 - the nationality of an additional 2% was unrecorded)

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Number of establishments / institutions	140 -2010
Official capacity of prison system	77,286 (25.3.2011 - certified normal accommodation in use)
Occupancy level (based on official capacity)	110% (25.3.2011)
Recent prison population trend (year, prison population total, prison population rate)	1992 45,817 (90) 1995 51,047 (100) 1998 65,298 (126) 2001 66,301 (127) 2004 74,657 (141) 2007 80,395 (149) 2010 84,725 (154)

26.2 Overarching Principles

This section focuses on the overarching principles governing the management of prisons and the treatment of prisoners. International legal instruments place a series of obligations on States in respect of the management of prisons and the treatment of prisoners. The questions in this section are based on these obligations.

2.1.1 Has your country adopted laws or policies specifically requiring that prisoners must be treated with respect for their human rights? ICCPR 10(1), UDHR 1, BOP 1, BPTP 1, EPR 1 & 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	19	7	1	2
Total Europe – %	92	79	29	4	8
United Kingdom					X

2.1.2 Has your country adopted laws or policies specifically requiring prisons to be managed in accordance with human rights standards? EPR 72.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	21	18	4	3	3
Total Europe – %	88	75	16	13	12
United Kingdom					X

2.1.3 Has your country adopted laws or policies explicitly prohibiting practices that could constitute torture, inhumane or degrading treatment or punishment of prisoners? ICCPR 7, BOP 6, ECHR 3, *Kalashnikov v Russia* (ECtHR 2003)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe – no.	22	21	1	3	2
Total Europe – %	92	88	4	12	8
United Kingdom					X

2.1.4 Has your country adopted laws or policies specifically requiring that prisoners be provided with a range of activities during their sentence (for example - educational, recreational, work/training and welfare programmes)? SMR 77 & 78, BOP 28, BPTP 6 & 8, EPR 25

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	0	0
Total Europe - %	100	96	29	0	0
United Kingdom	X	X	X		

Analysis

International instrument compliance

The United Kingdom (England & Wales) is unusual amongst European Union member states in that it has not adopted any of the commitments requiring prisoners to be treated with respect for their human rights or that its prisons should be run in accordance with international human rights standards. Similarly, no provisions have been adopted forbidding conduct which could constitute torture, inhumane or degrading treatment or punishment of prisoners.

26.3 Conditions Of Imprisonment

26.3.1 Admission

This section focuses on the treatment of prisoners upon their admission to prison. International legal instruments place a series of obligations on States in respect of prisoner admission. The questions in this section are based on these obligations.

3.1.1 Has your country adopted laws or policies requiring that all prisoner details are recorded at the time of committal including, inter alia, details of any visible injuries and the prisoner's personal belongings? SMR 7(1), EPR 15.1, 31.1, 31.2 & 31.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	7	1	7
Total Europe - %	71	63	29	4	29
United Kingdom	X	X			

3.1.2 Has your country adopted laws or policies requiring that upon admission, each prisoner is given a booklet outlining his/her rights, duties, obligations and privileges and the rules and regulations governing the prison which apply to the individual prisoner? The booklet shall be written in a language that the prisoner understands. CERD 7, SMR 35, BOP 13, EPR 30

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	6	1	6
Total Europe - %	63	54	25	4	25
United Kingdom	X	X	X		

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3.1.3 Has your country adopted laws or policies requiring that upon admission, every prisoner shall undergo a medical examination either by a nurse reporting to a doctor or by a doctor? SMR 24, BOP 24, R(98)7: 1, EPR 42.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	20	6	1	1
Total Europe - %	96	83	25	4	4
United Kingdom	X		X		

3.1.4 Has your country adopted laws or policies requiring the doctor/nurse to pay particular attention to the detection of injuries, mental illnesses, of withdrawal symptoms resulting from the use of drugs, medication or alcohol, of contagious and chronic conditions, and, to assess the prisoner's suicide/self-harm risk? SMR 24, R(98)7: 1, EPR 42.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	10	8	1	9
Total Europe - %	62	42	33	4	38
United Kingdom	X		X		

3.1.5 Has your country adopted laws or policies requiring injuries detected during such an examination to be noted and an opinion expressed as to whether such injuries are consistent with any allegations/complaints made by the individual prisoner? EPR 15.1.e & 42.3.c

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	5	4	1	17
Total Europe - %	29	21	17	4	71
United Kingdom					X

3.1.6 Has your country adopted laws or policies requiring upon admission that each prisoner be assessed to determine whether he/she poses a safety risk to other prisoners or staff, or whether they pose a threat to themselves? ICCPR 6, UDHR 3, ECHR 2, R(2003)23: 12, EPR 52.1, *Keenan v The United Kingdom* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	5	1	13
Total Europe - %	46	42	21	4	54
United Kingdom	X		X		

3.1.7 Has your country adopted laws or policies requiring that such risks be managed for the duration of the prisoner's sentence? ICCPR 6, UDHR 3, ECHR 2, EPR 52.2, *Osman v The United Kingdom* (ECtHR 2000)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	3	1	12
Total Europe - %	50	50	13	4	50
United Kingdom					X

Analysis

International instrument compliance

The United Kingdom (England & Wales) has adopted five of the seven commitments relating to prison admissions including the legally binding commitments stipulating that prisoners must be given a booklet outlining their rights and the rules of the institutions in which they will be housed and requiring that prisoners must be assessed to ascertain if they pose a risk either to themselves or to others. The legally binding commitment requiring such risks to be managed for the duration of a prisoner's sentence has not, however, been adopted. This is somewhat surprising as the ECtHR jurisprudence to which it relates arose from a judgement in a case concerning the United Kingdom.

Situation in practice

The CPT commended the practice of appointing a dedicated "foreign national" prison officer in each prison who could meet and provide advice for each new foreign prisoner. It also highlighted that new prisoners were immediately screened by a nurse upon arrival; however, checks on prisoners transferred from other establishments were frequently neglected.

26.3.2 Allocation

This section focuses on the allocation of prisoners to a particular prison. International legal instruments place a series of obligations on States in respect of prisoner allocation. The question in this section is based on these obligations.

3.2.1 Has your country adopted laws or policies requiring prisoners to be assigned to a prison as near to their home area as possible in order to maintain relationships with families and friends, subject to the maintenance of good order and security? BOP 20, EPR 17.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	15	6	1	5
Total Europe - %	79	63	25	4	21
United Kingdom	X		X		

Analysis

International instrument compliance

The United Kingdom (England & Wales) has adopted the commitment requiring prisoners to be assigned to a prison as near to their home as possible albeit that this proviso has no basis in law.

26.3.3 Accommodation

This section focuses on the living conditions of prisoners. International legal instruments place a series of obligations on States in respect of the accommodation of prisoners. The questions in this section are based on these obligations.

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3.3.1 Has your country adopted laws or policies requiring that where possible prisoners should have individual cells to sleep in? SMR 9(1), EPR 18.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	3	0	10
Total Europe - %	58	54	13	0	42
United Kingdom					X

3.3.2. Has your country adopted laws or policies stipulating that prisoners who are required to share cells be carefully selected and assessed as suitable for sharing accommodation? ICCPR 6(1), UDHR 3, SMR 9(2), ECHR 2, EPR 18.6 & 18.7, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	4	0	14
Total Europe - %	42	29	17	0	58
United Kingdom	X		X		

3.3.3 Has your country adopted laws or policies requiring that the size of a cell must be suitable for its purpose? The suitability of the cell size should be dependent on the number of hours spent in the cell, the number of prisoners accommodated in the cell and the availability of in cell-sanitation facilities that ensure privacy. SMR 9, 10, 11 & 12, EPR 18 & 19.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	8	2	1	15
Total Europe - %	37	33	8	4	63
United Kingdom					X

3.3.4 Has your country adopted laws or policies requiring that cells should not be used to accommodate more prisoners than the intended design capacity, unless justified in exceptional circumstances? SMR 9(1) & 10, EPR 18.1, 18.3, 18.4 & 18.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
United Kingdom	X	X	X		

3.3.5 Has your country adopted laws or policies requiring that cells be suitable for accommodating prisoners in respect of size, lighting, heating, ventilation and fittings? SMR 9, 10, 11, 12 & 13, EPR 18

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	16	4	0	6
Total Europe - %	75	67	17	0	25
United Kingdom	X	X	X		

3.3.6 Has your country adopted laws or policies requiring that all prisoners have in-cell access to a working alarm bell that attracts the attention of staff at all times? ICCPR 6(1), UDHR 3, ECHR 2, EPR 18.2.c & 52.4, IPR 18(4), *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	13	2	0	4
Total Europe - %	83	54	8	0	17
United Kingdom	X		X		

Analysis

International instrument compliance

The United Kingdom (England & Wales) has incorporated four of the six commitments regarding the accommodation of prisoners albeit that the legally binding commitments requiring prisoners to be assessed as suitable for sharing accommodation and requiring all cells to have working alarm bells only have a basis on policy. There is no provision in UK law requiring that prisoners be accommodated in individual cells.

Situation in practice

The UNHCR reported that prison conditions in England & Wales generally met international standards although overcrowding and poor facilities continued to be problems across the prison estate. Widespread overcrowding was also reported by the CPT in its reports. In some instances, levels of overcrowding were such that the Committee doubted whether it was possible for the prison service to deliver what was required of it or for the human dignity of prisoners to be respected. This problem was compounded by a number of practices including the manner in which service leasing agreements were drawn up for prisons involving a private contractor. For example at Manchester Prison, the contractor is given a budget based on the capacity, but nevertheless receives additional funds for every prisoner they can take over this, up to a certain number. Thus there are financial incentives to keep the prison overcrowded. The UNHCR cited a report published by the NGO the Prison Reform Trust which, based on government statistics, indicated 63% of prisons held more than the "certified normal accommodation."

The International Centre for Prison Studies reported that the prison system in England & Wales was operating at 107% of design capacity as of August 2010.

The CPT found that the vast majority of cells inspected were considered to be cramped, although access to natural light and ventilation were considered adequate. While most cells had in-cell sanitation it was rarely screened from the rest of the cell.

26.3.4 Hygiene & Sanitation

This section focuses on the hygiene and sanitation facilities for prisoners. International legal instruments place a series of obligations on States in respect of hygiene and sanitation. The questions in this section are based on these obligations.

UNITED KINGDOM

3.4.1 Has your country adopted laws or policies to ensure that all prisoners have access to adequate and appropriate sanitary and washing facilities that respect their privacy? SMR 12 & 13, EPR 19.3, 19.4 & 19.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	2	0	10
Total Europe - %	58	58	8	0	42
United Kingdom					X

3.4.2 Has your country adopted laws or policies requiring that all In-cell sanitation facilities must be adequately screened? ICCPR 10(1), SMR 12, BOP 1, BPTP 1, ECHR 3, EPR 19.3, *Peers v Greece* (ECtHR 2001)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	4	1	9
Total Europe - %	62	54	17	4	38
United Kingdom	X		X		

Analysis

International instrument compliance

The United Kingdom (England & Wales) has not adopted the commitment requiring it to provide all prisoners with access to adequate and appropriate sanitary and washing facilities that respect their privacy. The legally binding commitment that all in-cell sanitation facilities should be adequately screened has been incorporated albeit on the basis of policy and not law.

Situation in practice

See comments at 3.3 above. The CPT found that whilst most cells in the prisons they inspected had been fitted with in-cell sanitation, it was rarely screened from the rest of the cell.

26.3.5 Clothing & Bedding

This section focuses on clothing and bedding provisions for prisoners. International legal instruments place a series of obligations on States in respect of the provision of clothing and bedding. The questions in this section are based on these obligations.

3.5.1 Has your country adopted laws or policies to ensure that prisoners are provided with clothing that is suitable for the climate, is not degrading or humiliating and is age appropriate? SMR 17(1), EPR 20.1 & 20.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	10	0	7
Total Europe - %	71	71	42	0	29
United Kingdom	X	X			

3.5.2 Has your country adopted laws or policies requiring each prisoner to be provided with a bed and appropriate bedding and to ensure that all bedding is in good condition, is changed regularly and laundered? SMR 19, EPR 21

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	2	0	6
Total Europe - %	75	71	8	0	25
United Kingdom					X

Analysis

International instrument compliance

The United Kingdom (England & Wales) has adopted the commitment regarding prisoner's clothing into its national law. Provisions on beds and bedding have not, however, been adopted.

26.3.6 Nutrition

This section focuses on the nutrition requirements of prisoners. International legal instruments place a series of obligations on States in respect of prisoner's nutrition. The questions in this section are based on these obligations.

3.6.1 Has your country adopted laws or policies to ensure that prisoners are provided with a sufficient quantity of nutritious food taking into account their health, physical condition, special dietary requirements, religion and culture? SMR 20(1), EPR 22.1 & 22.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	5	1	4
Total Europe - %	83	83	21	4	17
United Kingdom					X

3.6.2 Has your country adopted laws or policies to ensure that prisoners have access to clean drinking water? SMR 20(2), EPR 22.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	16	5	1	5
Total Europe - %	79	67	21	4	21
United Kingdom	X	X			

Analysis

International instrument compliance

The commitment regarding prisoners' nutrition had not been adopted by the United Kingdom (England & Wales). That relating to prisoners' access has, however, been incorporated into UK law.

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26.3.7 Legal advice, info & rights

This section focuses on the entitlement of prisoners to legal advice and information. International legal instruments place a series of obligations on States in respect of access to legal advice and information. The questions in this section are based on these obligations.

3.7.1 Has your country adopted laws or policies requiring that adequate time and facilities be provided to prisoners to receive professional visits from their legal advisers? BOP 18(2), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	4	1	2
Total Europe - %	92	92	17	4	8
United Kingdom	X	X	X		

3.7.2 Has your country adopted laws or policies establishing the right of prisoners to communicate with their legal advisers by telephone and by letter? BOP 18(1), EPR 23.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	3	3	3
Total Europe - %	87	83	13	13	13
United Kingdom	X		X		

3.7.3 Has your country adopted laws or policies requiring that communications between a prisoner and his/her legal adviser remain confidential and can only be restricted by law or judicial authority? ICCPR 17, BOP 18(3) & (4), ECHR 8, EPR 23.4 & 23.5, *Campbell v The United Kingdom* (ECtHR 1992)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	22	3	1	2
Total Europe - %	92	92	13	4	8
United Kingdom	X	X	X		

Analysis

International instrument compliance

All commitments relating to the rights to legal advice and information for prisoners have been incorporated into the law or policy of the United Kingdom (England & Wales) including the legally binding commitment protecting the confidentiality of correspondence between a prisoner and their legal advisor.

26.3.8 Contact with the outside world

26.3.8.1 *Visits*

This section focuses on the entitlement of prisoners to maintain contacts with the outside world. International legal instruments place a series of obligations on states in respect of

prisoners' on-going contact with the outside world. The questions in this section are based on these obligations.

3.8.1.1 Has your country adopted laws or policies establishing the right of prisoners to communicate with their family and friends by correspondence and by receiving visits, subject to reasonable conditions/restrictions imposed by law or another authority? ICCPR 23(1), UDHR 16(3), SMR 37, BOP 15 & 19, EPR 24.1 & 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	7	2	0
Total Europe - %	100	96	29	8	0
United Kingdom	X	X	X		

3.8.1.2 Has your country adopted laws or policies requiring that visits take place in an environment that enables prisoners to maintain and develop family and other relationships in as normal a manner as is possible subject to the maintenance of good order and security in the prison? SMR 79, EPR 24.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	6	0	2
Total Europe - %	92	88	25	0	8
United Kingdom	X		X		

26.3.8.2 *Searching of visitors*

3.8.2.1 Has your country adopted laws or policies requiring that searching procedures for visitors be undertaken in a manner that respects a person's dignity? SMR 27, BOP 19, EPR 54.1.c, 54.3, 54.4 & 54.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	4	0	7
Total Europe - %	71	63	17	0	29
United Kingdom	X		X		

3.8.2.2 Has your country adopted laws or policies requiring that prison officers only be permitted to search visitors of the same gender? EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	9	1	0	12
Total Europe - %	50	38	4	0	50
United Kingdom					X

26.3.8.3 *Restrictions on visits*

3.8.3.1 Has your country adopted laws or policies requiring the authorities to explain the circumstances leading to the imposition of closed visits to the appropriate party(ies) and to review these circumstances on a regular basis? SMR 27, 79 & 80, EPR 60.4

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	0	0	63
United Kingdom					X

3.8.3.2 Has your country adopted laws or policies preventing the withdrawal of contact for female prisoners with their children as a disciplinary action except in exceptional circumstances? SMR 27, 79 & 80, EPR 24.2 & 60.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	12	2	0	12
Total Europe - %	50	50	8	0	50
United Kingdom					X

26.3.8.4 *Death, illness & transfer*

3.8.4.1 Has your country adopted laws or policies requiring that prisoners be informed of the death/serious illness of a close relative/ friend without delay? SMR 44(2), EPR 24.6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	2	0	13
Total Europe - %	46	42	8	0	54
United Kingdom					X

3.8.4.2 Has your country adopted laws or policies allowing a prisoner to leave the prison to visit a sick relative/friend, attend a funeral or for other humanitarian reasons? SMR 44(2), EPR 24.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
United Kingdom	X	X	X		

3.8.4.3 Has your country adopted laws or policies ensuring that prisoners are allowed to inform their families or other nominated persons without delay of their imprisonment, transfer to another institution or of any serious illness that they may suffer from? SMR 44(1) & (3), BOP 16(1), EPR 24.8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
United Kingdom					X

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3.8.4.4 Has your country adopted laws or policies requiring the prison authorities to immediately inform the spouse or the nearest relative to the prisoner (or any other person previously nominated), if the prisoner dies in custody, is removed to a hospital or suffers a serious injury/illness? SMR 44(1), EPR 24.9

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	3	0	6
Total Europe - %	75	75	13	0	25
United Kingdom	X	X	X		

26.3.8.5 Telephone and letters

3.8.5.1 Has your country adopted laws or policies preventing the monitoring or censoring of telephone calls unless the prisoner or the recipient of the call is informed of the possibility of such monitoring or, such monitoring has been agreed by any lawful authority? ICCPR 17, UDHR 12, SMR 37, BOP 19, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	3	1	5
Total Europe - %	79	79	13	4	21
United Kingdom					X

3.8.5.2 Has your country adopted laws or policies permitting prisoners to send a minimum of 7 letters a week free of charge and more if he/she can afford it, and to receive as many letters as are sent to him/her? SMR 37, BOP 19, EPR 24.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	12	11	1	0	12
Total Europe - %	50	46	4	0	50
United Kingdom					X

3.8.5.3 Has your country adopted laws or policies preventing the prison authorities from opening prisoners' private correspondence subject to the maintenance of good order and safe and secure custody in the prison? ICCPR 17, UDHR 12, ECHR 8, EPR 24.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	1	9
Total Europe - %	62	62	13	4	38
United Kingdom	X	X	X		

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26.3.8.6 *Media*

3.8.6.1 Has your country adopted laws or policies entitling prisoners to be kept informed of current affairs and other developments outside the prison by reading newspapers and periodicals and by listening to radio or television broadcasts (subject to the maintenance of good order and safe and secure custody)? SMR 39, BOP 28, EPR 24.10

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	1	1
Total Europe - %	96	92	21	4	4
United Kingdom					X

Analysis

International instrument compliance

The United Kingdom (England & Wales) has only incorporated six of the fourteen commitments relating to prisoners' contact with the outside world into its national law or policy. Legally binding commitments establishing the right of prisoners to communicate with and receive visits from friends and relatives and defining the circumstances in which the prison authorities may open a prisoner's letters have been incorporated. The legally binding commitment defining (and thus restricting) the circumstances in which a prisoner's telephone calls may be monitored by the authorities has not been adopted however. Furthermore, United Kingdom (England & Wales) has not adopted measures to comply with the provisions of international legal instruments relating to the searching of visitors by prison officers of the same gender, explaining the circumstances leading to restrictions on visits, the right for prisoners to inform relatives and friends of their imprisonment, illness and transfer to another institution and to receive information on the death or serious illness of relatives and friends outside and, to send a minimum of seven letters per week and receive unlimited numbers of letters in return.

26.3.9 *Work*

This section focuses on work in prison. International legal instruments place a series of obligations on States in respect of work in prison. The questions in this section are based on these obligations.

3.9.1 Has your country adopted laws or policies requiring work to be incorporated as a positive aspect of prison regimes and prohibiting its use as a form of punishment? SMR 71(1), EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
United Kingdom					X

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3.9.2 Has your country adopted laws or policies requiring that prison work provided should prepare prisoners for worthwhile work on their release and facilitate their reintegration into the workforce? SMR 71(3) & (4), BPTP 8, EPR 26.3 & 26.7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	18	7	0	4
Total Europe - %	83	75	29	0	17
United Kingdom	X	X			

3.9.3 Has your country adopted laws or policies entitling prisoners to be remunerated in respect of prison work carried out? ICESCR 7(a), UDHR 23, SMR 76(1), BPTP 8, EPR 26.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	1	1
Total Europe - %	96	92	13	4	4
United Kingdom	X	X	X		

Analysis

International instrument compliance

The United Kingdom (England & Wales) has adopted two of the three commitments relating to prison work including the legally binding commitment requiring prisoners to be remunerated for work carried out in prison.

Situation in practice

The CPT commented that considerable emphasis was placed by the Prison Service on developing programs of activities for prisoners such as work, education and sport as well as guidance to assist them in avoiding re-offending and generally living a healthier life.

26.3.10 Exercise & recreation

This section focuses on facilities for exercise and recreation in prison. International legal instruments place a series of obligations on States in respect of exercise and recreational facilities. The questions in this section are based on these obligations.

3.10.1 Has your country adopted laws or policies ensuring that, subject to the constraints of the particular prison and the maintenance of good order and security, prisoners shall be entitled to spend as much time out of their cells as is possible? EPR 25(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	16	4	0	8
Total Europe - %	67	67	17	0	33
United Kingdom					X

UNITED KINGDOM

3.10.2 Has your country adopted laws or policies ensuring that prisoners receive at least one hours exercise each day in the open air, weather permitting? SMR 21, EPR 27.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	5	2	1
Total Europe - %	96	92	21	8	4
United Kingdom	X	X	X		

3.10.3 Has your country adopted laws or policies ensuring that prisoners shall have access to a well-stocked library at least once a week (subject to the maintenance of good order and safe and secure custody)? R(89)12: 10, EPR 28.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	13	0	0	11
Total Europe - %	54	54	0	0	46
United Kingdom					X

Analysis

International instrument compliance

The United Kingdom (England & Wales) has only adopted one of the three commitments relating to prisoners' exercise and recreation. No provision has been made allowing prisoners to spend as much time as possible outside their cells.

Situation in practice

The CPT noted that education had particularly improved at some prisons following the contracting out of these services to local colleges. However in reality too many prisoners were either not involved in any way, or given too few opportunities. These prisoners were, by way of compensation, allowed generous hours for association, though the Committee heard many complaints that these allocated hours were frequently not respected. In particular it was common for prisoners to be allowed less than one hour of outside exercise per day.

26.3.11 Education

This section focuses on facilities for education in prison. International legal instruments place a series of obligations on States in respect of prison education facilities. The questions in this section are based on these obligations.

3.11.1 Has your country adopted laws or policies requiring, as far as practicable, that prisoners have access to educational programmes that can meet their individual needs? ICESCR 13, UDHR 26, SMR 77(1), BPTP 6, R(89)12: 1, EPR 28.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	5	1	1
Total Europe - %	96	96	21	4	4
United Kingdom	X	X			

3.11.2 Has your country adopted laws or policies requiring that education provided in prisons shall be integrated, in so far as is practicable, with national educational systems/programmes enabling prisoners to continue their education following their release? SMR 77(2), R(89)12: 16, EPR 28.7.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	18	5	0	3
Total Europe - %	87	75	21	0	13
United Kingdom	X		X		

3.11.3 Has your country adopted laws or policies requiring that vocational training be available for those prisoners who are able to benefit from it, particularly young prisoners? SMR 71(5), BPTP 8, R(89)12: 9, EPR 26.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	20	5	0	2
Total Europe - %	92	83	21	0	8
United Kingdom					X

Analysis

International instrument compliance

The United Kingdom (England & Wales) has adopted two of the three commitments relating to prison education including the legally binding commitment requiring the authorities to ensure that prisoners have access to education programmes which meet their individual needs.

Situation in practice

The legal position highlighted above notwithstanding, the CPT highlighted that there were insufficient education opportunities for all those prisoners who wished to take advantage of them. See comments at 3.10 and 3.9 above.

26.3.12 Freedom of thought, conscience & religion

3.12.1 Has your country adopted laws or policies ensuring that prisoners have the opportunity to practice their religion and to follow their beliefs whilst in custody? ICCPR 18(1), CERD 5 (d) (vii), UDHR 18, SMR 42, BPTP 3, EPR 29.1 & 29.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	24	23	5	0	0
Total Europe - %	100	96	21	0	0
United Kingdom	X	X			

UNITED KINGDOM

Analysis

International instrument compliance

The legally binding commitment relating to freedom of religion has been adopted by the United Kingdom (England & Wales).

Situation in practice

The CPT praised the chaplaincy services within the prisons visited which were generally appreciated by the prisoners. The work of the Imam in Woodhill Prison was singled out in particular for his efforts to initiate a number of programmes to provide prisoners and staff with increased awareness of Islam as a means of countering Islamic extremism.

26.4 Health

26.4.1 Core principles

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.1.1 Has your country adopted laws or policies requiring that primary healthcare services to meet the needs of all prisoners be provided in each prison to a standard equivalent to that available to the community in general? ICESCR 12(1), SMR 22(1), PME 1, R(98)7: 10, 11, 12 & 19, EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	6	0	1
Total Europe - %	96	92	25	0	4
United Kingdom	X	X	X		

4.1.2 Has your country adopted laws or policies to ensure that where a sick prisoner requires treatment that cannot be provided by the medical staff in the prison he/she shall be transferred to an appropriate hospital without undue delay? SMR 22(2), BPTP 9, R(98)7: 3, EPR 46.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	22	21	3	1	2
Total Europe - %	92	88	13	4	8
United Kingdom					X

4.1.3 Has your country adopted laws or policies requiring that medical records be created and accurately maintained on all prisoners and that such records be treated as confidential? BOP 26, R(98)7: 13, EPR 42.3.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	20	5	0	3
Total Europe - %	87	83	21	0	13

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
United Kingdom	X	X			

Analysis

International instrument compliance

Two of the three commitments relating to the core principles of prison health care have been adopted by the United Kingdom (England & Wales) including the legally binding commitment requiring that primary health care for prisoners be provided at a standard equivalent to that provided in the community.

Situation in practice

In general despite prison overcrowding, the CPT found that most prisoners were able to see a doctor within a reasonable time. Overall staffing levels were satisfactory. This observation notwithstanding, the practice of giving some custodial staff basic medical training in order to allow them to carry out some of the simpler functions required by the prison health service was criticised. Further criticism was also made of the fact that in-patient beds in hospitals were frequently used for prisoners who had no pressing medical concerns but had a disability or were having difficulty coping with mainstream custody.

26.4.2 Women and children

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations

4.2.1 Has your country adopted laws or policies to ensure that the necessary facilities and services required for women's healthcare are available in women's prisons and that women prisoners have access to a female doctor? CEDAW 12, SMR 23, BOP 5(2), R(98)7: 8

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	7	3	0	17
Total Europe - %	29	29	13	0	71
United Kingdom					X

4.2.2 Has your country adopted laws or policies requiring that appropriate care be afforded to all pregnant prisoners and nursing mothers? CEDAW 12(2), SMR 23, R(98)7: 8 & 69, EPR 34.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
United Kingdom					X

UNITED KINGDOM

Analysis

International instrument compliance

Neither of the commitments relating to health care for women prisoners have been adopted by the United Kingdom (England & Wales) including the legally binding commitment requiring the authorities to guarantee women prisoners access to a female doctor.

26.4.3 Mental health care

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.3.1 Has your country adopted laws or policies requiring that prisoners with mental health difficulties be entitled to care appropriate to their circumstances, commensurate to the type of care available for people with similar mental health difficulties in the community? SMR 22(1), PPPMI 1 & 20, R(98)7:10, 11 & 52, R(2004)10: 35(1) & (2), EPR 40

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	4	0	3
Total Europe - %	87	79	17	0	13
United Kingdom	X	X			

4.3.2 Has your country adopted laws or policies to ensure that prisoners who require psychiatric in-patient care are transferred to a suitable hospital facility of an appropriate security level without undue delay? SMR 22(2), PPPMI 9(1) & 20, R(98)7: 3 & 55, R(2004)10: 8, 9(1) & 35(1), EPR 12(1) & 46(1)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	17	3	0	6
Total Europe - %	75	71	13	0	25
United Kingdom					X

Analysis

International instrument compliance

The United Kingdom (England & Wales) has adopted one of the two commitments relating to mental health care of prisoners. Provisions requiring that those prisoners who require psychiatric in-patient care be transferred to a suitable hospital without delay have not, however been adopted.

Situation in practice

The CPT highlighted that all prisons visited had a Mental Health In-Reach Team (MHIRT). A nurse would make an initial assessment of each prisoner. Those who were deemed to be requiring of further attention were referred to the prison psychiatrist or, if the case was sufficiently severe, an outside psychiatric consultant. At two of the three prisons visited in

2008, the criteria for referral to a psychiatrist were considered unacceptably high by the CPT and, furthermore, in one case, an assessment as to whether the prisoner required assistance was made purely on the basis of their file. While the MHIRT provided care and treatment for prisoners with enduring and severe mental health needs, the CPT concluded that the bulk of prisoners did not receive an adequate level of mental health care support.

26.4.4 *Vulnerable prisoners*

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.4.1 Has your country adopted laws or policies requiring that prisoners assessed as vulnerable be accommodated in areas of the prison which are most convenient and appropriate for their monitoring and treatment by the medical personnel and other relevant agencies? SMR 22(2) & 62, EPR 12.2, 39, 43.1, 46.2, 47.1 & 47.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	3	0	8
Total Europe - %	67	63	13	0	33
United Kingdom					X

4.4.2 Has your country adopted laws or policies requiring that prisoners assessed as being at risk of suicide/self-harm be continuously monitored by both medical and prison staff throughout the prisoner's time in custody and that records are kept of such monitoring? R(98)7: 58, EPR 47(2)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	10	7	5	0	14
Total Europe - %	42	29	21	0	58
United Kingdom					X

4.4.3 Has your country adopted laws or policies requiring that prisoners detained in a special cell be visited daily, and as frequently as is necessary by a doctor who shall, inter alia, monitor his/ her physical and mental health? SMR 25(1) & 32(3), R(98)7: 66, EPR 43.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
United Kingdom					X

Analysis

International instrument compliance

None of the commitments regarding vulnerable prisoners have been incorporated into UK (England & Wales) law or policy.

UNITED KINGDOM

26.4.5 Medical & health care personnel

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.5.1 Has your country adopted laws or policies to ensure that every prisoner has access to appropriately qualified medical personnel in the prison at all times? SMR 24, BOP 24, R(98)7:1, 2 & 4, EPR 41.2 & 41.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	0	3
Total Europe - %	87	87	13	0	13
United Kingdom					X

Analysis

International instrument compliance

Commitment relating to a prisoner’s access to appropriately qualified medical personnel at all times has not been adopted by the United Kingdom (England & Wales).

Situation in practice

As highlighted in section 4.1 above, the CPT found that overall staffing levels within the prison health care service were satisfactory. This observation notwithstanding, the practice of giving some custodial staff basic medical training in order to allow them to carry out some of the simpler functions required by the prison health service was criticised by the Committee.

26.4.6 Prisoners with addiction problems

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.6.1 Has your country adopted laws or policies to ensure that prisoners with addiction problems have access to appropriate treatment and support services, including those from external agencies? SMR 62, R(98)7: 7, 43, 44, 45, 46 & 47, EPR 42.3.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	19	8	0	3
Total Europe - %	88	79	33	0	13
United Kingdom					X

Analysis

International instrument compliance

The commitment relating to prisoners with addiction problems has not been adopted by the United Kingdom (England & Wales).

Situation in practice

Despite the absence of a legal framework, the CPT highlighted that drug addiction programmes were in place at all of the establishments visited. They involved a mixture of screening, both voluntary and mandatory testing, counselling and support and the delivery of a detoxification program. However it was reported to the Committee that some patients had their methadone treatments reduced without reference to their consent or medical needs.

26.4.7 Hunger strikes

This section focuses on the provision of healthcare to prisoners. International legal instruments place a series of obligations on States in respect of healthcare in prisons. The questions in this section are based on these obligations.

4.7.1 Has your country adopted laws or policies forbidding the practice of forced feeding of hunger strikers? DOMHS, R(98)7

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	37	21	21	0	63
United Kingdom					X

Analysis

International instrument compliance

The commitment forbidding the forced feeding of hunger strikers has not been adopted.

26.5 Good order**26.5.1 General approaches**

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

UNITED KINGDOM

5.1.1 Has your country adopted laws or policies requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody? R(82)17: 8, EPR 51.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	3	0	9
Total Europe - %	62	62	13	0	38
United Kingdom					X

Analysis

International instrument compliance

The commitment requiring that regular reviews be undertaken by prison management regarding the level of security required for each prisoner throughout that prisoner's time in custody has not been adopted by the United Kingdom (England & Wales).

26.5.2 Safety & Security

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.2.1 Has your country adopted laws or policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat? EPR 51.5, 53.1 & 53.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	63	63	17	0	37
United Kingdom					X

Analysis

International instrument compliance

The commitment policies requiring that regular reviews of the placement of prisoners on protection take place and ensuring that prisoners are only subject to protection status for as long as they pose a threat to another prisoner or whilst their life or safety is under threat has not been adopted by the United Kingdom (England & Wales).

26.5.3 Searching of prisoners

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.3.1 Has your country adopted laws or policies requiring that searches conducted on prisoners be carried out with due regard to the prisoner's dignity? ICCPR 10(1), BPTP 1, EPR 54.3 & 54.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	3	0	1
Total Europe - %	96	92	13	0	4
United Kingdom	X	X			

5.3.2 Has your country adopted laws or policies stipulating that prisoners may only be searched by a staff member of the same gender? ICCPR 10(1), BPTP 1, EPR 54.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	22	1	0	1
Total Europe - %	96	92	4	0	4
United Kingdom	X	X			

5.3.3 Has your country adopted laws or policies stipulating that prisoners may only be subjected to a strip search in exceptional circumstances and for good reason and then, only in the presence of two officers in an appropriate place which ensures privacy? ICCPR 10(1), BPTP 1, EPR 54. 3, 54.4 & 54.6, *Van der Van v The Netherlands* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	13	3	1	13
Total Europe - %	66	54	13	4	54
United Kingdom					X

Analysis

International instrument compliance

Two out of the three commitments relating to searching of prisoners have been incorporated into UK (England & Wales) national law. All provisos arising from the ECtHR case *Van der Van v The Netherlands* (2004) have not, however, been adopted.

26.5.4 *Criminal acts, discipline & punishment*

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

UNITED KINGDOM

5.4.1 Has your country adopted laws or policies stipulating that all inquiries into breach of prison discipline or rules shall be conducted in an independent and impartial manner? ICCPR 14(1), UDHR 10, ECHR 6(1), *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	16	15	2	1	8
Total Europe - %	67	63	8	4	33
United Kingdom	X	X			

5.4.2 Has your country adopted laws or policies requiring that all incidents of bullying/violence/threatening behaviour between prisoners, and any breach of discipline be reported to an officer of a higher rank, duly recorded and properly investigated? EPR 52.2 & 58

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	15	4	0	9
Total Europe - %	62	62	17	0	38
United Kingdom	X	X	X		

5.4.3 Has your country adopted laws or policies stipulating that when a prisoner has been charged with a disciplinary offence he/she shall be promptly informed of the allegation made against him/her in a language that he/she understands? ICCPR 14(3)(a), CERD 5(a), SMR 30(2), ECHR 6(3)(a), EPR 59.a

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	17	3	0	7
Total Europe - %	71	71	13	0	29
United Kingdom					X

5.4.4 Has your country adopted laws or policies stipulating if an inquiry is being conducted into a breach of prison discipline or rules the prisoner shall have adequate time to prepare his/her defence and/or to receive legal assistance? ICCPR 14(3)(b) & (d), SMR 30(2), ECHR 6(3)(b) & (c), EPR 59.b & 59.c, *Ezeh & Connors v. UK* (ECtHR 2004)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	2	0	9
Total Europe - %	62	58	8	0	38
United Kingdom	X	X			

5.4.5 Has your country adopted laws or policies stipulating that in any disciplinary proceedings prisoners must understand the proceedings and if necessary, appropriate interpretation facilities must be provided? ICCPR 14(3)(f), SMR 30(3), ECHR 6(3)(e), EPR 59.e

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	12	3	0	11
Total Europe - %	54	50	13	0	46
United Kingdom					X

UNITED KINGDOM

5.4.6 Has your country adopted laws or policies stipulating that no prison officer shall impose a punishment/penalty/deprivation on a prisoner without due process and in accordance with law and/or relevant rules or instruments? EPR 57.2.d

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	2	0	4
Total Europe - %	83	83	8	0	17
United Kingdom					X

5.4.7 Has your country adopted laws or policies stipulating that if a prisoner is found guilty of a disciplinary offence, he/she shall be entitled to exercise his/her right of appeal to an independent and impartial tribunal established by law? ICCPR 14(5), BOP 30(2), EPR 61

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	19	1	0	5
Total Europe - %	79	79	4	0	21
United Kingdom	X	X			

5.4.8 Has your country adopted laws or policies requiring that when a prisoner is detained in any type of special cell (special observation/cladded/strip) he/she shall be regularly monitored by a prison officer? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	3	0	7
Total Europe - %	71	67	13	0	29
United Kingdom					X

5.4.9 Has your country adopted laws or policies requiring that a detailed record be maintained of, inter alia, the monitoring of such prisoners, their expressed requirements, actions taken in response to such requests and details of visits by officers or others to such prisoners? ICCPR 6(1), ECHR 2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	8	8	2	0	16
Total Europe - %	33	33	8	0	67
United Kingdom					X

5.4.10 Has your country adopted laws or policies to ensure that prisoners in a special cell are able to contact a member of staff at all times, including during the night and that a staff member shall respond without delay? ICCPR 6(1), EPR 18.2.c & 52.4, *Edwards v The United Kingdom* (ECtHR 2002)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	9	1	0	15
Total Europe - %	37	37	4	0	63
United Kingdom					X

UNITED KINGDOM

Analysis

International instrument compliance

The United Kingdom (England & Wales) has only adopted four of the ten commitments relating to criminal acts, discipline and punishment: this includes the legally binding commitments requiring that breaches of prison discipline are investigated in an impartial manner, ensuring that prisoners have time to prepare their defence and can appeal to an independent and impartial tribunal. Legally binding commitments requiring prisoners to be given information about their charges in a language they can understand and their ability to access interpretation facilities during a hearing if required have not been incorporated. Furthermore, the legally binding requirements concerning the requirement to record information relating to the monitoring of and contact with prisoners in special cells alongside ensuring that such prisoners are able to contact prison staff at all times have also not been incorporated.

Situation in practice

These shortcomings notwithstanding, the fairness of disciplinary adjudications was highlighted by the CPT. They found that prisoners were presented with the charge at least a day before the adjudication, had a right to address the decision maker, were asked if they understood the charge against them, could have a lawyer present, call witnesses in their defence and had could appeal to an independent body. Furthermore the penalties given were considered proportionate and took into consideration mitigating circumstances. The CPT were, however, critical of the segregation cells at Manchester Prison both for the somewhat dilapidated material conditions (dirty, broken toilet and windows) and also the complete lack of activities aimed at re-integration back into mainstream custody. These activities are particularly important to prisoners placed in segregation for their own protection.

26.5.5 Use of force/weapons

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.5.1 Has your country adopted laws or policies stipulating that members of staff will use force only when absolutely necessary and that any force used shall be proportionate to the situation? SMR 54(1), CCLEO 3, BPUF 4, EPR 64 & 6

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	4	1	3
Total Europe - %	87	87	17	4	13
United Kingdom	X	X	X		

Analysis

International instrument compliance

The commitment regarding proportionate use of force has been adopted by the United Kingdom (England & Wales).

Situation in practice

The CPT heard no allegations of physical ill-treatment in prisons in England and Wales. On the whole, they reported a good rapport between custodial staff and prisoners. However the practice of officers wearing full personal protection equipment, including body armour and helmets, was considered disproportionate as a routine measure, even in high security establishments.

26.5.6 Requests & complaints

This section focuses on the maintenance of good order within the prison. International legal instruments place a series of obligations on States in respect of the maintenance of good order. The questions in this section are based on these obligations.

5.6.1 Has your country adopted laws or policies to ensure that prisoners have sufficient opportunity to make requests or complaints to the Governor of the prison or to any other competent authority? SMR 36(1) & (3), BOP 33(1), EPR 70.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	23	23	3	0	1
Total Europe - %	96	96	13	0	4
United Kingdom	X	X	X		

5.6.2 Has your country adopted laws or policies establishing the right of a prisoner's legal advisor or to make a request or a complaint regarding that prisoner's treatment to the prison authorities, or other relevant authorities? BOP 33 (1) & (2), EPR 70.5

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	18	18	1	0	6
Total Europe - %	75	75	4	0	25
United Kingdom					X

5.6.3 Has your country adopted laws or policies requiring that all complaints be promptly investigated in accordance with law? SMR 36(4), BOP 33(4)

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	16	2	0	7
Total Europe - %	71	67	8	0	29
United Kingdom	X		X		

5.6.4 Has your country adopted laws or policies to ensure that where a request is denied or a complaint is rejected, the prisoner is informed promptly as to the reason(s) for such denial or rejection? SMR 36(4), BOP 33(4), EPR 70.3

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	17	15	2	1	7
Total Europe - %	71	63	8	4	29

UNITED KINGDOM

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
United Kingdom	X		X		

5.6.5 Has your country adopted laws or policies to ensure that prisoners are not disadvantaged for exercising their rights to make requests or complaints? BOP 33(4), EPR 70.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	11	10	3	0	13
Total Europe - %	46	42	13	0	54
United Kingdom	X		X		

5.6.6 Has your country adopted laws or policies requiring that complaints made by members of staff against other members of staff be properly recorded and investigated in accordance with the law? EPR 88 & 87.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	13	11	3	0	11
Total Europe - %	54	46	13	0	46
United Kingdom	X		X		

Analysis

International instrument compliance

The United Kingdom (England & Wales) has adopted five of the six commitments relating to prison discipline and complaints procedures.

Situation in practice

The legal and policy framework notwithstanding, The complaints mechanisms in place were criticised on a number of grounds by the CPT. Many prisoners felt their complaints were ignored, a belief confirmed when Committee members were unable to find record of a complaint in the log despite the prisoner still having his copy of the complaint. In several cases, a complaint was upheld only for no action to be taken to remedy it.

26.6 Management & Staff

26.6.1 *Training of staff*

This section focuses on the staff training and prison management. International legal instruments place a series of obligations on States in respect of the training and management of prison staff. The questions in this section are based on these obligations.

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6.1.1 Has your country adopted laws or policies to ensure that all prison staff receive appropriate training at regular intervals throughout their career? SMR 47(3), EPR 8, 76 & 81.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	19	14	7	0	5
Total Europe - %	79	58	29	0	21
United Kingdom	X		X		

6.1.2 Has your country adopted laws or policies to ensure that members of staff who work with particular groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, receive training particular to their individual work? R(82)17: 10, R(2004)10: 12(1), EPR 81.3, ERJO 129

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	5	5	0	15
Total Europe - %	38	21	21	0	62
United Kingdom	X		X		

Analysis

International instrument compliance

All commitments relating to the initial and on-going training of staff have been adopted by the United Kingdom (England & Wales).

Situation in practice

Despite this, the CPT highlighted that after staff completed their initial training requirements, there were thereafter only irregular programs which staff were required to attend. This was also the case for staff who worked with juveniles, who in addition, only received a week of special training.

26.7 Inspection & Monitoring

26.7.1 Governmental Inspection

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.1.1 Has your country adopted laws or policies requiring that prisons be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law? SMR 55, EPR 92, R(2004)10 36.1, ERJO 125, PPPMI 22

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	19	4	0	4
Total Europe - %	83	79	17	0	17

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	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
United Kingdom	X	X			

Analysis

International instrument compliance

Commitment relating to governmental monitoring of prisons has been adopted by the United Kingdom (England & Wales).

26.7.2 Independent monitoring

This section focuses on the inspection and monitoring of custodial institutions. International legal instruments place a series of obligations on States in respect of inspection and monitoring. The questions in this section are based on these obligations.

7.2.1 Has your country adopted laws or policies requiring that the conditions of detention and the treatment of prisoners shall be also monitored by an independent body or bodies, comprised of qualified experienced personnel, and whose findings shall be made public? OPCAT 3, 17, 18, 19, BOP 29.1, EPR 93.1, R(2004)10 36.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	14	1	0	10
Total Europe - %	58	58	4	0	42
United Kingdom	X	X			

7.2.2 Has your country adopted laws or policies granting such an independent body open access to places of detention, to prisoners and others whom it wishes to interview? OPCAT 19, 20, CPT 8,9 BOP 29.2, ERJO 126.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	15	14	3	1	9
Total Europe - %	62	58	13	4	38
United Kingdom	X	X			

7.2.3 Has your country adopted laws or policies encouraging such independent bodies to cooperate with those international agencies that are legally entitled to visit prisons? CPT 2,7 EPR 93.2, ERJO 126.

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	7	6	1	0	17
Total Europe - %	29	25	4	0	71
United Kingdom					X

Analysis

International instrument compliance

Two out of the three commitments relating to independent inspection of prisons have been adopted by the United Kingdom (England & Wales). These include the legally binding commitments arising from signature and ratification of the OP-CAT.

Situation in practice

The United Kingdom ratified OP-CAT on the 10th of December 2003. Numerous bodies have been identified as the NPM with HM Inspectorate for Prisons acting as overall co-ordinator. The UNCHR reported that the UK government permitted independent monitoring of prison conditions by local and international human rights groups, the media, the International Committee of the Red Cross, and the independent International Centre for Prison Studies based at Kings College, London.

26.8 Sentenced Prisoners

This section focuses on the particular provisions relating to convicted prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

8.1.1 Has your country adopted laws or policies requiring that a prisoner's release and re-integration back into society should constitute a central part of the sentence management plan? ICCPR 10(3), SMR 80, EPR 6, 103.2 & 103.4

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	20	20	6	2	4
Total Europe - %	83	83	25	8	17
United Kingdom	X	X	X		

8.1.2 Has your country adopted laws or policies requiring that a sentence management plan be prepared for each prisoner serving a sentence of 12 months or over as soon as practicable after their admission? It should provide for, inter alia, the welfare and health needs of the prisoner, training, employment or education needs he/she may have, and include a release plan for the prisoner. This plan shall be reviewed at regular intervals to take into account the changing circumstances of the prisoner. SMR 65, 66 & 69, R(2003)23: 3 & 9, EPR 6, 103 & 104.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	14	13	5	0	10
Total Europe - %	58	54	21	0	42
United Kingdom	X		X		

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Analysis

International instrument compliance

Both commitments relating to sentenced prisoners have been adopted by the United Kingdom (England & Wales) including the legally binding commitment policies requiring that a prisoner’s release and re-integration back into society should constitute a central part of the sentence management plan.

26.9 Juveniles

This section focuses on the particular provisions relating to juvenile prisoners. International legal instruments place a series of obligations on States in respect of these prisoners. The questions in this section are based on these obligations.

9.1.1 Has your country adopted laws or policies requiring that juveniles be detained separately from adult offenders? ICCPR 10(3), CRC 37(c), BR 26.3, RPJDL 29, EPR 11.1, ERJO 59.1

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	21	21	3	1	3
Total Europe - %	87	87	13	4	13
United Kingdom					X

9.1.2 Has your country adopted laws or policies to ensure that, subject to reasonable conditions and restrictions, a sentenced prisoner under the age of 18 shall be entitled to receive a minimum of two weekly visits? CRC 37(c), SMR 37, BOP 19, RPJDL 60, ERJO 83, 84, 85.1 & 85.2

	Y – total	Y – Law	Y – Policy	Y – Jurisprudence	No
Total Europe - no.	9	6	3	0	15
Total Europe - %	37	25	13	0	63
United Kingdom	X	X			

Analysis

International instrument compliance

The legally binding commitment requiring juvenile offenders to be housed separately from adult offenders has not been adopted by the United Kingdom (England & Wales).

Situation in practice

The UNHCR reported that some juveniles, including some under age 16, were held together with adult prisoners. Although rare, there were also instances when pre-trial juvenile detainees were held with convicted prisoners due primarily to overcrowding.

The CPT reported that despite recommendations that detention should be used solely as a last resort for juveniles, there were a worryingly high number of juveniles in special centres in England and Wales. In particular there was a large proportion of juveniles in detention for relatively short periods – not long enough to identify and combat the root cause of offending but long enough for the juveniles to become acquainted with prison life. Concerns about the levels of

juvenile detention in England & Wales were also raised by the European Commissioner for Human Rights.

Mainly complaints were made by juveniles in the institutions visited by the CPT about the lack of outdoor exercise which at the time had been unavailable for several months and even when available limited to 30 minutes. Reductions in staff hours to a four and a half day week meant that some juveniles spent almost all of their time between Friday lunchtime and Monday locked in their cells. As a consequence of the volatile atmosphere in some establishments, juveniles were only allowed to associate in smaller groups, meaning they got less association time than they were entitled to. Furthermore there was little to engage young people other than table tennis. Education was the focus of the regime for juveniles and consequently many courses, both educational and vocational, were available. However too few courses resulted in the awarding of a certificate and the classroom environment frequently failed to stimulate the pupils. Juveniles were allowed two hours of visits twice every four weeks. The visiting room was considered in need of refurbishment and up-grading. The pre-release program was considered to be inadequate and juveniles awaiting release would frequently find themselves short of important information.

An Intensive Support Unit was attached to Huntercombe Young Offenders Institution for the detention of juveniles after disciplinary actions. Isolation was only used as a last resort and most youths were detained for less than three days. However the regime of the Intensive Support Unit was somewhat sparse, completely lacking any meaningful activities or even support. Many juveniles complained that the policy of routine strip searches was degrading. The Committee agreed and recommended a strict policy of risk assessed strip searches. Additionally the practice of using pain compliant methods of restraint was strongly criticised. The European Commissioner for Human Rights also highlighted concerns regarding methods of restraint emphasising that the use of corporal punishment in custodial settings is expressly forbidden under the terms of the UN Convention on the Rights of the Child and the ECHR.

26.10 Sentence Execution Modalities

This section of the questionnaire is designed to collate information on the differing methods by which custodial sentences and measures involving deprivation of liberty are enforced across EU Member States.

10.1.1. Which of the following modalities of prison sentence execution are provided for in the law of your country?

	Weekend detention	Evening detention	Daytime detention	Home detention	
				no electronic monitoring	electronic monitoring
EUROPE	9 = 38%	10= 42%	3 = 13%	6 = 25%	14 = 58%
United Kingdom					X

10.1.2. What is the maximum period for which home detention with electronic monitoring can be imposed?

	Under 12 months	12-24 months	25 months - 36 months	37 months - 50 months	More than 50 months
EUROPE	7 = 29%	4 = 17%	0=0%	1 = 4%	2 = 8 %

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	Under 12 months	12-24 months	25 months - 36 months	37 months - 50 months	More than 50 months
United Kingdom	X				

10.2.1. In which of the following locations can custodial sentences or measures involving deprivation of liberty be imposed?

	Penitentiary institution	Psychiatric institution	Detoxification institution	Educational institution	Home
EUROPE	24 = 100%	20 = 83%	10 = 42%	7 = 29%	12 = 50%
United Kingdom	X	X			

Analysis

Sentence execution modalities

In the United Kingdom (England & Wales), the only additional sentence execution which applies is home detention with electronic monitoring; this can be imposed for a period up to twelve months. Custodial sentences or measures involving deprivation of liberty can be imposed in relation to penitentiary and psychiatric institutions.

26.11 Early release from prison, earned remission and suspension of sentence

26.11.1 Early release

Early release means the release of the offender before their prison term is finished. It is possible only while the sentence is still being served. Early release does not include the suspended enforcement of a penalty which is dealt with later in this questionnaire.

11.1.2.1. Has your country adopted laws and regulations under which prisoners are entitled to early release from prison ?

	Yes	No
EUROPE	24 = 100%	0 = 0%
United Kingdom	X	

11.1.2.2. At what point in a prisoner's sentence do they become eligible for early release?

	One third of sentence or less	One third to one half of a sentence	One half to three quarters of a sentence	More than three quarters of a sentence	Other
EUROPE	2 = 8%	1 = 4%	7 = 29%	0 = 0%	14 = 58%
United Kingdom					X

11.1.2.2. Does your country have different regulations for the early release of prisoners based on:

	A prisoner's nationality (non-EU citizen)	A prisoner's nationality (EU citizen)	The length of sentence imposed
EUROPE	Yes - 3 = 12% No - 21 = 88%	Yes - 3 = 12% No - 21 = 88%	Yes - 24 = 100% No - 0 = 0%
United Kingdom	N	N	Y

11.1.2.3. Are provisions governing the early release of prisoners automatic or discretionary?

	Automatic (prisoners are automatically released at a certain point in their sentence)	Discretionary (prisoners are only released following assessment)
EUROPE	Yes - 7 = 29% No - 17 = 71%	Yes - 20 = 83% No - 4 = 17%
United Kingdom	Y	Y

11.1.2.4. What factors are taken into consideration when deciding whether a prisoner will be granted early release?

	The circumstances surrounding the crime	Prior criminal record	The offender's progress during imprisonment	Assessment as to whether the prisoner is likely to reoffend	Recommendation from the sentencing judge
EUROPE	Yes - 24 = 50% No - 24 = 50%	Yes - 15 = 63% No - 9 = 37%	Yes - 22 = 92% No - 2 = 8%	Yes - 19 = 79% No - 5 = 21%	Yes - 4 = 17% No - 20 = 83%
United Kingdom	Y	Y	Y	Y	Y

11.1.3.1. What forms of monitoring and conditions can be applied to prisoners' early release?

1. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
2. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory therapeutic interventions (e.g. drug/alcohol counselling, anger management courses etc.)
4. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
5. Compulsory access and contact restrictions (e.g. an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
6. Electronic monitoring

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7. Weekend/evening /daytime detention
8. Requirement containing limitations on leaving the country
9. Requirement to leave the country
10. Requirement to pay compensation
11. Requirement to undertake community service
12. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	Other
EUROPE	Y - 83 N - 17	Y - 8 N - 92	Y - 58 N - 42	Y - 62 N - 38	Y - 33 N - 77	Y - 25 N - 75	Y - 13 N - 87	Y - 42 N - 58	Y - 21 N - 79	Y - 29 N - 71	Y - 21 N - 79	
United Kingdom	Y	Y	N	Y	N	Y	N	Y	N	N	N	

26.11.2 Sentence reduction as a result of prison work

11.2.1.1. Can a prisoner earn remission on their sentence as a result of work carried out in prison?

	Yes	No
EUROPE	9= 38%	15 = 62%
United Kingdom		X

26.11.3 Suspension of sentence enforcement

11.3.1. Does the national law of your country make provision for the further execution of a prison sentence to be suspended during the course of the sentence?

	Yes	No
EUROPE	10=42%	14= 58%
United Kingdom		X

11.3.2.1. What factors are taken into consideration when deciding whether a prisoner will have the further execution of their prison sentence suspended?

1. The circumstances surrounding the crime
2. Prior criminal record
3. The offender's progress during imprisonment
4. Assessment as to whether the prisoner is likely to reoffend
5. Recommendation from the sentencing judge
6. Suitability of home circumstances
7. Information from victim(s)
8. Willingness of the prisoner to leave the country upon release
9. The prisoner will be deported upon release
10. Other – please specify

	1	2	3	4	5	6	7	8	9	Other
EUROPE	Y - 8 N - 92	Y - 13 N - 78	Y - 17 N - 83	Y - 21 N - 79	Y - 0 N - 100	Y - 4 N - 96	Y - 0 N - 100	Y - 0 N - 100	Y - 0 N - 100	21
United Kingdom	N	N	N	N	N	N	N	N	N	

11.3.3.1. What forms of monitoring and conditions can be applied to prisoners whose further execution of a prison sentence has been suspended?

1. Unconditional supervision
2. Compulsory supervision – time limited duration - (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
3. Compulsory supervision – unlimited duration (an obligation to cooperate with, or report to, a probation officer, representative of a social service or other body having responsibility for sentenced persons)
4. Compulsory therapeutic interventions (*e.g.* drug/alcohol counselling, anger management courses etc.)
5. Compulsory residence or workplace notification (an obligation to inform or seek permission of any change in residence or place of work)
6. Compulsory access and contact restrictions (*e.g.* an obligation not to enter or go near certain localities, places or defined areas or, to avoid contact with certain persons or, to avoid contact with specific objects which could be used in the commission of a future offence)
7. Electronic monitoring
8. Weekend/evening /daytime detention
9. Requirement containing limitations on leaving the country
10. Requirement to leave the country
11. Requirement to pay compensation
12. Requirement to undertake community service
13. Other – please specify

	1	2	3	4	5	6	7	8	9	10	11	12	Other
EUROPE	Y - 4 N - 96	Y - 38 N - 62	Y - 4 N - 96	Y - 29 N - 71	Y - 17 N - 83	Y - 17 N - 83	Y - 4 N - 96	Y - 4 N - 96	Y - 21 N - 79	Y - 0 N - 100	Y - 17 N - 83	Y - 4 N - 96	2
United Kingdom	N	N	N	N	N	N	N	N	N	N	N	N	

Analysis

Early release from prison, earned remission and suspension of sentence

In common with all EU countries, the United Kingdom (England & Wales) has adopted measures under which prisoners are entitled to early release from prison. Prisoners in England & Wales become eligible for early release at differing points in their sentence depending on the length of sentence imposed. The early release system in England & Wales combines both discretionary and automatic provisions. Decisions on a prisoner's early release can be based on

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seven of the ten criteria identified. Five differing forms of monitoring and conditions can be applied to a prisoner granted early release. Prisoners in England & Wales are not able to earn remission from their sentence as a result of work undertaken in prison. Neither is provision made for the further execution of a prison sentence to be suspended during the course of the sentence.

Appendix

1. Criminal Justice Act 2003
2. Criminal Justice and Police Act 2001
3. Early Release Arrangements
4. Prison Act 1952
5. Prison Rules 1999
6. Role of the Parole Board
7. Sentencing Act 2000
8. Young Offender Institution Rules 2000

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The introduction in 2008 of the Framework Decision on the application of the principle of mutual recognition to judgements in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union sparked discussions as to whether the practical operation of the instrument would be compatible with its very objective, being the enhancement of detained persons' social rehabilitation prospects.

Transferring detained people back to their respective Member State of residence and/or nationality within the mutual recognition framework is somewhat precarious in light of the often substantial variety of Member States' legal and prison systems. In this context, and following a call for tender by the European Commission, the authors conducted the biggest study to date on Member States' material detention conditions, early/conditional release provisions and sentence execution modalities. In addition to exploring the diversity of legal frameworks, the study also assessed practitioners' views on cross border execution of custodial sentences in the EU.

This book contains the individual Member State reports resulting from the legal and practitioners' analyses, backed by additional information drawn from monitoring and evaluation conducted at Council of Europe (Committee for the Prevention of Torture) and United Nation levels.

This is essential reading for EU policy makers, judicial and law enforcement authorities and for defence lawyers throughout the Union. Undoubtedly, this book will be an asset to everyone who is involved in or taking an interest in detention issues and cross border execution of judgements involving deprivation of liberty in the EU.

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