



Seminar on Trade Unions and Prison
Services in Europe
19 May 2005, Luxembourg

The European Market for Privatised Correctional Services: Developments and Implications

**Workshop at the EPSU Standing Committee on National and European
Administration on Prison Services
Luxembourg 19 May 2005**

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(PPRI www.psiru.org/justice)**

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INTRODUCTION

This briefing provides a snapshot of recent developments in prison privatisation. A more comprehensive overview covering prisons as well as other criminal justice services will be published by the EPSU following the discussion at this workshop and further research.

Across Europe there are pressures on governments to cut public spending and liberalise services. At the same time, measures are being implemented that increase demands on criminal justice systems that are generally ill equipped to cope.

Those EU members and accession states where access to justice and the rule of law is limited, prison and immigration detention conditions are inadequate, health provision and/or human rights for prisoners/detainees fall below the required minimum standards are under pressure to solve these problems through service reform and new infrastructure. Membership of the EU can depend on improving criminal justice systems.

The Council of Europe's Parliamentary Assembly has also expressed a wish for a European Prisons Charter that would "set common standards for the harmonisation of penalties and detention conditions and the monitoring of their application."¹ The European Prison Rules are being revised and will address the emergence of privately run prisons. But these rules are not formally binding on member states.

Meanwhile, the EC is fully committed to privatisation through the use of public private partnerships for new infrastructure and the provision of services. Neither the EC's Green Paper on Public Private Partnerships nor the 'Bolkestein Directive' regarding services in the internal market specifically mention criminal justice services. But nor are they exempted from consideration. However, this could be interpreted as a rejection of the moral and ethical objections to private sector involvement in owning criminal justice infrastructure, operating services and shaping policy as well as a dismissal of the international evidence that, operationally, prison privatisation is the wrong policy option.

The neo-liberal agenda includes the dismantling of public criminal justice services. The justification is that state-run prisons and other services face no competition and so offer poor quality and cost too much. Prison staff and their trade unions are regarded as having a powerful vested interest, exerting undue influence over policy and hindering reform. Private finance enables governments to quickly build new infrastructure without resorting to borrowing and private operators improve quality.

Prison operator Serco's vision is "to be the partner of choice for the provision of 'end to end' integrated services, to improve operational performance and efficiency throughout the criminal justice system."²

¹ Motion for a recommendation from Mr Hunault (France) and others to the Parliamentary Assembly, Doc.10332, 15 October 2004. Discussions on the feasibility of a Charter are ongoing.

² www.serco.com/about_serco/markets/civilgovt/Justice.asp

INTERNATIONAL DEVELOPMENTS

Almost a decade ago US stock analysts Prudential Securities predicted that:

“The private management of prisons, jails, detention centres and ultimately the full spectrum of corrections services could be a worldwide movement but there is still an unquantifiable but apparently huge potential global market for prison management services.”

In the 1980s prison privatisation emerged in the sunbelt states of the United States. The pioneer US companies, Corrections Corporation of America and Wackenhut Corrections Corporation (as was) soon developed international aspirations and by the early 1990s had influenced government policy and/or gained contracts in Australia, the UK and France.

Now governments including the US (federal government and some 30 states), England and Wales, Scotland, New Zealand, Australia (federal government and some states), two provinces in Canada, South Africa, France and Chile have some private or semi-private prisons up and running. Israel, Germany (several states), Italy, Hungary, Czech Republic, Republic of Ireland, Lithuania, Denmark, Peru, Costa Rica, Japan and Thailand are at some stage of feasibility study or implementation.

In South Korea and Rio in Brazil governments have contracted with religious organisations to run prisons.

In Europe several models for private sector involvement in prisons have emerged. These include:

- Public finance, design and construction with private management contracts for all services;
- Public finance, private construction, the state employs the prison officers but all non-custodial services are contracted out;
- Private finance, design and construction, the state employs the prison officers but non-custodial services are contracted out; and
- Private finance, design, construction and operation.

The latter is the private sector's preferred option and the UK has developed - and is exporting - this model. In 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.

This model is being copied in jurisdictions where, for now, the constitution prevents prison custodial services being contracted out. For example, a semi-private prison is being developed at Hunfeld, in the German state of Hesse. Elsewhere in Germany semi-private prisons are being developed in Saxony- Anhalt and North Rhine-Westphalia while states such as Mecklenburg-Western Pomerania, Baden-Württemberg are also considering public-private partnerships for new prisons.

And in Hungary, where at the end of 2004 the prisons were overcrowded by 40%, the government is using 15 year PPP contracts for a 700 bed prison being constructed at Szombathely in western Hungary. A tendering process for a second prison at Tiszalok in the east is also due to commence. The Szombathely prison is due to be completed at the end of 2006 and Tiszalok by July 2007. Construction firm Fober has been chosen to supervise the building at Tiszalok. Once the prison is open the service fee is expected to be €76 million per year. The private sector will not provide custodial services, prisoner registration or on-site medical facilities.

Meanwhile, the concept of competition is also being used as a tool to undermine public provision. For example, in England and Wales existing public sector prisons deemed to be failing have been 'market tested' against private sector bids. Now all public sector prisons are to be market tested through a programme of 'contestability' and arrangements are under way for the first cluster of three prisons to be tendered.

In England and Wales the not-for-profit sector is also being encouraged to bid for contracts.

THE MARKET

A handful of multinational corporations have the world's criminal justice systems as their target market. At stake is a global criminal justice market that was worth an estimated \$360 billion in 1997 (\$424 billion at 2004 prices). The prisons element was estimated at \$62.5 billion.³

Excluding detainees in immigration centres, border facilities and police cells as well as those people on electronic tags, parole and other community sentences it is estimated that there are nine million people held in penal institutions throughout the world⁴. The US holds some 2.1 million of those. Some 1.76 million people are languishing in penal institutions in Europe and Asia.

However, the number of prisoners held in privately-run prisons is relatively few. Both England and Wales and Scotland -separate prison administrations - each hold around 10% in private prisons. As at the 30 June 2004 the US held some 6.5 % and Australia had 17.5%. The two largest private prisons in the world are in South Africa. Each hold 3,000 prisoners out of a total prisoner population of 187, 446 (just over 3 %.).

So there is still a huge untapped potential for the private sector. The GEO Group recently described the UK as "the second largest private correctional market in the world."⁵

As an example of how the potential international market is viewed, one company carrying out market research recently asked for details of:

"the presence of the private sector engaged in the justice and public safety sector in a number of possible areas, such as: police, prosecution service, courts, custody and rehabilitation, community programmes, immigration ... to identify to what extent private companies are providing or could provide services more efficiently at a lower cost ... looking at the international justice and public safety markets in ... the UK, South Africa, China, Hong Kong, Indonesia or any other countries."

Another company wrote:

*"As you may be aware we have a number of contracts...and we are seeking to expand our services overseas. I am looking to gather information in the following two areas: the degree of privatised justice contracts within the markets in which [the company] operates and the regulatory framework that is in place within mature privatised justice markets and by implication need to be in place in developing markets."*⁶

³ What Does The World Spend on Criminal Justice? G. Farrell, K. Clark, 2004. www.heuni.fi

⁴ (World Prison Population List (sixth edition, Roy Walmsley, International Centre for Prison Studies)

⁵ (GEO Group press release 1 December 2004)

⁶ Source: email correspondence with the author.

THE COMPANIES

The typical corporate structure for a privately financed, designed, built and operated prison is a consortium comprising a bank(s), a construction/building maintenance company and a security firm/prison operator.

In Europe the private prison operators are: **Serco**, **Group 4 Securicor**, **Sodexho** and **GSL**. In France **GEPSA** operates non-custodial services in 16 prisons. These companies have been joined by US firms **The GEO Group Inc**, **Management & Training Corporation (MTC)** and **Cornell Companies Inc** after the chief executive of the National Offender Management Service (NOMS) in England and Wales invited these companies to bid for new contracts.

The UK is an obvious foothold for US firms interested in the wider European market.

Another US firm, **Correctional Services Corporation** has in the past unsuccessfully bid for contracts in the UK and **Dominion Correctional Services** is part of a consortium bidding for a prison contract in Israel.

Other segment-specific companies, for example **ARAmark** (food services) or **Primecare Forensic Medical** (health care) and general security companies such as **Reliance** are also involved in the wider correctional services market. However, it should be noted that thousands of companies are involved in providing goods and services to what is known as the 'penal industrial complex'.

Public private partnerships generally and prisons in particular are lucrative business for the banks. Last year the author was contacted by a consultant acting for a bank. The consultant wanted to know the best prison operator his client could team up with. The author replied that none of them were suitable and that his client would be best advised not to get into this business. The consultant said that the company's operational record would be immaterial as the bank would always get its money.⁷

The existing prison companies have extensive international operations and are well placed in Europe to market their services and lobby for enabling legislation where necessary.

- **Serco** operates in Europe, the Middle East, Asia Pacific and North America. The company's subsidiary **Premier Custodial Group** runs prisons in the UK. Serco recently won a contract to operate non-custodial services at a new prison under development at Hunfeld, Germany.
- **Group 4 Securicor** is the result of the recent merger between security giants Group 4 and Securicor. The company runs prisons in the UK and North America and supplies staff to six prisons in the Netherlands but has operations in over 30 European countries as well as North America, the Caribbean, Central and South America, Middle East, Asia/Pacific and Africa.
- **GSL** used to be owned by Group 4 but was sold off to two venture capital companies when Group 4 acquired Securicor in 2004. GSL's corrections business is currently in the UK, Australia and South Africa.

⁷ For a list of US prison companies and their institutional stock holders see Prison Privatisation Report International #63, www.psir.org/justice July 04

- **Sodexho's** operations span 70 countries worldwide including more than 20 in Europe. It even has an executive with the title 'worldwide correctional services champion'. It currently has corrections-related contracts in Australia and Chile. The company's European prison involvement includes: running three prisons in England; providing non custodial services –examples please of types of services- at five detention centres in the south of France and four in the north. In Italy it provides services to 36 detention centres; Netherlands - 28 detention centres; Portugal - 11 detention centres; and Spain - 8 detention centres in Catalonia.
- **GEPSA** is a subsidiary of the energy utilities and environmental management services conglomerate **SUEZ**. Since 1990 GEPSA's operation of non-custodial services has grown from five to 16 prisons in France. In 2004 it was part of a consortium (with Dankner Investments and Solel Boneh) short listed to bid for a fully private prison in Israel. As well as Europe SUEZ has operations in North and South America, Africa, and the Asia/Pacific region.
- **The GEO Group** was formerly known as the Wackenhut Corrections Corporation (WCC). In 2003 WCC sold its interest in UK corrections operations (through a 50 per cent holding in Premier Custodial Group). In 2003 WCC changed its name to GEO and in December 2004 GEO set up a UK headquarters. GEO now runs prisons in the US, Australia, South Africa and New Zealand, although its contract in New Zealand is due to expire and will not be renewed. In Canada it also has a maintenance contract at a youth facility in New Brunswick. In Cuba, GEO has a contract at Guantanamo Bay.

HOW PRISON PRIVATISATION IS PROMOTED

Prison privatisation is being promoted through various strategies.

The US companies and their trade group the Association of Private Correctional & Treatment Organisations (APCTO) lobby politically and commission and promote research that 'proves' the benefits of privatisation. This work finds also its way into the international arena. Independent research, however, finds that the claimed benefits of privatisation have not been proven.⁸

As well as the individual companies' own marketing strategies (generally undisclosed due to commercial confidentiality) the use of the Private Finance Initiative (PFI) and Public Private Partnerships (PPPs) as a solution for new infrastructure and service provision is being aggressively marketed throughout the world by the banks, consultancies and advisors that also have a vested interest.

One method is conferences. Two of the numerous forthcoming events promoting privatisation/PPPs are aimed at expanding the global market for private prisons and criminal justice services generally. On 24 May 2005 in London the European PPP Symposium 'Towards Convergence: Building an EU wide PPP Market' is a:

"conference and networking event for PPP professionals pushing the boundaries of the EUROS 95 billion European PPP market delivered by public sector PPP leaders in the EU."

⁸ See Curb the Enthusiasm for Privatisation and US Prison Companies, S. Nathan, Prison Service Journal, UK, March 2005

The brochure notes that:

“Where transport projects have proven the case, schools, hospitals, prisons and waste management projects are now coming to the fore as the PPP agenda is developed in Europe. Opportunities for European contractors and consortia are clear, however external barriers remain for companies seeking to invest equity and win procurement contracts beyond domestic markets.”

London is also the venue for SMI's 'PPP/PFI in Criminal Justice & Emergency Services' June 2005 event. This will include prison case studies from the UK, France, Germany, South Africa and Victoria, Australia as well as UK police and fire services.

Paris was the venue in February 2005 for 'PPP in France' which included sessions on:

“initiating the PPP policy and empowering the administration to implement the prison programme” and “experiences from the UK- the operational performance of PFI prisons.”

And sponsored by firms such as Serco, PricewaterhouseCoopers and KPMG and hosted in Prague by the government of the Czech Republic, the '5th Annual Public Private Partnerships Global Summit' in November 2004 brought together:

“governments and the leading private sector players from around the world to discuss the latest developments in PPPs and to learn from one another.”

IFSL is an organisation that promotes the interests of UK-based financial institutions. In the last 12 months IFSL has held meetings to discuss PPPs with ministers and/or officials from Bulgaria, Belgium, Poland, Czech Republic, Croatia, France, Portugal, Bosnia, Greece, Russia, Slovenia, Hungary, Slovakia, Italy, and the Baltic States. In August and September 2004 it held a Roundtable on PPP prisons in Lithuania and Nordrhein Westfalen respectively and in October 2004 hosted a visit by the Hungarian prison service. *The Economist* 14 September 2002 reported that IFSL hoped the private finance initiative would be Britain's most eye catching invisible export since privatisation.

In IFSL's response to the EC's Green Paper on Public Private Partnerships, the organisation recommended that: “cohesion and structural funding should be clearly compatible with PPPs and there should be no presumption that EU-grant aid must imply public ownership of the resulting infrastructure.”⁹

THE UK : EUROPE'S MOST PRIVATISED

Governments flock to the UK for information and guidance on how to privatise criminal justice. England and Wales has the most privatised criminal justice system in Europe. Since 1992 all new prisons in England and Wales have been privately financed, designed, built and run. In England and Wales the private sector now operates ten private prisons. There are also private secure training centres for young offenders aged between 12 and 17, immigration detention and accommodation centres and probation hostels. Prisoner transportation, immigrant removal and electronic monitoring services are privately operated. Food and other non-custodial services in public prisons are contracted out. In addition various IT schemes are provided through the private finance initiative (PFI).

⁹ IFSL Response to EU Green Paper on Public Private Partnerships, London, July 2004

There is also a national programme of privately financed, designed, built and run courts and police infrastructure and services. The prison and probation services are being restructured into one US-style service, the National Offender Management Service (NOMS), whose remit is to extend competition and increase private and voluntary sector involvement in the provision of correctional services.¹⁰

In 2003 Serco estimated that subsidiary Premier's total revenue over the life of existing UK correctional services contracts was £2 billion and immediate market opportunities were worth a further £3.4 billion.¹¹

TRADE UNIONS, WAGES AND CONDITIONS

In the UK one of original political aims of privatisation was to undermine the influence of the Prison Officers Association (POA), the union that represents most public sector prison officers. In England and Wales, the government refused to allow the prison service to bid for the first three prison management contracts and, subsequently, all PFI contracts. With market testing of existing public sector prisons, in-house bids are now invited but the POA has recently adopted a policy of non-co-operation. None of the prison companies recognise the POA and, until recently, the POA had a policy of not recruiting members from the private sector.

Group 4 (as was) signed a recognition deal with the GMB covering staff working on all the company's correctional services contracts. Securicor has its own staff association. UK Detention Services Ltd (Sodexo subsidiary) and Serco recognise the non-TUC affiliated Prison Services Union. The US firms that operated in the UK (Corrections Corporation of America and Wackenhut Corrections Corporation) did not recognise trade unions.

Wages & conditions

It is argued that a key innovation of private prisons is that the private sector can create a more enlightened culture using a more flexible workforce. In practice this has created a two tier workforce: basic grade prison officers in the private sector can earn 43% less than their public sector counterparts. The public sector has an older, more experienced and stable workforce compared with a lower paid and unstable private sector. The private sector employs comparatively fewer staff and relies more on technology. This is borne out by the following:

Pay Comparisons – Operational Support Grade, Officer and Senior Officer Levels

*% Lead of Prison Service over Private Sector Pay (Based on Hourly Rates)
(2003 % figures in brackets)*

¹⁰ For full details of current trade union campaigns against NOMS see the websites of the Prison Officers Association www.poauk.org.uk/noms and the National Association of Probation Officers www.napo.org.uk

¹¹ Serco press release 3 September 2003

	Operational Support Grade	Prison Officer	Senior Officer Over Supervisor	Senior Officer Over Junior Manager
Private Sector Roles - Higher, Lower or Equivalent	Equivalent	Prison Custody Officer - Equivalent (some higher) Detention Custody Officer - Lower	Equivalent	Higher
Starting Pay	13% (15)	10% (17)	51% (54)	19% (27)
Average Basic Pay	18% (18)	43% (51)	48% (52)	16% (23)

Hours

Average contracted weekly working hours have slightly reduced in the private sector to just under 41, varying between 39 and 44, compared with 39 in the prison service.

Turnover rates

- The overall average resignation rate of 25% PCOs/DCOs is the same as last year and remains high. But the prison service resignation rate is exceptionally low (2.6 % for prison officers).
- Among establishments that have been open for five years or more the average resignation rate of PCOs/DCOs was 19%. For more recent establishments it was 34%.
- While there are several reasons for turnover, including age, length of service and the stability of establishments, a further important factor is competition from much more highly paid jobs in the prison, police and probation services where the skills learnt by PCOs and OSG equivalents are directly relevant.
- The reward package and the absence of much opportunity for pay progression at some establishments have contributed to turnover

Sickness and absence

Sickness absence in the last year averaged some nine days a year per PCO/DCO in the private sector establishments compared with an average of 12 last year. We do not know if the reduction is due to specific initiatives or to differences in recording.

The average sickness absence rate for prison officers was 16 days a year in the same period (down from 18 last year). Apart from possible recording differences, the difference from the private sector is likely to be at least partly because:

- The sick pay arrangements in the private sector are notably less generous.

- Employees in the private sector are younger.
- Nearly three quarters of the [private] prisons and centres do not give sick pay for an initial period after an employee is recruited, varying between six months and three months.
- By contrast, prison service staff can receive full pay for six months, with the possibility of a pension lump sum on ill health retirement in the event of long term incapacity. This is significantly better than for private sector staff without access to permanent health insurance but affects only a small minority of staff.¹²

OUTCOMES FOR PRISONERS

The ultimate measure of whether 'prison works' is whether prisons have any impact on reducing recidivism rates. In Europe, the UK has the most experience with private prisons. Although the first privately managed prison opened in 1992 there is still no evidence that private prisons contribute to a reduction in recidivism rates.

With regard to semi-private prisons - where the state retains the custodial function but non-custodial services are contracted out - France has the longest experience. Again, there is no evidence that such prisons reduce recidivism rates.

Although there is a lack of independent academic research into the operation of private prisons there is evidence in the public domain that undermines the private sector's claims for innovation and superiority in regime provision. Just a few examples include:

- Premier Prison Services Ltd's most spectacular failure to date was at Ashfield prison in south west England. On 23 May 2002 the then director general of the prison service, Martin Narey, said that 'I considered that the prison was unsafe for both staff and the young people detained there and that urgent action was required ...' This led to the prison service taking temporary control, implementing improvements, reducing the prisoner population and ensuring that Premier hired a prison service governor to run Ashfield before handing it back to the company. The company lost some £4.5 million of expected revenues as a result.
- In 2003-2004 six private jails failed to meet their target on preventing serious assaults on prisoners or staff. Parc prison in Wales had the seventh highest level of serious assaults compared to all prisons in England and Wales. It also had the highest rate in the private sector. The rate of serious assaults on prisoners or staff that resulted in a positive adjudication was three times higher than the target it is contracted to deliver. The serious assault rates at Dovegate the Wolds prisons were also particularly high and amongst the highest compared to all prisons in England and Wales.
- In 2003-2004 both Dovegate and Parc prisons were well below their targets for the average number of hours of purposeful activity that they are contractually required to provide per week. Altcourse was the only private prison that met its targets.

¹² Source for wages and conditions data: Privately Managed Custodial Services, DLA MCG Consulting, Prison Service Pay Review Body, September 2004. At the time of the research four companies were involved in operating ten privately run prisons and five immigration centres. Only three of the companies provided data.

- According to the Independent Monitoring Board, Parc prison was falling more than an hour short each day on the eleven hours it is contractually required to allow prisoners out of their cells¹³ There was also a lack of constructive activity at Lowdham Grange prison. The Chief Inspector of Prisons' most recent report found that on average 100 prisoners - one fifth of the population - do not have enough purposeful activity.¹⁴
- At Dovegate prison in England the selection of prisoners for the company's 200 bed therapeutic community was described by the chief inspector of prisons for England and Wales in 2004 as "apparently being skewed by commercial imperatives. This was neither appropriate nor fair and mitigated against the integrity of therapy..."¹⁵
- A recent BBC television programme alleged that Kilmarnock prison in Scotland was understaffed, suicide watches were ignored, cell searches were not carried out and officers ignored prisoners' use of drugs. The prison's former assistant director Stewart Yates was quoted as saying: "The primary focus of running the prison was the financial outcomes. My view is that when I was there I never had enough officers to run it properly ... my estimate would be, you would probably require another 30% of resource."¹⁶

CONCLUSION: THE NEED FOR AN INTERNATIONAL RESPONSE

In some countries there have been individual campaigns by trade unions, NGOs, faith based groups and/or citizens groups against private and semi-private prisons. Other groups monitor developments. The UN Sub-Commission on the Promotion and Protection of Human Rights has also tried unsuccessfully to encourage its parent body, the Commission on Human Rights, to appoint a special rapporteur and carry out a study of privatisation.

There are many organisations campaigning for criminal justice reform.

But so far there has not been a strategic international response by NGOs and/or trade unions to prison privatisation or the wider threat to criminal justice systems.

There is an urgent need to develop a vision for criminal justice systems based on a progressive public sector ethos rather than the needs of the marketplace.

¹³ Her Majesty's Prison Parc, Independent Monitoring Board, 2004).

¹⁴ Her Majesty's Chief Inspector of Prisons, 2004.

¹⁵ For more details of prison privatisation in the UK see for example, Privatisation Factfile in the quarterly magazine Prison Report, Prison Reform Trust, www.prisonreformtrust.org.uk and Private Punishment: Who Profits? Prison Reform Trust, January 2005. A brief history, Prison Privatisation in the United Kingdom, S. Nathan, can be found in Capitalist Punishment, Prison Privatisation and Human Rights, Eds. A.Coyle, A. Campbell & R. Neufeld, Zed Books and Clarity Press, 2003

¹⁶ Prison Undercover, The Real Story, BBC Television, 9 March 2005