

NO TO OVERCROWDED PRISONS
28th February 2008



PUBLIC SERVICE WORKERS UNITED AGAINST OVERCROWDED PRISONS

**EPSU TRADE UNION EUROPEAN ACTION DAY
28 FEBRUARY 2008**

<http://www.epsu.org/prisons>

BRIEFING TO AFFILIATES FOR MEDIA PURPOSES

EPSU is the **European Federation of Public Service Unions**. It is the largest federation of the ETUC. 8 million public service workers from over 200 trade unions are members. They organise workers in the health and social services, local and regional government, national administration, energy, water and waste sectors

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INTRODUCTION

WHAT IS AT STAKE? A TRADE UNION AND HUMAN RIGHTS ISSUE

The majority of prisons in Europe are facing an overcrowding problem, that is to say having more prisoners than a facility can accommodate in a physically and psychologically healthy and humane way. There are on average 25% more detainees than the facilities are designed for. These figures hide wide differences between and within countries, e.g. from 4% overcapacity in Sweden to 98% in Bulgaria.

Prison overcrowding is inextricably linked to the constant increase, for the past decade, of the prison population in almost all EU countries, to currently stand at over 600.000. For instance, in Belgium the prison population has doubled since the 80s, in the UK (England and Wales), it has increased, over the same period of time by 75%, resulting in over 60% of establishments being overcrowded. In France, there are 60.000 detainees for a total prison capacity of 50.000. In a number of countries, the emphasis on law and order rather than social and economic justice will further exacerbate the problem.

In violation with the Council of Europe's prison rules, imprisonment is therefore not a last resort measure in the EU.

Against this background, EPSU's affiliates, representing a large majority of security and treatment personnel working in prisons, have identified prison overcrowding as one of their gravest shared concerns. It has serious, even lethal, effects on working and living conditions. It affects the ability to control crime, violence and to prevent contagious diseases within the prison walls. It violates international and European standards on human dignity. It goes against the general interest of society by generating more criminals.

Clearly the answer does not lie with building new prisons and/or resorting to privateers, as prison population tend to rise in tandem with new facilities.

Urgent reforms of our justice system are needed if Europe is not to resemble the US with its two million prisoners. Europe needs a large public debate about crime and justice issues and the role that prisons play in our society

This debate must involve all prison staff and their trade union representatives. Given the links between criminal and social justice, this debate is an integral part of EPSU's broader campaign for a European legal framework on quality public services for all.

Our aims are to improve the working and living conditions in prisons and reduce the numbers of prisoners by improving and investing in prevention, legal protection, rehabilitation and sound alternatives to imprisonment. This is not an impossible mission, some countries have, or used to have, a much better record than others. There are signs of a more effective and measured approach, some new initiatives and plenty of good operational practice to build on. But at a time of severely restricted public funding, there is now a real risk that we will have worse, as well as more, prisons. The current political climate and policies, both at national and EU levels, that foster competition, individualism, short-term financial profits and cuts in essential public services including justice, fosters the risk of losing hard won gains.

A first united call for more social Europe, not Prison Europe.

As a first concrete step to raise awareness, EPSU and its affiliates from 10 countries are organising a European Action Day on 28 February 2008. Similar actions, as well as strikes, have been organised by EPSU's affiliates, such as in Italy, Spain, France, Belgium and the UK calling for a better recognition of prison staff work. But this is the first coordinated transnational public sector trade union action. Some 400 prison staff including guards, social, nursing, medical and other health workers from Austria, Belgium, France, Germany, Italy, Norway, Sweden, Spain and the UK, will demonstrate in Brussels.

The date of 28 February has been chosen to coincide with a meeting of the EU Council of Ministers for Justice and Home Affairs who are charged with running our prison services. An EU debate has started on pre-trial detention, transfers of detainees in the framework of establishing an area of justice.

Trade unions have a contribution to make to this debate as it will impact on the valuable work of prison staff. We want to work collaboratively with Justice Ministers, as well as other ministries, most urgently health ministries, to offer solutions and safe alternatives. To this end, an EPSU delegation is seeking a meeting on 28 February with the chair of the EU Council, Slovenian Justice Minister Prof. Dr. Lovro Šturm, to submit our demands.

Other activities will take place on the same day across Europe including in prisons. Check our website for regular updates <http://www.epsu.org/prisons>

Below you will find more explanations on the causes and consequences of overcrowding and trade union proposals. This information is based on the results of EPSU workshops over the past 3 years putting together trade union representatives of security and treatment personnel in prisons. We firmly believe that any progress in reforming the penal system needs to be based on a thorough consultation of all prison staff.

Background Information

CAUSES

The public perception is such that many assume jail and prison overcrowding results from rising crime rates and general population growth. However, the situation is much more complicated and prisons have never reduced crime rates. On the contrary, Sweden for example, has a lower imprisonment rate and a lower crime rate. There are a number of interrelated causes such as:

1. Insufficient investment in non-custodial measures such as community work, electronic tags, on parole;
2. Inappropriate sentencing of non violent offenders;
3. Excessive use and length¹ of pre-trial detention which stands at 1 out 5 detainees on average in Europe² ;
4. Tougher sentencing regimes often for already vulnerable citizens (e.g poor, foreigners, drug using offenders, mentally ill and learning disabled);
5. Lack of investment in decent prison facilities and decent working and detention conditions which prevents rehabilitation and leads to recidivism;
6. Lack of prevention and resources in social and mental health care.

In 2005 a government report in the UK looking at re-offending demonstrated that 67% of those released from prison re-convict within two years and that this figure is higher when applied to specific groups such as young males. Further, those prisoners who did not take part in meaningful activities (including education) were three times more likely to be reconvicted than those that did. In Belgium, psychiatric hospitalisation costs about 100€ more per day than imprisonment. Is it the reason why governments prefer to lock up people with mental health problems? (CSC briefing, 2007)

CONSEQUENCES

Brutal Working and living conditions lead to brutal results

Prison staff and prisoners live side by side, most of them are of a modest social origin.

Overcrowding affects them in a variety of ways:

It creates competition for limited resources, aggression between inmates and against staff, higher rates of illness, higher suicide rates, great risks for spread of infectious diseases, training fields for crime, bullying and victimization of vulnerable people.

The opportunities for prisoners to participate in self-improvement and rehabilitative programs, such as academic, employment and vocational training are curtailed.

¹ EU16 average length of pre-trial detention is 167 days, it is up to 1 year in Greece, Hungary and Latvia (Commission's data, 29.8.2006SEC(2006)1079)

² 1 out 3 in France and Belgium.

This, in turn, increases the likelihood of recidivism. For instance in the UK, the report by Lord Carter in 2003 highlights that since 1997 a 22% increase in prison population has reduced crime by 5% whilst overall crime had fallen by 30%.

Prison overcrowding exacerbates the already difficult working conditions of prison staff and makes it near impossible to fulfill a rehabilitating mission, which is one of the main aims of most prison services in Europe.

Prison staff work within unacceptable levels of stress, and sometimes in fear for their own life. This has an impact on all aspects of their lives.

“In Scotland, the life expectancy of prison guards is 58 years-old, 15 years below the national average” (POA-Scotland, EPSU Prague workshop, 2006)

They are often undervalued compared to other public sector employees.

Top ten overcrowded public prisons in England and Wales

Kennet 185%; Lancaster 180%; Shrewsbury 174%; Swansea 172%; Preston 169%; Usk 163%; Leicester 156%; Lincoln 155%; Durham 152%; Wandsworth 151%;
4 out of 5 Welsh prisons are overcrowded

“A number of UK prisons have a high turnover of healthcare staff and there is often over-reliance on agency workers. This is a costly resource and not best use of limited financial resources. Having inexperienced nurses, for example, can cause the greater chance of mistakes being made from a security and/or clinical perspective.” Ann Norman, RCN (Royal College of Nurses)

Prison officers have often more limited trade union rights, lower wages and limited career and training opportunities.

“In Estonia, our Minister of Justice, Rein Lang, refused to conclude any collective agreements on wages with the trade unions. He was also the main actor who opposed extending the rights to strike to State and Municipal Workers”, Kalle Liivamagi, President of ROTAL (Trade Union of State and self-government Institutions Workers of Estonia)

Understaffing is a related problem leading to overtime and burnout. In Sweden, Norway and Denmark for instance, sickness rates of prison officers are higher than the national average.

There is overall a shortage of “treatment” staff, i.e. social, psychological and probation officers.

“In France, the social and probation, worker/prisoner ratio is of 1 for 100 prisoner, this ratio can go up to 1:130 in some cases ! The mission of rehabilitation which prison services must carry out, alongside guarding and security is completely left out. There has been an important recruitment drive in 2007 (500 more staff) but it will not be maintained this year with only 150 more staff to be recruited.” Christine Joffre, secretary, (UGSP-CGT)





“In Spain, there are about 700 social and educational workers and 850 healthcare personnel for a total of 60000 prisoners. This is not enough. We also have an increasing problem of basic communication with prisoners with an increasing number of them who do not speak Spanish. The multicultural nature of prison services needs be better taken into account.” José Miguel Guzmán Cabrera, General secretary, (Sección Estatal de IIPP de CC.OO)

In breach of the fundamental right to human dignity

The bottom line of any penal reforms is whether or not it complies with human dignity.

Overcrowding is clearly in breach of human dignity as recognised by the Council of Europe’s Convention for Human Rights and the EU Charter of Fundamental Rights.

The Convention does not contain any provisions specifically dealing with prisoners’ rights (except a ban on forced labour), but because imprisonment does not automatically limit all of a person’s rights, the Convention’s provisions are still applicable to prisoners.

Since 1987 the Council of Europe has also developed a set of minimum standards on detention and working conditions in prisons in a document called European Prison Rules (Recommendation No. 87(3)). The very first of these European Prison Rules is:

The deprivation of liberty shall be effected in material and moral conditions which ensure respect for human dignity and are in conformity with these rules

EPSU fully supports the European Prison Rules which should be circulated widely to all staff, their trade union representatives and prisoners.

This document provides for basic rules for the management and treatment of prisoners, including material conditions (food, clothing and personal hygiene), access to health care, disciplinary proceedings and prison activities (educational, vocational training, etc). The rules are recommendations to member states and can help trade unions back up their claims to improve prison services. These standards recognise that prisons and correctional services are a public service, whose main objective is to serve the general interest of society and fulfill a rehabilitation purpose. They recommend that prison personnel be employed on a permanent basis, have civil service tenure and attractive wages.

Importantly, the rules recommend that prison services be under the responsibility of the justice ministry. It is most important for former soviet republics and Russia where prisons are still under military rule. This means that trade union rights are banned and that the access of Non-Governmental Organisations (NGOs) to prisoners is very limited.

. *“In this situation there are two ways out for a prison officer – either to quit, or to subdue him/herself. If you start struggling for your rights, a reason to be fired or downgraded will be easily found.”* Victoria Sergeeva, Moscow office of Penal Reform International (EPSU workshop in Prague, December 2006).

EPSU is strongly against prison services being under a military regime.

The Council of Europe’s main body charged with overseeing the application of the rules is the Committee on Prevention of Torture (CPT). It visits different types of places of detention – e.g. prisons and places of youth detention, police stations, migration detention centres, army barracks, psychiatric hospitals – to find out how detainees are treated and, if necessary, to recommend improvements. The CPT is not empowered to deal with individual applications, as these are the responsibility of the European Court of Human Rights. On many occasions the CPT has been led to conclude that the adverse effects of overcrowding have resulted in inhuman and degrading conditions of detention and thus in sheer violation of the European Prison Rules (most recent example was in France, report 10-12-2007).

“In some of the establishments visited, hygiene is a real problem, cells are overcrowded, violence and contagious diseases are frequent. Understaffing in cases of accidents or fire can carry huge consequences, which can’t be compensated by means of technological surveillance”
Zdenek Hayek, Prague office of the Council of Europe’s Torture Prevention Committee (EPSU Prague workshop)



EPSU supports the work of the CPT and recommend that as part of the prison inspections, the trade unions representatives be informed and consulted.

Another useful tool for trade unions is the EU Charter of fundamental rights. It does not contain specific provisions on prisons as such but reconfirms human fundamental rights to human dignity as well as workers’ and trade union rights. It also provides for a right to fair trial and good administration. It is due to become binding on member states (except, sadly, the UK and Poland) in all Community policy areas. As Home and Justice Affairs is a shared responsibility between Member states and the Commission, the Charter will therefore apply to this area. **It is against the general interest.**

The fight against crime and prevention of recidivism demands that prisons cease to be the best school of crime. If prison is to serve any useful purpose, it must be to return prisoners to the community better equipped to lead crime-free lives by investing in education, mental health support and purposeful activities.

It is EPSU's view that the current crisis in Europe's prisons severely impedes this.



“The concern of many within the England and Wales criminal justice system is that privatisation dogma accelerates a prison building programme, taking up scarce public resources and detracting from meaningful debate about progressive penal policies that would look to tackle issues such as re-offending rates” Mark Serwotka, General Secretary, PCS (Public and Commercial Services Union, UK).

Pretext for privatisation

Prison overcrowding is often used as a pro-privatisation argument. Instead of tackling the real issue, some EU governments are, or are considering to, bailing out prison facilities to private companies new prisons.

EPSU is strongly opposed to the commercialisation of prisons. There is something inherently wrong with making profits on the back of prisoners and workers. It is EPSU's view that the ongoing pressure to open up health and social services to competition in the EU, as well as the lack of long-term public investment in community sentences, will further exacerbate the shortage of these services in prisons.

Since the creation of private prisons in the US, the prison population has dramatically increased: from less than 300,000 in 1972 to more than 2 million today. Prisoners become a source of profit and cheap labour. This has even led to importing prisoners, a practice recently condemned by the ILO (International Labour Organisation). This is also why tougher sentences are now common in the US. More prisoners mean more money.

With a total of 11 private jails, the UK already has the most privatised prison system in Europe. 59% of public sector Prisons are overcrowded, whilst in the private sector this figure increases to 72%. Evidence gathered for EPSU by its UK affiliates and Prison Privatisation Report International, also shows that private prisons have a worse record than public ones, in terms of working and living conditions, recidivism rates and cost. A prisoner in a public prison costs 39.000 € per year compared to 48.200 € in a private facility. For workers, the average working week is two hours longer, sick pay is lower, holidays are shorter, and pensions provision inferior. The average basic pay is 30% lower in private prisons than in the public sector. Private companies are able to squeeze vast profits out of the prison system. For example, Group 4/Carillion made a windfall profit of £10.7m from the construction of Fazakerley prison in Liverpool (UK). Due to the fact that the initial cost of the project was repaid in two years, the contractors can expect to enjoy 23 years of pure profit.

The conclusion is that private prisons have led to “*very little innovation in custodial management. Most of the gains have come from using fewer staff, lower wages, less employment protection for staff, less bureaucracy and fixed contracts.*” Phil Wheatley, Director General of the Prison Service in the UK.



Based on this evidence, the Scottish penal authorities took the decision in 2007 to stop privatisation plans.

In Estonia too recent privatisation plans has been stalled

“Under trade union pressure, the evidence gathered by the EPSU prison service network, and in the face of the financial implications, our government in 2006 decided to drop its intention to build private prisons”, Kalle Liivamägi, President of ROTAL.

Pressure to privatise prison and correctional services continue and EPSU is monitoring developments in this area very closely.

SOLUTIONS

EPSU demands: Improving working and living conditions, both sides of the same coin

Our aim is to improve the working and living conditions in prisons and reduce the numbers of prisoners by improving and investing in prevention, legal protection, alternatives to imprisonment and rehabilitation. Before being in prisons, a majority of detainees already lived in a situation of precariousness or social exclusion, in terms of income, health, housing, education, work, and family life. This must be taken into account to better tackle the objective of rehabilitation.

There is no easy solution to solve the overcrowding problem. A coherent and integrated policy is needed involving the whole justice system, trade unions and prisoners. The lesson to be learned from the trade union examples is that the problems facing any prison system can never be resolved from within that system, but need to be tackled in a strategic manner based on an effective social dialogue.

Such a strategy will have several priority elements such as:

- 1 detainee 1 cell
- Minimum worker/detainee ratio (at least 1/1)
- Right to work and live in a healthy and safe environment
- Right to training for staff
- Stop of the increase in the number of detainees by introducing or applying non-custodial measures
- Reduce numbers of pre-tried detainees³, of migrants detained for being undocumented, of the sick, of drug offenders
- Oppose privatisation
- Recognise the positive role trade unions and social dialogue play to improve working and living conditions in prisons
- Sufficient resources and better coordination of all prison-related services
- Even distribution of resources to avoid competition between different public services (e.g. psychiatric hospitals treating offenders, people with mental illness or drug addicts being treated as offenders)
- Application of the Council of Europe's Prison Rules.
- Strengthen the crucial role played at national level by ombudsmen and parliamentarians in the inspection of prisons and detention centres to ensuring the effective application of the European Prison Rules
- Sustain and strengthen those links with relatives and the outside community that will promote the best interests of prisoners and their families

The EPSU prison service network is collecting a number of good practice examples and policies that in the long run can make a difference. It is important that our demands and practices feed into further the ongoing discussions at EU level.

“If we are to succeed in improving the quality of prison services we need commitment, dedication and ownership at all levels. Surveys show that good working conditions and competent management are crucial motivation factors. And experience shows that the expertise of

³ In Latvia a criminal procedure law in October 2005 provides stricter rules for imposing pre-trial detention and introduces specific time limits for pre-trial detention.

employees and their knowledge of tasks and routines constitute a valuable source of innovation. A quality reform of our justice system must therefore focus on lifelong competence development, health & safety, participation and – last but not least – good management through the education of managers at all levels” Kim Østerbye, President of the Danish Union of Prison Officers

*“The reduction of the number of detainees would help meet our demands by limiting the risks of recidivism. We have been calling for a “*numerus clausus*”, i.e. a limit on the number of prisoners in all prisons, the only efficient way to prevent overpopulation and to promote the development of judiciary control and alternatives to imprisonment.”* Stelios Tsiakkaros, charged with International affairs, CFDT-INTERCO.

“Better and longer training of prison officers has been top of the Belgian trade union agenda for many years. We have partly succeeded with the establishment of a Belgian penal school which has increased the duration of training to become a prison officer from 4 weeks to 3 months. We don’t think this is enough but at least it is progress”. Jean Liezen, General Secretary CGSP- prison services and Gaston Merkelbach, secretary, CSC-services publics



“Staff and prisoners must be treated fairly, with respect and dignity. Nurses play a leading role in prisoner healthcare and there are many visible benefits of quality nursing services in existence. It is our view that people who are held in prisons, immigration centres or police custody must be given the same quality services as are available in the wide community”. Dr Peter Carter, General Secretary of RCN (Royal College of Nursing).

“ In the Czech Republic, we have now an offenders’ programme which joins up security and probation services to develop more effective forms of punishment, not limited to imprisonment” Alena Vondrova, President of TUSBI (trade union of Employees in State Bodies and Institutions)

“The new law on prison and correctional services due this year should be an opportunity to rethink the role of imprisonment in our society in consultation with trade union representatives of all prison staff. There should be no taboo. In France, we have one of the lowest rates of prison escapes due to the great work that prison officers are doing. It is now time to make social rehabilitation, the other mission of prison services, priority number one. A lot of instruments and measures are at our disposal, but the problem is the lack of resources and political will”. Céline Verzelletti, General Secretary, CGT pénitentiaire (UGSP-CGT)

“In Sweden, there are a range of alternatives to imprisonment. A person who is sentenced to at the most 6 months imprisonment can apply for the right to serve the sentence in freedom with electronic tags; Conditional sentence with community service; Probational sentence on different conditions e.g treatment programme for drug abuse. Through social dialogue with the employers, the trade union has good opportunities to influence the situation in Sweden” Roal Nilsen, (SEKO)

Although overcrowding is by no means the only cause of the dangerous conditions and potential for abuse that exist in many of our prisons in Europe, it is critical issue that must be effectively addressed if these other problems are to be solved.

DATA

Yearly data from the Council of Europe show that over the past decade the prison population in the EU27 has been increasing except in 4 countries, the Czech Republic; Estonia, Lithuania and Romania.

Prison population currently stands above 600,000 of whom there are between 4 and 6% of women.

In the EU-27 the highest prison population rate -number of prisoners per 100.000 inhabitants- is in the Baltic states (average 327.4) followed by Poland and the Czech Republic.

The lowest prison population rate is in Slovenia.

In Western EU, in absolute and relative terms, England and Scotland have the highest number of prisoners (148 and 139 prisoners per 100 000 inhabitants respectively in 2006). A majority of EU countries faced an overcapacity problem of, depending on the data sources, between 15 up to 25% on average.

Country	World Prison Brief data (Kings College, London) 2004, 2005, 2006	Council of Europe, Space 2005	Update Council of Europe Space 2006
	<i>Figures express % of occupation</i>		
Austria	107.2	106.3	103.4
Belgium	120 (Belgian union CSC-services publics data);	110.8	117.9 (120 accord. To CSC-services publics data);
Bulgaria	130.9	194,1	115.6
Cyprus	170.6	155,6	108.9
Estonia	102.	98.6	96.4
Finland	112.4	112.8	105.5
France	109.9;	112.6	114.8
Greece	178.8	171.7	168
Hungary	139.6;	145.7	137
Italy	131.5	138.9	88.6
Luxemburg	110.3	88.6	96.7
Poland	122.1	118.3	117.3
Portugal	104.3	101.5	104.3
<i>Update, dec. 2007 Slovenia</i>			116.6
Spain	129.5	133.7	140
UK	2006: Average 111; 2007: England/Wales:112.2(July 2007) NI: 97.3 Scotland: 114.1 (July 2007) Average: 107.86	England/Wales 95.9 NI 91.5 Scotland 103.7 Average: 97.3	Eng and wales:96.7 NI: 99.7 Scotland: 112.5 Average: 102.96
Sweden		104.1	106.2
Average	25.9	19	15

In the EU 25, in 2004-2005 the total of pre-trial detainees was 131,502 compared to 133,503 in 2002. (Commission's data, 2006, impact assessment for a Decision on European supervision of pre-trial detention). However, between 1999 and 2004-2005, there has been an increase of pre-trial detention in the following 13 EU countries: Austria; Belgium; Denmark; Finland; Greece; Ireland; Luxembourg; Netherlands; Spain; Sweden; UK (England and Wales,); Slovakia and Slovenia. Decreases are to be found in the Czech Rep, Lithuania, Latvia, Estonia, Portugal and Italy

Average length of pre-trial detention in Member States of the EU

Country	Year	Length of pre-trial detention(days)
Austria	2002	68
Belgium	2002	80
Czech Republic	not specified	154
Denmark	2001	55
Estonia	not specified	180
Finland	2004	93
France	2002	116
Germany	2003	120
Greece	2002	365
Hungary	2002	364
Ireland	2001	84
Italy	2002	175
Latvia	not specified	365
Lithuania	2004	163
Luxembourg	2002	243
Netherlands	2002	245
Slovakia	not specified	213
Sweden	2004	55
UK	2002	42.5
EU 19	average	167

Sources: Replies to EPEC questionnaire, replies to 2003 Commission's questionnaire, Revised analysis of questionnaire on the law and practice of the Member States regarding remand in custody. Report by Jeremy McBride, Co. The information on the length of pre-trial detention was sought for all the 25 Member States; however, it was possible to obtain such information only for 19 countries.

There are about 300 000 people employed by prison authorities in EPSU geographical constituencies (EU 27+ Albania, Bosnia-Herzegovina, Croatia, Iceland, Macedonia, Montenegro, Norway, Serbia, Switzerland, Turkey). The rate of supervision of prisoners by custodial staff (number of prisoners per custodian) is on average 283,1 with large country (and regional) differences, from 1,6 in Iceland to more than 1.000 in Germany, England and Wales and Poland.

USEFUL WEB LINKS

- ✓ **Prison Privatisation Report International** <http://www.psiru.org/ppri.asp>
- ✓ **Council of Europe's prison rules (1987 and 2006),**
<https://wcd.coe.int/ViewDoc.jsp?id=955747&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75>
- ✓ **Council of Europe's recommendations on prison overcrowding (1999)**
[http://www.coe.int/t/e/legal_affairs/legal_co-operation/prisons_and_alternatives/legal_instruments/Rec.R\(99\)22.asp#TopOfPage](http://www.coe.int/t/e/legal_affairs/legal_co-operation/prisons_and_alternatives/legal_instruments/Rec.R(99)22.asp#TopOfPage)