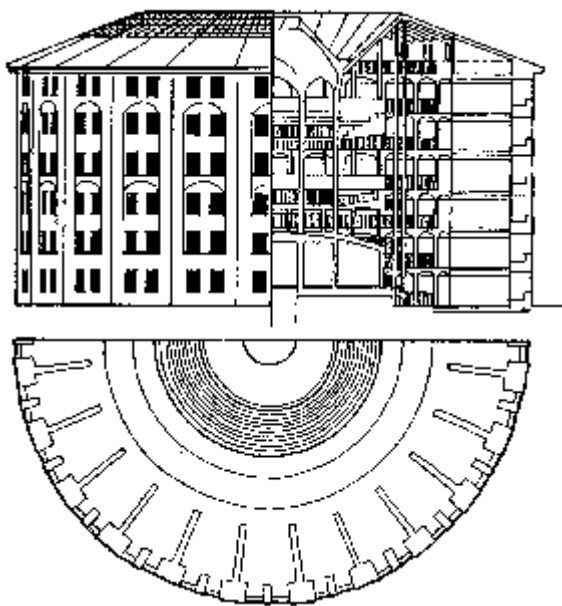




## TRADE UNIONS AND PRISON SERVICES IN EUROPE

*SEMINAR ON 19 MAY 2005, LUXEMBOURG*

### ***DISCUSSION DOCUMENT***



*The Panopticon of Jeremy Bentham  
Seeing without being seen*

## **TRADE UNIONS AND PRISON SERVICES IN EUROPE**

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#### **DISCUSSION DOCUMENT**

1. The work programme 2004-2009 of the EPSU Standing Committee on national and European administration foresees coordinated work on prison services looking at working conditions, involvement of private companies and alternatives to imprisonment.<sup>1</sup>
2. While deprivation of freedom is a last resort measure, priorities must be given to mitigating its negative effects. This means improving the living conditions of prisoners (and of their families) and working conditions of prison staff while reaffirming the state's full responsibility in the penal systems. The seminar on 19 May 2005 is a first attempt at taking stock of recent developments on working conditions and involvement of private companies. An initial discussion on the living conditions of inmates, which are inextricably linked to the working conditions of prison staff, and alternatives to imprisonment will also take place, to be complemented by further research and activities in the course of 2006-2007. From an EU perspective, it is also important to examine the extent to which prison services and the criminal justice systems relate to the ongoing debate on the future of Services of General Interest in the EU. In this respect linkages will be made with the related EPSU campaign for an EU legal framework on public services, as launched at the EPSU conference on 9-10 May 2005.

#### **Prison services in the EU**

3. In the EU-25, bearing in mind wide country variations with calculations, data from the Council of Europe indicate there are near 290,000 full time and part-time workers in the penal institutions. The total prison population (including pre-tried detainees) is 830,422 of whom there are between 4 and 6% of women. There is on average an increase in the number of detainees, both male and female, in many EU countries. England and Wales have the highest imprisonment rate in Western Europe. It has risen sharply from 125 per 100,000 of the population in 1999 to 141 currently. In comparison, Germany has 98 prisoners per 100,000 and France 93<sup>2</sup>. In the US, the incarceration rate hit 2 million this year (726 people per 100,000).
4. Overcrowding of prison services has become a key public concern in Europe. It is caused by a mix of an increased number of detainees, heavier sentences in some countries, and the excessive use of detention on remand<sup>3</sup>. This has led to industrial actions, most recently in Belgium, and prisoners' protest. It has very adverse effects on the social and educational measures that are deemed an integral part of the prison system, the physical and mental health and safety of both prisoners and prisons staff, and the rehabilitation of prisoners.

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<sup>1</sup> A previous EPSU seminar in prison services was held in 1994 in cooperation with Belgian trade unions on training of prison officers.

<sup>2</sup> Last April it was reported that the prison population in England and Wales hit an all-time high, with 75,550 held in 139 prisons and Home Office estimates suggest this figure could reach 76,500 to 84,000 by 2009 (Prison reforms trust, the UK)

<sup>3</sup> EP report, 1998

5. Many prisoners have experienced a lifetime of social, economic and emotional exclusion. There is currently a growing number of foreign national detainees, that points not only to the globalisation of services but also to the criminalisation of some parts of the migrant and refugee population. In 8 member states the number of such convicts exceeds 20%<sup>4</sup>. Whether prison services are well equipped to meet the needs of this population remains to be seen.
6. At EU level, prison services are rarely mentioned in the current debates regarding the future of Services of General Interest (SGI), EU jargon for public services. Arguably prison services are part of the national preserve and come under the narrow definition of SGI as services provided by the state for no remuneration in the judicial, social and educational areas. While not explicitly mentioned, neither the draft directive on services in the internal market -so-called Bolkenstein directive- that aims at removing all obstacles to free movement of services nor the Green Paper on Public Private Partnerships object to a possible opening up of prison services to private sector. In fact the Bolkenstein directive clearly covers security services, some of which are involved in prison services.
7. It is surprising to note that prisons are absent from the discussion regarding the Commission's pending Communication on Social Services of General Interest which will aim, among others, at delimiting the scope of competition policy on these services and provide minimum standards. Yet prison services are primarily a response, albeit a very limited one, to societal and social problems. They are supposed to fulfil a social service of general interest while they give a strong indication of whether essential public services fulfil or not their role in ensuring the well-being of citizens.
8. Back in 1998, the European Parliament adopted an alarming own-initiative report on prison conditions and alternatives. It calls on Member States to draft a fundamental prison law regulating the internal (material) and external legal position, the right of complaint and the obligations of prisoners and provides for an independent supervisory body in cases of violations of prisoners' rights. It also calls on the European Commission to monitor the development of legal and prison systems and compliance with the Council of Europe's prison standards. It recognises the hardship of working conditions, emphasises the importance of improving working conditions, and supports the creation of networks of prison officers to facilitate exchanges of experience. It also points to the need for governments to retain full responsibility for prisons.
9. The Council of Europe has adopted a series of resolutions and recommendations aiming at improving the conditions of detainees and prison staff. The legal nature of these documents is however weak. The recommendation on European Prison Rules adopted in 1987 stipulates that "*Personnel shall normally be appointed on a permanent basis as professional prison staff and have civil service status with security of tenure.... Salaries shall be adequate to attract and retain suitable men and women; employment benefits and conditions of service shall be favourable in view of the exacting nature of the work. Whenever it is necessary to employ part-time staff, these criteria should apply to them as far as that is appropriate*" (rule 54. 1). These rules are being revised, possibly taking up issues of privatisation as well as workers' information rights on working conditions.

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<sup>4</sup> Switzerland – 62.6% ; Luxembourg – 59.1%; Greece – 48.4% ; Belgium – 40.4%; Austria – 30.1% Italy – 28.5% ; France – 21.6% ; Sweden – 21.3%. (Council of Europe).

## Private companies and prison services

10. The PSIRU briefing on companies' involvement in prisons shows a great variation across Europe. There are however concerted efforts from the part of companies to tap into the potential market this sector may offer. According to the data available, Australia has the largest proportion of prisoners held in private prisons while the US has the highest number of private prisons. In the UK, 10% of prisoners are detained in private prisons. There seems to be a correlation between the extent of privatisation and a high incarceration rate. Since the 1980s France pioneered semi-private prisons and has recently embarked on what is currently Europe's largest prison building programme of 18 new semi-private prisons. Elements of privatisation also exist in Germany and Hungary and in some other European countries. The practice of subcontracting catering, laundry and maintenance services is widespread.
11. In the UK the introduction of private prisons has led to substantial differences in working conditions, wages and higher turnover rates as compared with state-run penal establishments. The involvement of private companies does not increase educational and training efforts of penal institutions' staff, which is unlikely to help towards the reintegration in society of prisoners and will adversely affect the general atmosphere and security in penal establishments.
12. There is no evidence that private prisons lead to reducing recidivism rates, the ultimate measure of whether "prison works". Further, in some countries under the contract conditions private prisons can "skim the cream", by selecting the least dangerous and, hence, least "expensive" convicts. The state-run penal institutions will accordingly have to manage the remaining "difficult" inmates. Prison overcrowding and saving public money are the main arguments underlying the demand for private prisons. However, a striking paradox is that the state-run penal institutions in such countries will continue to face the problem, while private establishments will evade it by virtue of their contract (e.g. in France). Further it begs the question of whether building new prisons is the right solution to the problem of overcrowding. Last the argument that the private sector encourages innovation and modernisation is not proven.
13. Multinational companies involved in prison services are typically structured as consortia comprising of banks, building/construction and security companies (also healthcare companies). Companies are intensively lobbying authorities to access the market of prison and correctional services. The International Corrections and Prisons Association (ICPA) annual conference on 30 Oct-4 Nov 2005 in Edinburgh will include workshops on private sector involvement. The president of the ICPA, Ole Ingstrup, will address the seminar on 19 May. The extent to which trade unions are, and should be, involved in these discussions need be raised.
14. A drive for privatisation of penal institutions and activities gives rise to many questions. The link between the growth of private prisons and prison population inflation is a key concern. The extent to which an extension of the private prisons network will lead to wider punishment through imprisonment and exacerbate the difficult working conditions of prison officers requires a transnational coordinated trade union response.
15. To do so however requires making the case for state run prisons both from the prisoners' and prison officers' perspectives (as well as offenders' victims). What is most striking when looking at prison services is the fact that since their very inception they have failed to reduce crime rates and rehabilitate crime offenders.

## **EU minimum social standards, trade union rights, social dialogue**

16. The living conditions of inmates are to a large extent determined by the quality or the absence thereof of the working conditions and trade union rights of prison officers. There is no question that prison staff, as well as inmates, should have access to full trade union rights. This is however not the case across the EU. In England, Scotland and Wales for instance it was only last March that full trade union rights were restored to prison officers.
17. As part of the seminar discussion, it will be important to examine the state of play with trade union rights and related campaigns, and the extent to which trade unions can help improve the civic and collective rights of prisoners, many of whom are also workers.
18. The EU provides for a number of social legislation and collective agreements setting out minimum social standards at the workplace. Recent developments are relevant to prison officers (as well as prisoners as workers). How far have the following had or will have any impact on the working conditions of prison officers?
  - EU cross-sectoral collective agreement on stress at work (2004) and pending negotiations on violence at the work place;
  - EU agreement on lifelong learning and development of competences (2002);
  - EU directive on workers' information and consultation rights (transposition deadline was March 2005);
  - EU directives against discrimination at the workplace on the grounds of sex, ethnic origin, religion, sexual orientation, disability, age;
  - EU directives (2002) and cross-sectoral agreement on gender equality (2005) including equal pay, access to promotion and issues of harassment.
19. The above issues can be part of the discussion with management in the framework of the European social dialogue in national administration, including also the issue of public sector performance and common standards of prison services as part of the public service ethos.
20. Access to information about company's strategy is another crucial and sensitive issue. A number of companies involved in prison services as listed in the PSIRU report are covered by the European Works Council directive. Indeed some of these companies have established EWCs e.g. French utilities Suez where EPSU plays a coordinating role. Further research is needed on the coverage of EWCs and information channels that can be used to access and influence company strategy in the security and prison services.

## **Reintegration of prisoners and alternatives to imprisonment**

21. At a later stage it is planned to hold a second seminar on the extent to which prison services fulfill their mission in reducing recidivism, facilitating or at least not preventing social reintegration of prisoners and alternatives to imprisonment. As an initial roundtable discussion, the following points may be worth addressing
  - What are the greatest obstacles to fulfilling a mission of educating and rehabilitating prisoners in your country? How are unions consulted over this?

- Is your union involved, possibly in cooperation with human rights groups, in debates on the role of prison services in society and alternatives to imprisonment (and therefore to prison employment) keeping the right balance between victims and offenders? Can you please give examples.
- For which types of offences are community sentences, electronic tagging most often used?