

**PRISON CONDITIONS
MONITORING INDEX
METHODOLOGY
AND PILOT RESULTS**



CENTER FOR
THE STUDY OF
DEMOCRACY

The present publication is the pilot outcome of a unique tool designed to evaluate the conditions in prison and to compare the results to available international standards. The *Prison Conditions Monitoring Index* is a useful tool for regular prison screening, which can assist policy makers, prison administrations and non-governmental organisations in identifying and assessing trends and developments in the penitentiary system. It has been developed within the framework of the “Re-Socialisation of Offenders in the European Union: Enhancing the Role of the Civil Society” project, implemented with the support of the European Commission, Directorate-General Justice.

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INTRODUCTION

The sentence of imprisonment, as the ultimate intervention of state in the personal sphere of those, having violated criminal laws, and countries' penitentiary systems, where it is served, have always been subject to strict monitoring by human rights bodies as a guarantee for the observance of fundamental rights of inmates.

Specifically, European penitentiary systems have been in the unique situation of being watched over by a number of entities on different levels. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has a long tradition of periodic and ad hoc visits. The *Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, creating, in its famous 'dual approach', the UN Subcommittee on Prevention of Torture and the National Preventive Mechanisms is being ratified by a growing number of states, ensuring monitoring on domestic, regional and global level. As reiterated by, among others, the Association for the Prevention of Torture, the various mechanisms are bound to work together by exchanging information, consult and even carry out joint missions and visits.

At the same time, the voluminous case law of the European Court of Human Rights (ECtHR) under, *inter alia*, Articles 3 and 5 of the *European Convention on Human Rights*, continues to strengthen the framework for the protection of the rights of those imprisoned and the absolute prohibition of torture, inhuman and degrading treatment.

Throughout the years, human rights mechanisms have identified numerous shortcomings both in the treatment of prisoners and in the objective conditions throughout countries' penitentiary systems. In the latter category, issues like depreciated assets, poor living conditions, persistent overcrowding, unemployment, inadequate security and healthcare have continually undermined the situation of inmates, the effectiveness of the penitentiary systems and the chances of offenders to successfully re-integrate in the society. The situation is even worse regarding some particularly vulnerable groups (women, foreigners, minorities, drug users and juvenile offenders) who require special treatment but are often deprived of adequate services. As a result, many experts argue that prisons are no longer capable of re-educating offenders and preventing recidivism.

The proposed *Prison Conditions Monitoring Index (PCMI)* meets the arising need for a comprehensive monitoring tool, which combines the human rights approach of visitation mechanisms and other known tools at national, regional or local level with a more quantitative perspective. This perspective relies on information collected by prison facilities themselves, rather than by the monitoring body, and promotes the gathering of comparable, official and detailed data as basis for creating informed policies, concerning prisons and the prison population. In addition, while firmly based on human rights standards, the *Index* abandons the critical stance, *a priori* expected by prison authorities from visiting mechanisms. Instead, it steers prison managers towards self-reflection and comparison with other penitentiary facilities, seeking solutions for same or similar difficulties, rather than with the strict stipulations of human rights instruments and related case law to which they are often inherently hostile. If applied on a regular basis, the *PCMI* can produce systematised overview about the situation in prisons, based on which analyses of trends throughout different countries and areas of penitentiary life can be produced.

The *PCMI* is designed as instrument for regular prison monitoring, which uses publicly available and accessible information and processing it through a set of indicators. As such, it largely depends on the political will of government authorities managing penitentiary facilities, and the good co-operation of the facilities themselves on operational level. Thus, the long-term necessity arises for better communication of the aims of the *Index*, especially its potential to be adopted by penitentiary systems themselves and used as intramanagerial tool. In addition, the efforts of the partnership of research institutes from five Member States (Bulgaria, Germany, Spain, Belgium and Lithuania), implementing the initiative, under which the *PCMI* was created, will be directed towards building it into legal and policy documents as a path towards strengthening prison management and thus improving the situation of inmates throughout Europe.

1. METHODOLOGY

The *Prison Conditions Monitoring Index (PCMI)* is designed to assess, through a set of indicators, the conditions in prison.

The *PCMI* is composed of five indicators: (1) living conditions, (2) social work, free time and access to the outside world, (3) security and safety, (4) employment, and (5) healthcare. Each of these indicators includes a set of sub-indicators which assess specific components of the prison environment. Sub-indicators have a different relative weight determined by the importance of the specific factors they refer to for the overall assessment of the prison environment.

The table below shows the composition of the five main indicators and the manner, in which each of their sub-indicators is calculated.

Table 1. Structure of the *PCMI*

Indicator	Sub-indicator	Calculation method
Living conditions	Living area	Square meter per inmate
	Occupancy	Number of inmates per 100 places
	Inmates in one cell	Average number
	Operating central heating system	Availability
	Operating central ventilation system	Availability
	Enclosed flush or squat toilet within the cell	Availability
	Running water within the cells: cold water	Availability
	Running water within the cells: hot water	Availability
	Operating alarm system for prisoners to contact guards immediately	Availability

Table 1. Structure of the *PCMI* (Continued)

Indicator	Sub-indicator	Calculation method
Living conditions	Bath/shower	Accessibility
	Toiletries and general cleaning implements and materials	Availability
	Alternative menu: vegetarian/non-vegetarian	Availability
	Alternative menu: religious reasons	Availability
	Facility to obtain goods, including food and drink	Availability
	Windows providing sufficient natural light to read	Availability
	Windows providing fresh air or air conditioning	Availability
	See-through windows	Availability
	Clothes and shoes provided by the prison (excluding uniform and other obligatory attire)	Availability
	Change of bedding	Regularity
	Complaints (including to the prison management and to other institutions)	Availability
	Access to the prison management in person	Reception hours per week
Social work, free time and contacts with the outside world	Social workers	Number per 100 inmates
	Education and training capacity (excluding professional qualification and vocational training)	Percentage of prison capacity
	Time locked in the cell (excluding punishments)	Hours per day
	Home leave (excluding awards)	Maximum days allowed per year
	Outgoing correspondence	Availability

Table 1. Structure of the *PCMI* (Continued)

Indicator	Sub-indicator	Calculation method
Social work, free time and contacts with the outside world	Outgoing telephone calls	Maximum number allowed per week
	Visits: regular	Maximum number allowed per month
	Visits: intimate	Maximum number allowed per month
	Special (adaptation) programme for new inmates	Availability
	Special programme before release: within prison	Availability
	Special programme before release: outside prison	Availability
	Time allowed to spend in the open	Hours per day per inmate
	Access to sport facilities outdoors	Hours per week per inmate
	Access to sport facilities indoors	Hours per week per inmate
	Prison library (including access to books from an external library)	Number of books per inmate
	Current legislation and legal literature	Accessibility
	Access to newspapers	Number of daily newspapers per 100 inmates
	Access to computers	Hours per day per inmate
	Access to the Internet	Availability
	Access to TV	Hours per day per inmate

Table 1. Structure of the *PCMI* (Continued)

Indicator	Sub-indicator	Calculation method
Security and safety	Guards	Number per 100 inmates
	Violations: theft of property	Annual number of cases per 100 inmates
	Violations: damage of property	Annual number of cases per 100 inmates
	Violations: possession of forbidden items	Annual number of cases per 100 inmates
	Violations: gambling	Annual number of cases per 100 inmates
	Suicides	Annual number of cases per 100 inmates
	Injuries to inmates by other inmates	Annual number of cases per 100 inmates
	Injuries to inmates by personnel	Annual number of cases per 100 inmates
	Injuries to personnel by inmates	Annual number of cases per 100 inmates
	Self-injuries	Annual number of cases per 100 inmates
	Escapes	Annual number of cases per 100 inmates
	Video control: perimeter fence including gates	Coverage

Table 1. Structure of the *PCMI* (Continued)

Indicator	Sub-indicator	Calculation method
Security and safety	Video control: common areas indoors including corridors and staircases	Coverage
	Video control: common areas outdoors	Coverage
	Fire protection system: cells	Availability
	Fire protection system: common areas	Availability
Employment	Employment capacity	Percentage of prison capacity
	Choice of job	Number of alternative types of job available
	Job opportunities for inmates with disabilities: vision impairment	Availability
	Job opportunities for inmates with disabilities: hearing impairment	Availability
	Job opportunities for inmates with disabilities: mobility impairment	Availability
	Salary	Average monthly salary as percentage of the Gross National Income (GNI) of the country
	Social security for working inmates	Availability
	Social security for nonworking inmates	Availability
	Professional qualification/vocational training capacity	Percentage of prison capacity
	Allowances for unemployed inmates	Availability
	Applicability of labour legislation to work in prison: working time and days off	Applicability
	Applicability of labour legislation to work in prison: occupational safety and health	Applicability

Table 1. Structure of the *PCMI* (Continued)

Indicator	Sub-indicator	Calculation method
Healthcare	Health insurance for inmates	Availability
	General medical practitioner	Availability/ number per 100 inmates
	Nurse	Availability/ number per 100 inmates
	Dentist	Availability
	Psychologist	Availability
	Permission to see a doctor of their choice	Share of granted permissions
	Inpatient treatment	Capacity per 100 inmates
	Medical examination upon entry	Timing
	Medical examination before release	Availability
	Regular (prophylactic) medical examination	Regularity
	Infectious diseases: tuberculosis	Annual number of newly established cases per 100 inmates
	Infectious diseases: hepatitis B	Annual number of newly established cases per 100 inmates
	Infectious diseases: hepatitis C	Annual number of newly established cases per 100 inmates
	Infectious diseases: HIV	Annual number of newly established cases per 100 inmates

Table 1. Structure of the *PCMI* (Continued)

Indicator	Sub-indicator	Calculation method
Healthcare	Voluntary HIV testing	Availability
	Premises for isolating prisoners suspected of infectious or contagious conditions for the period of infection	Capacity per 100 inmates
	Visits by a general medical practitioner to inmates in solitary confinement	Regularity
	Inspection by medical professional or other competent authority of the food, water, hygiene, cleanliness, sanitation, heating, lighting and ventilation	Regularity
	Prevention: syringes for drug users	Availability
	Prevention: substitute programmes for drug users	Availability
	Prevention: condoms	Availability

The *PCMI* relies entirely on statistical data in order to exclude any subjective evaluations. Most of this data is collected regularly by the prisons and is available without any additional calculations.

The *Index* is not a country specific tool and can be applied on every prison in every country. Indicators and sub-indicators were selected and defined to prevent deviations resulting from specificities of the national legal and penitentiary systems.

To ensure comparability, the *PCMI* transforms some of the data into rates per 100 prisoners. This method is used to eliminate discrepancies due to the different number of inmates accommodated in different prisons and to allow objective comparisons of institutions of different size.

Where possible, the values of sub-indicators are linked to existing international norms and specifications or, alternatively, to a comparable situation outside the prison. International standards, where available, are used to define the minimum requirements that each prison should meet. However, in most cases compliance with such standards is not considered sufficient for obtaining the

highest score and prisons are encouraged to exceed the internationally agreed minimum specifications.

The use of comparable situations outside prison is mostly employed for assessing factors that are not supposed to have a different impact in and outside prison. These are factors that are linked to the sentence or the prison regime and, in conformity with the principles of equality and non-discrimination, should not have different manifestations within the prison.

The *PCMI* is also designed as a universally applicable tool in terms of type and category of prisons. Because of that, factors relevant only for specialised prisons (e.g. prisons for women or for juveniles, high-security prisons, prisons for recidivists, etc.) are not included in any of the indicators.

The *PCMI* focuses on the material conditions in prisons and is not intended to review, in an exhaustive way, the whole spectrum of factors related to the execution of the penalty of imprisonment. Because of that, some important components of prison life such as religion, access to legal advice, disciplinary sanctions and rewards, etc. are excluded.

Although closely linked to human rights, the *PCMI* is not intended to assess as such the respect for human rights in prisons. Therefore, the *Index* excludes issues that are otherwise important, particularly from a human rights perspective, like, for example, the availability and effectiveness of legal remedies against alleged human rights violations.

The *Index* is designed to assess entire prisons. It could be adjusted to serve as an evaluation tool on micro level (individual sections or units of a prison) or on macro level (the entire penitentiary system of a country). However, in its current version, it would not produce reliable results if used on a level different from an individual prison.

The *PCMI* and its indicators are best applied on an annual basis. On the one hand, most of the statistics, on which the *Index* is based, are collected annually. The same applies to the contextual data necessary for generating some of the sub-indicators. On the other hand, no major changes could be expected within shorter time periods, which makes the more frequent application of the *Index* unnecessary.

The *PCMI* was piloted in nine prisons: six in Bulgaria (the prisons in Bobov Dol, Burgas, Pleven, Plovdiv and Stara Zagora and juvenile reformatory in

Boychinovtsi), one in Germany (the Werl Prison in the state of North-Rhine Westfalia), one in Catalonia, Spain (Lledoners prison) and one in Lithuania (Marijampole Correction House).

Available data for generating the entire *Index* was obtained only for the six prisons in Bulgaria. For the selected prisons in Germany, Lithuania and Catalonia (Spain) the available data allowed for the production of only some of the indicators.

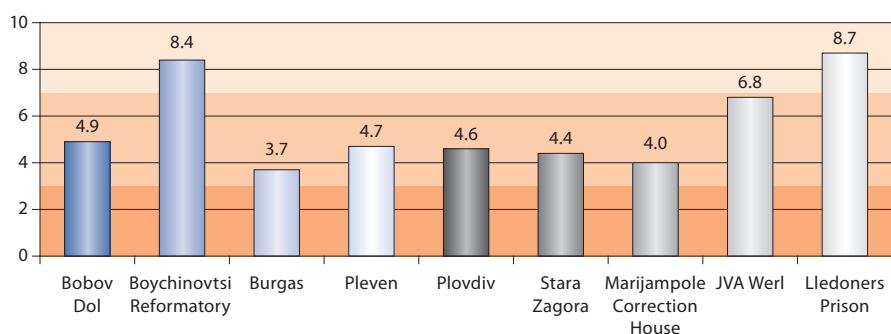
For some of the sub-indicators, the lack of data on prison level was compensated by using comparable figures for the entire prison system of the country. However, this approach was applied only when there were sufficient prison-specific data and only minor lack prevented the generation of the indicators. In cases, where the majority of the sub-indicators could not be produced based on data relevant for the respective prison, no indicators were generated.

The *PCMI* is designed to register changes through time. However, to test its applicability in this respect, the index should undergo a second round of implementation within one year following its first launch and covering the same institutions. This would allow to verify whether the *Index* has the capacity to assess trends and developments and to register significant changes in the quality of prison conditions.

2. LIVING CONDITIONS

The living conditions in prison are an important prerequisite for achieving the objective of the penalty of imprisonment. At the same time, their adequacy remains a major challenge for many penitentiary facilities across Europe. The lack of adequate living conditions may have a negative impact on the rehabilitation and social reintegration of offenders. In some extreme cases, the failure to provide appropriate living environment can even qualify as inhuman and degrading treatment and thus constitute violation of international human rights law.

Figure 1. PCMI ratings on living conditions



2.1. Living area

Prisoners spend a considerable part of their time within their cells. Usually, when they are not engaged in work, social activities or sports, inmates have to stay inside their cells. In many prisons, free movement outside the cells is either forbidden or very restricted. Depending on the category of the prison and the applicable security regulations, cells can also be locked for certain periods of time, usually during the night and, less often, during the day. All these circumstances make it necessary for prisoners to have adequate living space within their cells, especially when they share their accommodation with other inmates.

There are numerous national and international standards referring to the living area in prisons. Internationally, the majority of applicable standards

are linked to basic principles, such as the prisoners' human dignity, health and privacy, and avoid prescribing concrete technical specifications. At the national level, many countries have introduced specific standards adding also measurable technical specifications. These, however, vary significantly from country to country (from 4 m² in Albania to 12 m² in Switzerland) and are often differentiated depending on the category of inmates (e.g. there could be different standards for juveniles and/or women).

Based on a review of the variety of standards applied on both national and international level, the International Committee of the Red Cross (ICRC) has developed the so-called 'minimum specifications'. These, according to the ICRC, indicate the 'minimum space needed for a detainee to sleep undisturbed, store personal property and move around'. The ICRC sets the minimum space to 5.4 m² for single cell accommodation (excluding toilet facilities) and to 3.4 m² for multiple accommodations (including toilet facilities).¹

Without setting specific technical specifications, the *European Prison Rules (EPR)* stipulate that the accommodation provided to prisoners, and in particular all sleeping accommodation, must respect human dignity and, as far as possible, privacy of inmates (Rule 18.1 of the *EPR*), leaving it to national governments to set, through national law, the minimum requirements in respect to the living area (Rule 18.2 of the *EPR*).²

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, commenting on the conditions and space available in prisons in various countries, has begun to indicate certain minimum standards. These minimum standards are 4 m² for prisoners in shared accommodation and 6 m² for a single prison cell. The CPT makes a disclaimer that these minimum requirements are related to a wider analysis of the specific prison systems, including studies of how much time prisoners actually spend in their cell, and therefore should not be regarded as the norm. Although the CPT has never laid down such a norm directly, indications are that it would consider 9 to 10 m² as a desirable size for a cell for one prisoner.³

¹ *Water, Sanitation, Hygiene and Habitat in Prisons: Supplementary Guidance* (Geneva, 2012), <https://www.icrc.org/eng/assets/files/publications/icrc-002-4083.pdf>.

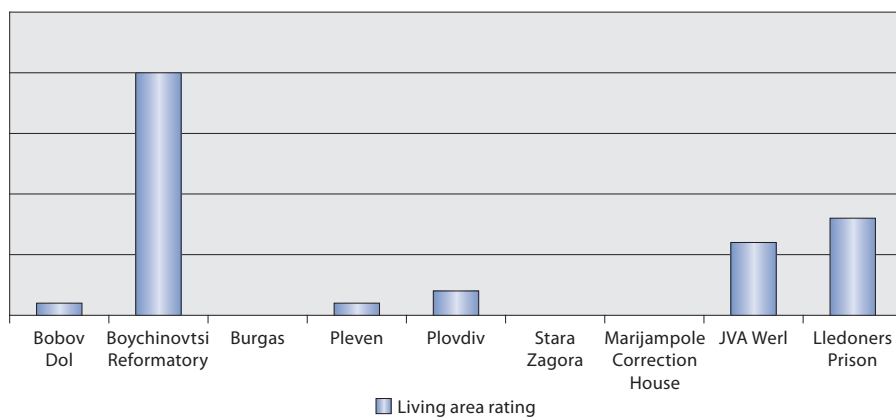
² *Recommendation Rec(2006)2 of the Committee of Ministers to Member States on the European Prison Rules*, 2006, <https://wcd.coe.int/ViewDoc.jsp?id=955747>.

³ *Commentary to Recommendation Rec(2006)2 of the Committee of Ministers to Member States on the European Prison Rules*, 2006, http://www.coe.int/t/dghl/standardsetting/prisons/E_commentary_to_the_EPR.pdf.

For the purpose of assessing the living area available to inmates, the *PCMI* takes the standard of 4 m² per prisoner, suggested by the CPT, as the absolute minimum. Prisons, which are not able to provide inmates with at least 4 m² of living space, are considered to have completely failed to meet this requirement. In terms of maximum, the *PCMI* goes beyond the interpretation of the CPT and gives the highest score to prisons, which are able to provide inmates with a living area of 15 m² or more.

It is important to reiterate that the objective of the *PCMI* is to assess the actual situation in the prisons rather than the legal framework. In this respect, the legal standards, introduced by individual countries through their national legislation, are irrelevant for the evaluation. This means that when a given country has introduced a lower standard than 4 m² and its prisons have complied with it, they can still rank low under the *PCMI*. For such countries, the results of the *PCMI* would indicate that there is a need of adjustment of the respective national standard. On the opposite, when a country has introduced a higher national standard, but its prisons have failed to comply with it, they can actually receive a positive evaluation, provided they have satisfied the requirement for 4 m². At the same time, compliance with a higher national standard would automatically result in a higher score under the *PCMI*. Thus for example, a prison in Switzerland, which has complied with the Swiss national standard of 12 m², will receive a better evaluation than a prison in Albania, which has met the Albanian national standard of 4 m².

Figure 2. Living area rating



The pilot implementation of the *PCMI* shows that prisons generally comply, at least on the basis of their own calculations, with the minimum requirement for 4 m². Understandably, less populated prisons provide more living space to their inmates. At the same time, the majority of prisons, in which the *PCMI* was piloted, reported that they were not able to provide much bigger space than this minimum. The only exception is the reformatory for juveniles in Boychinovtsi (Bulgaria), which scores highest in terms of living space. However, unlike prisons for adults, the reformatory for juveniles accommodates a significantly lower number of inmates (51) than its actual capacity (270).

2.2. Occupancy

In general, many prisons are built in line with the applicable accommodation standards, provided that their capacity is adequately used. However, in many countries, the number of prisoners significantly exceeds the capacity of the local penitentiary system. The result is overcrowding of prisons, which is a worldwide phenomenon.

According to Penal Reform International (PRI), in some 117 countries around the world the number of prisoners exceeds the number of spaces available. In many countries, the occupancy rates range between 150 and 200 % and some prison systems even hold more than double their capacity. Overcrowding, according to PRI, is not limited to countries whose overall prison population exceeds capacity, because particular prisons or sections of prisons can be overcrowded even if the prison system as a whole is not.⁴

Overcrowding means that the prison infrastructure can no longer be used according to its original design and that the prison administration has to adapt the facility to accommodate more people than it has originally been designated for. The way prison authorities deal with this problem varies from country to country and from prison to prison. The most widespread solutions include accommodation of more prisoners in one cell, transformation of other premises to serve as prison cells, construction of new premises, etc. There are also countries where new admissions are restricted or even stopped when maximum capacity has been reached with some prisoners being put on a waiting list.⁵

⁴ *Ten-Point Plan to Reduce Prison Overcrowding* (London, 2012), <http://www.penalreform.org/wp-content/uploads/2013/05/10-pt-plan-overcrowding.pdf>

⁵ *Commentary to Recommendation Rec(2006)2 of the Committee of Ministers to Member States on the European Prison Rules.*

According to the Council of Europe, overcrowding is a major challenge to prison administrations both in terms of human rights and of the efficient management of penal institutions.⁶ It affects the amount of space per prisoner, the number of prisoners per cell, the personal space and the privacy of inmates.⁷ Overcrowding can lead to other factors, such as hygiene and internal order, the provision of nutrition and healthcare, outdoor exercise, etc. becoming a challenge.⁸ It is also seen as cause of inmates' ill health, misconduct and post release recidivism⁹ and, in extreme cases, is considered even as a life threatening factor.¹⁰

Understandably, there are no international standards in terms of levels of overcrowding, as it is generally perceived as a negative phenomenon that should be avoided. Prisons are not expected to accommodate more prisoners than their capacity. The *European Prison Rules* even stipulate that national law should provide mechanisms for ensuring that the minimum requirements in terms of living conditions are not breached due to the overcrowding of prisons (Rule 18.4 of the *EPR*).

The *PCMI* takes into account the negative impact of overcrowding and gives the maximum score only to prisons whose capacity is not overused.

At the same time, it acknowledges the dimension of the problem and the variety of factors behind it, many of which are outside the powers of the prison administration. For this reason, the *PCMI* accepts certain levels of overcrowding as relatively admissible. Studies examining the problem of overcrowding outline as particularly alarming the situation in prisons where occupancy exceeds 150 %.¹¹ Based on this assessment, the *PCMI* considers as relatively acceptable any level of overcrowding not exceeding 145 %. Occupancy rates higher than 145 % are regarded as unacceptable and such prisons are seen as unable to operate adequately.

⁶ Recommendation No R (99) 22 Concerning Prison Overcrowding and Prison Population Inflation, 1999, <https://wcd.coe.int/com.intranet.InstraServlet?command=com.intranet.CmdBlobGet&IntranetImage=2622553&SecMode=1&DocId=412108&Usage=2>

⁷ Gaes, Gerald G. "Effects of Overcrowding in Prison, The", *Crime and Justice: An Annual Review of Research* 6 (1985), <http://heinonline.org/HOL/Page?handle=hein.journals/cjrr6&id=105&div=&collection=>

⁸ Helene De Vos and Elli Gilbert, *Reducing Prison Population: Overview of the Legal and Policy Framework on Alternatives to Imprisonment at European Level* (Leuven, 2014), http://www.reducingprison.eu/downloads/files/ReducingprisonpopulationEuropeanframework_FIN_101014.pdf

⁹ Gaes, "Effects of Overcrowding in Prison, The".

¹⁰ *Ten-Point Plan to Reduce Prison Overcrowding*.

¹¹ *Ibid.*

The overcrowding factor is also intended to serve as a tool for balancing the weight of the living area criterion, when the latter is calculated based on capacity data rather than occupancy data.

The majority of prisons, where the *PCMI* was piloted, received relatively positive evaluation in terms of occupancy. Even overcrowded prisons seem to have managed to keep the level of overcrowding within acceptable limits. None of the prisons, included in the pilot implementation, reported overcrowding levels above the critical maximum of 145 %.

2.3. Number of inmates in one cell

The most appropriate number of inmates to be placed together in a shared accommodation has been subject of extensive research and analysis.

According to the United Nations' *Standard Minimum Rules for the Treatment of Prisoners (SMR)* where sleeping accommodation is in individual cells or rooms, each prisoner should occupy by night a single cell or room (Rule 9.1 of the *SMR*). The United Nations also recommends that even if for special reasons, such as temporary overcrowding, it becomes necessary to make an exception to this rule, it is not desirable to have two prisoners in a cell or room (Rule 9.2 of the *SMR*).¹²

The *European Prison Rules* stipulate that prisoners should normally be accommodated during the night in individual cells except where it is preferable for them to share sleeping accommodation (Rule 18.5 of the *EPR*). The CPT elaborates on this rule justifying it by the fact that for the prisoners, especially for long term and life prisoners, their prison cells constitute their homes.¹³

The single cell principle, however, is not always followed. In practice, not many prisons are able to accommodate prisoners in single cells and very often several prisoners have to share one cell. According to the CPT, many of these cases are merely ways of dealing with overcrowding and are unacceptable as long-term solutions. At the same time, the CPT admits that existing prison architecture, along with other factors, make it difficult to accommodate prisoners in one cell, so increased attention should be paid to this rule when new prisons are built.¹⁴

¹² *Standard Minimum Rules for the Treatment of Prisoners*, 1955, https://www.unodc.org/pdf/criminal_justice/UN_Standard_Minimum_Rules_for_the_Treatment_of_Prisoners.pdf

¹³ *Commentary to Recommendation Rec(2006)2 of the Committee of Ministers to Member States on the European Prison Rules*.

¹⁴ *Ibid.*

The Council of Europe prescribes a set of rules that have to be followed when placing prisoners in shared accommodation. These rules include sharing the accommodation only if it is suitable for this purpose, placing inside prisoners suitable to associate with each other (Rule 18.6 of the *EPR*) and, as far as possible, giving prisoners a choice before being required to share sleeping accommodation (Rule 18.7 of the *EPR*). The CPT underlines that all these rules are based on the general principle that accommodation could be shared only if the prisoners would benefit positively from it. Thus, for example, non-smokers should not be compelled to share accommodation with smokers.¹⁵ However, these rules are also often disregarded due to overcrowding and insufficient capacity of prisons.

The sharing suitability of accommodation and the suitability of prisoners to associate with each other could not be assessed in a quantitative way. Therefore, the *PCMI* evaluates only the average number of inmates accommodated in one cell.

The highest evaluation is given to prisons, in which inmates are either accommodated in single cells or are placed in shared accommodation with a maximum of one more prisoner.

The accommodation in single cells is not the only factor for getting the maximum score because its effect depends on the time during which the cell is locked. As pointed out by the United Nations Office on Drugs and Crime (UNODC), although single cells for prisoners are the desired option, this should not imply a limit on association during the day and the benefit of privacy during the night needs to be balanced with the benefit of human contact at other times. In this respect, where adequate time for association and activities are not provided, placement in single cells may result in partial or complete prisoner isolation, with harmful effects on the mental wellbeing of the persons concerned.¹⁶ The CPT also underlines that single cells at night do not imply a limit on association during the day and that the benefit of privacy during sleeping hours needs to be balanced with the benefit of human contact at other times.¹⁷

There are no international standards regarding the maximum number of prisoners in one cell. Besides, the number of cellmates, who can comfortably

¹⁵ Ibid.

¹⁶ *Custodial and Non-Custodial Measures: The Prison System* (Vienna: United Nations Office on Drugs and Crime, 2006), http://www.unodc.org/documents/justice-and-prison-reform/cjat_eng/1_Prison_System.pdf

¹⁷ *Commentary to Recommendation Rec(2006)2 of the Committee of Ministers to Member States on the European Prison Rules.*

share a cell, depends on a variety of factors such as the size of the cell and the time spent inside.

However, studies examining this issue point out that the larger the number of people in the accommodation space, the more possibilities there are for tensions which can lead to prison unrest. According to the ICRC, larger numbers may result in increased noise, compromise the capacity of management to maintain acceptable standards of cleanliness and have negative effects on the physical and psychological health of detainees.¹⁸ Other studies point out that illness, complaints and perceived crowding increases with the increase of the number of cellmates and that larger dormitories have more negative consequences than single-person units or doubles. It is argued that, while the limited space in a single cell has an impact on how cramped the space feels, in multiple occupancy accommodations there are additional negative effects, such as decreased interpersonal distance, reduced privacy and increased potential interference.¹⁹

The CPT shares the opinion that large-capacity dormitories are inherently undesirable and has objections to the very principle of such accommodation arrangements, particularly in closed prisons. According to the CPT, 'there is little to be said in favour of – and a lot to be said against – arrangements under which tens of prisoners live and sleep together in the same dormitory'.²⁰

When analysing the conditions in prisons, different studies use different classifications of cells depending on the number of accommodated inmates. Some refer to individual cells, rooms for up to 6 – 12 people and larger dormitories,²¹ others differentiate between singles, doubles, small occupancy units (3 – 6 persons) and dormitories,²² etc.

Based on available studies, the *PCMI* assumes that the number of prisoners in one cell, beyond which the conditions should be considered unacceptable, is five persons. Prisons, in which more than five inmates are sharing one cell, are seen as unable to meet the requirement for a reasonable number of cellmates.

The pilot implementation of the *PCMI* reveals significant differences from prison to prison and from country to country. The situation is critical in all

¹⁸ *Water, Sanitation, Hygiene and Habitat in Prisons: Supplementary Guidance.*

¹⁹ Leslie Fairweather and Sean McConville, *Prison Architecture* (New York: Routledge, 2000).

²⁰ *11th General Report on the CPT's Activities Covering the Period 1 January to 31 December 2000* (Strasbourg, 2001), <http://www.cpt.coe.int/en/annual/rep-11.pdf>

²¹ *Custodial and Non-Custodial Measures: The Prison System.*

²² Fairweather and McConville, *Prison Architecture.*

Bulgarian prisons for adult offenders and much better in the examined prisons in Germany, Lithuania and Catalonia (Spain) as well as in the reformatory for juveniles in Bulgaria.

2.4. Heating and ventilation

In addition to the living area and the number of cellmates, the *PCMI*, in its part on living conditions, evaluates the availability and accessibility of basic utility amenities such as heating and ventilation.

The availability of central heating system gives an indication of whether inmates are accommodated at appropriate temperature. The availability of a central ventilation system points to the quality of the air in the cells. Both the United Nations and the Council of Europe explicitly mention the heating and ventilation among the conditions, which must be respected when providing accommodation to prisoners (Rule 10 of the *SMR* and Rule 18.1 of the *EPR*). Understandably, there are no universal standards in terms of technical specification, mainly because such specifications would depend on the climate of the area where the prison is located. Because of that, the *PCMI* evaluates only the availability of operating heating and ventilation systems without taking into account their specifications.

The availability of both heating and ventilation system is assessed within the cells and not in the prison as a whole. On the one hand, the cells are usually the place where inmates spend most of their time so heating and ventilation are most needed in these premises. On the other hand, it is easier and less expensive to provide adequate heating and ventilation in the common premises rather than in each individual cell. Therefore, the availability of heating and ventilation in the other areas of the prison is not subject to evaluation by the *PCMI*.

The pilot implementation of the *PCMI* reveals similar results in all examined prisons. Unlike central heating, which is available in all prisons, a central ventilation system is generally missing.

2.5. Toilets, running water and bath

The availability and accessibility of toilets, running water and bath is an indication of the level of hygiene within the prison and, according to the Council of Europe authorities, unhygienic, unsanitary conditions in combination

with overcrowding may contribute to an overall judgement of degrading treatment.²³

According to the United Nations, the sanitary installations in prisons must be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner (Rule 12 of the *SMR*). The Council of Europe requires prisons to provide inmates with ready access to sanitary facilities that are hygienic and respect privacy (Rule 19.3 of the *EPR*). The CPT goes even further noting that ready access to proper toilet facilities and the maintenance of good standards of hygiene are essential components of a humane environment.²⁴

The ICRC recommends a more detailed set of technical specifications emphasising on the 24-hour access of the toilets. According to the ICRC, a minimum of one toilet should be provided for each accommodation area housing up to 25 inmates and it should be located either in the cell or near it. Depending on the amount of time available for each prisoner to access the toilets and the frequency of access provided, this minimum may need to be increased. Where single cells are provided, the ICRC recommends that each cell should contain a toilet.²⁵

In terms of running water, there are no specific international standards. However, the CPT describes as ‘desirable’ the availability of running water within the cells,²⁶ while the ICRC recommends that water points should be established throughout the prison at locations which ensure that prisoners have easy and frequent, preferably continuous, access for purposes of hygiene, sanitation and hydration.²⁷

The *PCMI* assesses the availability of toilets and running water within the prison cells. In many prisons, toilets and water are available outside the cells but access to them is usually restricted and/or is subject to certain rules and conditions, particularly during the time when the cells are locked. By examining their availability within the cells, the *PCMI* evaluates both their availability and accessibility, thus offering a more objective assessment of the actual situation.

²³ *Commentary to Recommendation Rec(2006)2 of the Committee of Ministers to Member States on the European Prison Rules.*

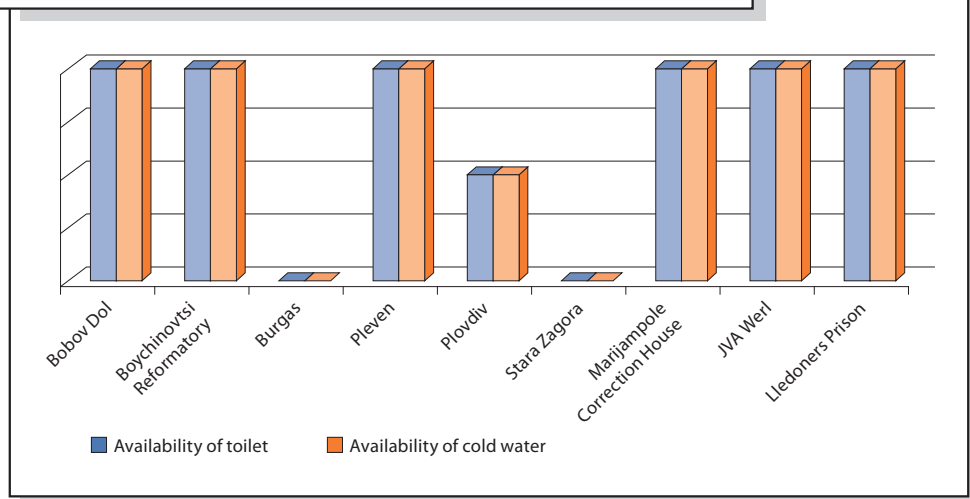
²⁴ *2nd General Report on the CPT's Activities Covering the Period 1 January to 31 December 1991, 1992*, <http://www.cpt.coe.int/en/annual/rep-02.htm>

²⁵ *Water, Sanitation, Hygiene and Habitat in Prisons: Supplementary Guidance.*

²⁶ *2nd General Report on the CPT's Activities Covering the Period 1 January to 31 December 1991.*

²⁷ *Water, Sanitation, Hygiene and Habitat in Prisons: Supplementary Guidance.*

Figure 3. *PCMI* ratings on availability of toilet and cold water in cells



The access to bath or shower is subject to more detailed international standards. According to the United Nations, adequate bathing and shower installations must be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate (Rule 13 of the *SMR*). The Council of Europe recommends a higher standard requiring prisons to provide adequate facilities so that every prisoner may have a bath or shower if possible daily but at least twice a week or more frequently if necessary (Rule 19.4 of the *EPR*). According to the technical specification recommended by the ICRC, there should be at least one shower per 50 prisoners allowing each inmate to have at least three showers per week.²⁸

Based on these standards, the *PCMI* assumes that inmates should have access to bath or shower everyday. Prisons, which are not able to provide daily access, would obtain a lower evaluation. The *PCMI* accepts the standard of two showers per week, set by the Council of Europe, as the absolute minimum. Prisons that are not providing inmates with the opportunity to have a bath or shower at least twice a week are considered as unable to meet this requirement.

In terms of hygiene, the *PCMI* also evaluates the availability of cleaning implements and materials. The Council of Europe explicitly includes the

²⁸ Ibid.

provision of toiletries and general cleaning implements and materials among the conditions, which prisons must comply with (Rule 19.6 of the *EPR*). The United Nations refers only to personal toilet articles (Rule 15 of the *SMR*), but at the same time requires all parts of the prison to be properly maintained and kept scrupulously clean at all times (Rule 14 of the *SMR*). The ICRC gives further details recommending soap to be provided for both personal use and general cleaning together with adequate amounts of other cleaning agents and equipment, including buckets and mops.²⁹

The *PCMI* does not examine the amounts or content of provided materials but assesses their provision by the prison authorities free of charge. The highest evaluation is thus given to prisons, which supply their inmates with free cleaning materials, while prisons not able to do so will get a lower assessment.

The pilot implementation of the *PCMI* reveals relatively similar situation in all examined prisons. The majority of prisons receive high scores in terms of toilets and cold water (with the exception of some Bulgarian prisons) and in terms of availability of toiletries and general cleaning implements and materials. However, in terms of bath and shower, all prisons, except the Lledoners Prison in Catalonia (Spain), receive a relatively negative evaluation. Actually, none of the monitored prisons reported that they were able to provide daily access to bath and shower. Low scores are also given to all prisons in terms of hot water, which is only available in the cells of the Catalonia's Lledoners Prison.

2.6. Food

The regular provision and the quantity and quality of the food in prison are among the key conditions for the inmates' health. The food is mentioned in all international documents referring to prison standards. However, most of these documents do not specify concrete quantitative or qualitative indicators for assessing the food supplied to inmates. Thus, for example, the United Nations requires every prisoner to be provided, at usual hours, with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served (Rule 20.1 of the *SMR*). The Council of Europe goes into greater detail requiring the prison administrations to provide inmates with 'a nutritious diet that takes into account their age, health, physical condition, religion, culture and the nature of their work' (Rule 22.1 of the *EPR*), but leaves the specification of the requirements in terms of energy and protein content to national authorities (Rule 22.2 of the *EPR*). Food must be prepared and served

²⁹ Ibid.

hygienically (Rule 22.3 of the *EPR*) and there must be at least three meals a day with reasonable intervals between them (Rule 22.4 of the *EPR*).

The quantity of the food and its quality in terms of ingredients are difficult to assess. The rules on food quality may differ substantially from country to country depending on national healthcare legislation and local culinary traditions and specificities. At the same time, food is a fundamental component of the conditions in prison and should be taken into account when assessing the prison environment. For this reason, instead of assessing the content of the food, the *PCMI* evaluates the variety of food options. This approach is based on the assumption that offering varied food is much more difficult to achieve than offering food corresponding to certain minimum nutrition rules.

The *PCMI* examines the availability of varied food in two specific cases: when the inmate is a vegetarian and when the inmate follows certain religious rules.

The availability of vegetarian food without being linked to health or religion is not mentioned in any of the major international documents on prisons. Moreover, the European Court of Human Rights, in the case of *Krowiak v. Poland*, states that the failure of the prison to provide vegetarian diet for a certain period of time (in the particular case – several months) has not reached the threshold of severity required to bring the matter within the ambit of Article 3 of the *ECHR* dealing with the prohibition of torture.³⁰

The availability of an alternative menu for inmates practicing a specific religion is also not explicitly mentioned in international law, but has been dealt with by the ECtHR. In its decision in the case of *Jakóbski v. Poland*, the ECtHR states that when the decision to adhere to a certain diet (in the particular case – a vegetarian diet) is motivated or inspired by a religion and is not unreasonable, the refusal to provide such a diet falls within the scope of Article 9 of the *ECHR*.³¹ However, as pointed out by commentators of the ECtHR case law, no objective criteria helping the states to respect Article 9 in similar cases can be inferred from the Court's decision.³²

The *PCMI* evaluates the availability of alternative menus (vegetarian food and food in compliance with religious preferences) only in terms of regularity. Thus,

³⁰ *Krowiak v. Poland* (2007).

³¹ *Jakóbski v. Poland* (2010). See also *Vartic v. Romania* (no. 2) (2013).

³² Maria Clara Maffei, "The Vegetarian Diet in Prison: A Human Right? The Case of *Jakóbski v. Poland*", in *International Courts and the Development of International Law*, ed. Nerina Boschiero et al. (The Hague, The Netherlands: T. M. C. Asser Press, 2013), 489-96, doi:10.1007/978-90-6704-894-1.

prisons able to provide alternative menu on a daily basis receive the highest evaluation, while prisons where such alternative menus are not available at all obtain the lowest score.

The pilot implementation of the *PCMI* shows that the availability of alternative menus vary significantly from prison to prison. There are prisons, which offer alternative menus for both vegetarians and persons practicing a different religion on a daily basis (Lledoners Prison, Catalonia, Spain). At the same time, there are also institutions, which do not offer alternative menus at all. In the majority of examined prisons, however, it was found that alternative menus were generally available but not on a daily basis.

2.7. Prison shop

According to the *European Prison Rules*, prisoners shall, subject to the requirements of hygiene, good order and security, be entitled to purchase or otherwise obtain goods, including food and drink for their personal use at prices that are not abnormally higher than those in free society (Rule 31.5 of the *EPR*).

The prices in the prison are difficult to assess because they may depend on a number of factors. The supply of goods may be subsidised by the government or by the prison authorities or may be subject to other regulations (e.g. public procurement rules) resulting in price differences. There are also prisons where, for security reasons, real money is replaced by tokens, coupons or other means of payment. Such tools have no real value outside the prison so prices listed in such 'prison currencies' are difficult to compare. Besides, the amount of money, which inmates are actually allowed to have with them, may be subject to certain restrictions so even if prices are low inmates can still be unable to obtain all the goods they want.

Due to these reasons, the *PCMI* does not take into account the level of prices in the prison. Instead, it assesses only the availability of a facility where inmates can obtain food and other goods.

The pilot implementation of the *PCMI* reveals identical results in all examined prisons. Everywhere prisoners has at their disposal a facility (a shop or a canteen) where they can obtain food and drink.

2.8. Windows

Windows are an essential element of the prison infrastructure. They allow the entrance of light and fresh air into the premises and determine the inmates' view from the cell.

Most of the applicable international standards pay special attention to the size and location of the windows. According to the United Nations, windows must be large enough to enable prisoners to read or work by natural light and must be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation (Rule 11a of the *SMR*). The *European Prison Rules* prescribe a similar set of requirements with the exception that the entrance of fresh air is given as an alternative to the air conditioning system (Rule 18.2 of the *EPR*). In addition, the Council of Europe clarifies that windows should not be covered or have opaque glass and that sufficient natural light for reading may not always be available during the winter, particularly in northern countries.³³

The ICRC recommends specific technical specifications for the windows in prison. Thus, for example, to renew the air in a satisfactory manner and allow at least a minimum amount of daylight, the size of the openings must be no less than one-tenth of the floor area.³⁴ The ICRC also recommends that windows should allow prisoners to see part of the external environment.³⁵

The *PCMI* looks into three specific characteristics of the windows: their ability to provide light and fresh air (or, alternatively, the availability of air conditioning) and their transparency (the ability of inmates to see through the windows). The availability of windows possessing these characteristics is assessed within the cells and not in the common premises. Prisons, which can ensure that such windows are available in all their prison cells, would obtain the highest evaluation. On the contrary, prisons where the windows do not correspond to these requirements or where such windows are available only in the common areas but not in the cells, are considered as unable to meet this requirement.

The pilot implementation of the *PCMI* reveals that the majority of examined prisons fully comply with the requirements in terms of windows. Even those prisons, which do not receive the maximum score, obtain a result higher than medium.

³³ *Commentary to Recommendation Rec(2006)2 of the Committee of Ministers to Member States on the European Prison Rules.*

³⁴ Pier Giorgio Nembrini, *Water, Sanitation, Hygiene and Habitat in Prisons* (Geneva, 2013), <https://www.icrc.org/eng/assets/files/other/icrc-002-0823.pdf>

³⁵ *Water, Sanitation, Hygiene and Habitat in Prisons: Supplementary Guidance.*

2.9. Alarm system

According to the *European Prison Rules*, in all buildings where prisoners are required to live, work or congregate, there shall be an alarm system that enables prisoners to contact the staff without delay (Rule 18.2c of the *EPR*).

The *PCMI* assess the availability of an operating alarm system within the cells because in the cells inmates spend their time unaccompanied by guards or other prison staff who can provide immediate assistance if such appears necessary.

The pilot implementation of the *PCMI* shows that the availability of an alarm system is generally neglected by the prison administrations. With two exceptions, all of the other examined facilities reported they did not have an alarm system in any or in most of the cells.

2.10. Clothes and bedding

As noted by the CPT, clothing and bedding are so closely linked to hygiene that their inadequate provision or condition may result in violation of Article 3 of the *ECHR*.

The rules regarding clothing vary from prison to prison. Some prisons may require the wearing of uniforms or other obligatory attire, while others may allow inmates to wear their own clothing. International rules dealing with prisons give a preference to neither of these options. At the same time, studies on prisons found the issue of clothing to be a controversial one. Supporters of uniforms generally perceive the obligatory attire as part of the punishment, while their critics see the use of own clothes as a step towards making prisons more humane.³⁷ Due to the lack of an internationally accepted rule regarding the use of uniforms, the *PCMI* remains neutral in terms of these types of clothing rules.

At the same time, both the United Nations and the Council of Europe require the prison administration to provide clothing to inmates in certain cases. According to the United Nations, prisoners who are not allowed to wear their

³⁶ *Commentary to Recommendation Rec(2006)2 of the Committee of Ministers to Member States on the European Prison Rules.*

³⁷ Yvonne Jewkes and Jamie Bennett, *Dictionary of Prisons and Punishment* (Willan Publishing, 2008), http://books.google.co.uk/books?id=yF53ij4of4gC&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false

own clothing must be provided with outfit of clothing suitable for the climate and adequate to keep them in good health (Rule 17.1 of the *SMR*). According to the Council of Europe, clothing should be provided at least to prisoners who do not have adequate clothing of their own (Rule 20.1 of the *EPR*).

The *PCMI* evaluates the availability of clothing provided by the administration excluding uniforms and other obligatory attire. It is assumed that if a prison requires inmates to wear uniforms, it would provide them with such. Against this background, the highest evaluation is given to prisons, which are able to provide clothes and shoes to all of its inmates who wish to benefit from this option. Prisons that can provide clothes and shoes only to specific categories of inmates (e.g. needy persons) would obtain a lower evaluation, while penitentiaries where no such clothes and shoes are available at all would get the lowest assessment.

In terms of bedding, both the United Nations and the Council of Europe prescribe similar rules. Every prisoner must be provided with separate and sufficient bedding, which must be clean when issued, kept in good order and changed often enough to ensure its cleanliness (Rule 19 of the *SMR* and Rule 21 of the *EPR*). The bedding includes a bed frame, mattress and bed linen.³⁸

Assuming that most prisons provide inmates with bedding, the *PCMI* examines and assesses primarily the regularity with which bedding is changed. Prisons, which do not provide inmates with appropriate bedding, are considered completely unable to meet this requirement.

The pilot implementation of the *PCMI* shows that the majority of prisons provide shoes and clothing to inmates but most of them do this only to specific categories of inmates. In terms of bedding, most of the examined facilities obtain the highest scores for full compliance.

2.11. Complaints

The United Nations recommends that every prisoner be allowed to make requests or complaints to the director of the prison or an authorised officer each week day (Rule 36.1 of the *SMR*), to make requests or complaints to the inspector of prisons during his/her inspection and to talk to the inspector or to any other inspecting officer without the director or other members

³⁸ *Commentary to Recommendation Rec(2006)2 of the Committee of Ministers to Member States on the European Prison Rules.*

of the staff being present (Rule 36.2 of the *SMR*), and to make requests or complaints, without censorship as to substance but in proper form, to the central prison administration, the judicial authority or other proper authorities through approved channels (Rule 36.3 of the *SMR*). The Council of Europe also recommends the availability of a mechanism, through which prisoners can make requests or complaints to the prison director or to any other competent authority (Rule 70.1 of the *EPR*).

The mechanisms for submitting complaints differ substantially from country to country in terms of deadlines, responsible bodies, procedural rules, etc. These differences make it difficult to assess, in a comparative way, the practical effectiveness of these mechanisms. Because of that, the *PCMI* takes into account and evaluates only their availability and accessibility without examining their implementation in practice. The highest score is given to prisons where prisoners can submit complaints without any restrictions. Restrictions, often justified by the insufficient capacity of the prison administration to handle large amount of correspondence, may refer, for example, to the size or the number of complaints. Such limitations, where applied, refer to outgoing correspondence in general and usually exclude complaints. Prisons, where restrictions on correspondence are extended to complaints, would receive a lower score.

In addition to complaints, the *PCMI* also assesses the access of inmates to the prison management in person. The possibility of inmates to personally talk to the prison director or another authorised person from the managerial staff should not be regarded as a substitute for the formal complaints procedure. Instead, it should be seen as a complementary mechanism to facilitate the communication between the inmates and the prison management.

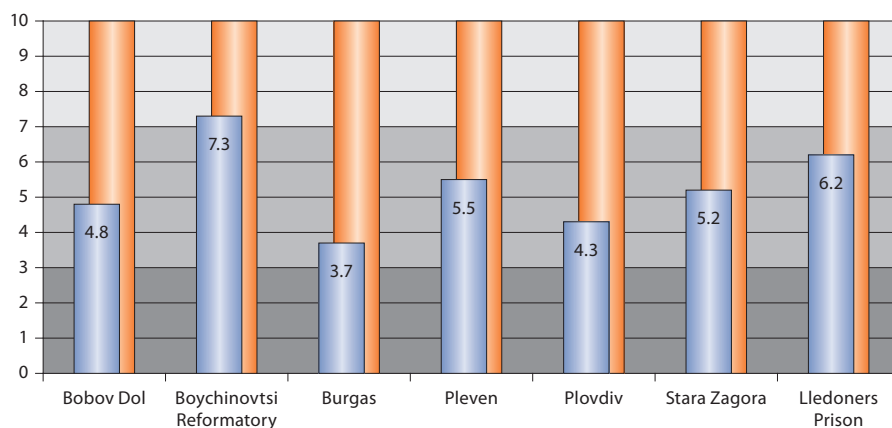
The *PCMI* evaluates the time, which the prison management has designated for receiving inmates. Prisons, which have announced specific reception hours for prisoners, obtain a positive evaluation, while prisons where access to the management is available only upon request or not available at all receive lower score. The highest score is assigned to prisons, which are able to offer at least two reception hours per day or a total of 10 hours per week.

The pilot implementation of the *PCMI* shows that all prisons provide adequate complaint mechanisms without restrictions. In terms of reception hours, however, results differ significantly from prison to prison. Although all prisons reported they had provided inmates with access to the prison management in person, some of them had introduced pre-announced reception hours while others did so only upon request.

3. SOCIAL WORK, FREE TIME AND CONTACTS WITH THE OUTSIDE WORLD

Social work, free time and contacts with the outside world encompass a set of factors relevant for the rehabilitation of prisoners. Social work and education are the main tools for re-educating offenders and improving their personal knowledge and skills. Contacts with the outside world are important precondition for avoiding the marginalisation of prisoners and preserving their relations with family and friends. The conditions provided to inmates to have a worthwhile spent free time are also particularly relevant for their rehabilitation and for the reduction of the harmful effects of imprisonment.

Figure 4. Social work, free time and contacts with the outside world index rating out of the maximum possible



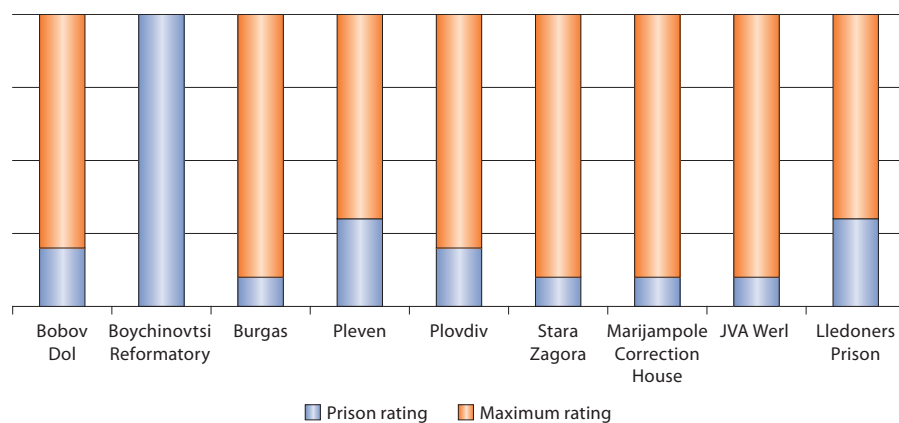
3.1. Social workers

International organisations recommend various rules regarding the prison staff, including the social workers. These rules refer to issues such as recruitment, professional skills and qualifications, remuneration and conduct. In terms of number, however, there are no internationally recognised standards. When referring to the number of social workers, both the United Nations and the

Council of Europe use the term ‘sufficient number’ (Rule 49.1 of the *SMR* and Rule 89.1 of the *EPR*).

The *PCMI* assumes that the minimum number of social workers necessary to ensure effective rehabilitation of prisoners is one social worker per ten inmates. Since many prisons are overcrowded, the *Index* does not evaluate the number of social workers against the capacity of the prison but against its actual occupancy. This approach is based on the assumption that overcrowded prisons should undertake appropriate measures to ensure that overcrowding does not affect the social work with the prisoners. At the opposite end of the scale are prisons, where there is one social worker per more than 100 inmates. Such ratio is seen as completely inappropriate and counterproductive in terms of achieving the purpose of social work in prison.

Figure 5. Rating by the number of social workers per 100 inmates



The pilot implementation of the *Index* shows that, with only one exception, all of the examined prisons reported insufficient number of social workers. In the majority of prisons, the level of understaffing is worryingly high and almost everywhere there is a maximum of two social workers per 100 prisoners. The only facility with adequate number of social workers is a juvenile reformatory in Bulgaria, which, however, reported significantly low occupancy rate.

3.2. Education and training capacity

Education, together with work, is among the key factors for the rehabilitation of offenders. As noted by the Council of Europe, education in prison helps to humanise prisons and to improve the conditions of detention and is also an important way of facilitating the return of the prisoner to the community. At the same time, a significant share of prisoners has had very little successful educational experience, and therefore has many educational needs.³⁹

Access to education for all prisoners is among the basic principles for the treatment of prisoners adopted by the United Nations. The United Nations also requires provisions to be made for the further education of all prisoners capable of profiting thereby with a special focus on illiterates and young prisoners for whom education should be compulsory (Rule 77.1 of the *SMR*). It is further recommended that education of prisoners should, so far as possible, be integrated with the educational system of the country so that after their release they may continue their education without difficulty (Rule 77.2 of the *SMR*).

The Council of Europe recommends that all prisoners be provided with access to educational programmes, which are as comprehensive as possible and meet their individual needs while taking into account their aspirations (Rule 28.1 of the *EPR*). Similarly to the United Nations, the Council of Europe also recommends priority to be given to prisoners with literacy and numeracy needs, to those lacking basic or vocational education and to young prisoners and prisoners with special needs (Rules 28.2 and 28.3 of the *EPR*).

The quality of education in prison is difficult to assess in a comparative way due to different educational standards applied by different countries. The share of inmates enrolled in education programmes is also not relevant, because it depends on factors beyond the control of the prison administration such as the education level and the will of individual inmates, the duration of the sentence, etc. Because of that, to assess education in prison, the *PCMI* takes as a primary criterion the capacity to include inmates in educational programmes. It is assumed that the main responsibility of the prison is to make sure all inmates who wish to undergo some form of education have the opportunity to do so. The *PCMI* does not differentiate between education inside and outside the prison, provided that inmates are allowed to attend it.

³⁹ Recommendation No (89) 12 on Education in Prison, 1989, <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2622619&SecMode=1&DocId=656296&Usage=2>

⁴⁰ Basic Principles for the Treatment of Prisoners, 1990, <http://www.legislationline.org/documents/action/popup/id/7760>

The educational capacity of prisons is assessed against their overall capacity with the highest score given to penitentiaries with full educational capacity and lowest one – to those with a capacity of less than 10 %.

The pilot implementation of the *Index* reveals that most prisons experience serious problems in terms of educational capacity. In fact, the majority of prisons are even not able to reach a capacity of 50 %, which is a worrying conclusion indicating that urgent efforts are needed on the part of national governments. In some particularly worrying cases, prisons reported educational capacity of less than 10 %.

3.3. Time locked in the cell

Prisons are generally encouraged to keep their inmates locked in their cells for as little time as possible. However, rules differ from country to country and from prison to prison depending primarily on the category of both the prison and the prisoners.

Understandably, there are no universally recognised standards in terms of how long prison cells should stay locked. It is a widespread practice for cells to be locked during the night but, depending on applicable legal provisions and internal rules, many prisons extend this rule to certain periods during the day.

For the purpose of the evaluation, the *PCMI* assumes that prisoners should stay locked in their cells for up to six hours every day. Usually, this would be the time when inmates sleep at night. It is also assumed that the maximum amount of time, for which the cells remain locked, should not exceed 14 hours a day. The evaluation takes into account only the general rules and excludes cases where cells are locked as a punishment.

The pilot implementation of the *PCMI* shows the majority of examined prisons tend to keep inmates locked in the cells for longer periods of time, usually ranging from 8 to 12 hours. Only the Marijampole Correction House (Lithuania) reports less than six hours of locked cells.

3.4. Prison leave

Prison leave is an important factor facilitating the social reintegration of prisoners after their release. Together with visits, prison leaves allow prisoners to maintain

live contacts with their families and friends and prevent their marginalisation in the community.

There are no international standards in terms of regularity and duration of prison leaves. The *European Prison Rules* include only a general provision that a system of prison leave should be incorporated in the overall regime for sentenced persons (Rule 103.6 of the *EPR*). Some more concrete guidelines can be found in the *Council of Europe Recommendation No R (82) 16 of the Committee of Ministers to Member States on Prison Leave*. In addition to specifying the factors to be taken into account when granting prison leave, the document encourages governments to grant prison leave as soon and as frequently as possible, including to foreigners whose families do not live in the country, to homeless persons and to persons with difficult family backgrounds.⁴¹

The *PCMI* evaluates the accessibility of prison leaves by looking at the average duration of such leaves. Taking into account the differences in the prison regimes that usually depend on a variety of factors (category of prison, the personal characteristics of inmates, duration of the sentence, etc.), the *PCMI* assumes that, ideally, prisoners should be allowed to spend at least 12 days outside the territory of the prison each year. At the opposite end of the scale, an annual prison leave of three days is seen as the absolute minimum, which every prison should comply with. To make the assessment more objective, the *PCMI* excludes the disqualification from prison leave imposed as a punishment for a disciplinary or other type of violation of prison rules.

The pilot implementation of the *PCMI* shows that many prisons provide their inmates with prison leave of at least 12 days per year. However, some worrying exceptions are also identified where annual prison leaves do not exceed three days.

3.5. Outgoing correspondence

Correspondence is one of the means available to prisoners for contacts with the outside world. International standards are relatively general when referring to correspondence. The United Nations recommends that prisoners be allowed, under necessary supervision, to correspond with their families and reputable

⁴¹ *Recommendation No R (82) 16 of the Committee of Ministers to Member States on Prison Leave*, 1982, <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2622679&SecMode=1&DocId=676420&Usage=2>

friends at regular intervals (Rule 37.1 of the *SMR*). The Council of Europe prescribes a similar rule (Rule 24.1 of the *EPR*).

According to the CPT, contacts with the outside world, including through correspondence, are vital for counteracting the potentially damaging effects of imprisonment and prison authorities should strive to allow their maintenance.⁴²

Due to the differences in terms of legal rules and procedures, it is difficult to assess, in a comparative way, the control exercised by the prison administration in terms of the content of correspondence. Because of that, the *PCMI* looks only at the applicability of any restrictions on the outgoing correspondence of prisoners. Such restrictions may refer to the maximum size of each letter, the maximum number of letters per day or per week, a restricted list of eligible or ineligible addressees, etc.

The *PCMI* assumes that all prisoners should have unrestricted access to outgoing correspondence. Correspondence may be subject to supervision and the sending of individual letters may be rejected provided there are legal grounds for it, but no restrictions should be a general rule.

The pilot implementation of the *Index* shows that none of the examined prisons applies any restrictions on the outgoing correspondence of prisoners.

3.6. Outgoing telephone calls

Similar to correspondence, telephone calls are another way for prisoners to maintain contacts with the outside world. According to the Council of Europe, prisoners should be allowed to communicate by telephone as often as possible (Rule 24.1 of the *EPR*) and any restrictions or monitoring on the part of the prison authorities should nevertheless allow an acceptable minimum level of contact (Rule 24.2 of the *EPR*).

The *PCMI* assumes that the development of modern technologies allows for prisons to provide inmates with unrestricted access to telephone. For the purpose of the evaluation, unrestricted means no restrictions on the number of phone calls per certain period of time. Restrictions resulting from rules of internal order or from security concerns (e.g. ban on phone calls during the night or during work, temporary bans in cases of emergency, etc.) are not taken into account.

⁴² *Commentary to Recommendation Rec(2006)2 of the Committee of Ministers to Member States on the European Prison Rules.*

The pilot implementation of the *PCMI* shows that, except for the Lledoners prison where inmates have the right to less than 7 calls per week, all other prisons provide unrestricted access to outgoing telephone calls.

3.7. Visits

Visits are the most common way prisoners to keep live contacts with the outside world. Both the United Nations and the Council of Europe include the visits in their rules on contact with the outside world (Rule 37.1 of the *SMR* and Rule 24.1 of the *EPR*). However, the international rules do not specify any minimum standards in terms of their regularity. The United Nations uses the term 'at regular intervals' while the Council of Europe speaks about 'as often as possible' and requires the arrangements for visits to allow prisoners 'to maintain and develop family relationships in as normal a manner as possible' (Rule 37.1 of the *SMR* and Rules 24.1 and 24.4 of the *EPR*).

For the purpose of the evaluation, the *PCMI* assumes that a minimum of eight visits per month (about two visits per week) adequately meets the recommendation of international legal instruments. At the same time, less than two visits per month are seen as completely insufficient for inmates to maintain their relations with family and friends. The assessment takes into account only the general rules applied in a prison and excludes incidental bans on visits due to external factors or imposed as punishments.

The pilot implementation of the *PCMI* shows that the majority of the examined prisons allow between two and four visits per month, which is significantly below the specified standard. Only one prison (a juvenile reformatory) met this standard, which could be explained by the fact that juveniles are subject to more relaxed regimes due to their age and by the importance of maintaining regular contacts with the outside world and in particular with their parents.

In addition to regular visits, the *PCMI* also evaluates the availability and accessibility of intimate (conjugal) visits. Intimate visits are seen as a way to preserve family bonds and increase the chances of success for the social reintegration of prisoners after release. They are also used as an incentive to encourage prisoners to comply with the rules in prison. Intimate visits usually take place in premises designated for that purpose.

The *PCMI* assumes that the objectives of intimate visits could be achieved by allowing two visits per month. The general permission of such visits, although

on a less regular basis, is also acknowledged. The lowest score is assigned only to prisons where the practice of intimate visits does not exist at all.

The pilot implementation of the *PCMI* shows significant differences from country to country. Unlike the examined prisons in Germany, Lithuania and Catalonia (Spain), where such visits are generally allowed although with varied regularity, none of the examined prisons in Bulgaria reported such visits were permitted.

3.8. Special adaptation programme for new inmates

Adaptation programmes for new inmates are aimed to facilitate the transition of prisoners from life in the community to life in prison. Such programmes are particularly important for first time offenders for whom the first experience with the prison environment may be particularly harmful.

The duration and scope of adaptation programmes vary from country to country and from prison to prison. In the course of the adaptation programme, prisoners are informed about the rules in prison and obtain their individual rehabilitation plans. They also undergo their initial medical examination and personal evaluation.

Due to the differences in terms of duration and substance between adaptation programmes in different countries and in different prisons, it is difficult to assess, in a comparative way, their content. Because of that, the *PCMI* evaluates only their availability. Taking into account the significant role of such programmes, it is assumed that they should be available to all newly arriving prisoners. The implementation of such programmes only as regards to specific categories of prisoners (e.g. first time offenders) is seen as less effective, while the complete lack of any adaptation programme justifies a negative assessment.

The pilot implementation of the *Index* shows that generally prisons comply with the requirement to provide an adaptation programme for inmates. In some countries, like Bulgaria, such programmes are provided for in the legislation so prisons are obliged to ensure they are duly implemented.

3.9. Special adaptation programme before release

As noted by the United Nations, before the completion of the sentence it is desirable that the necessary steps be taken to ensure for the prisoner a gradual

return to life in free society. For the achievement of this objective, the United Nations outlines a broad range of possible interventions, including pre-release regime organised in the prison or in another appropriate institution, or even release on trial under some kind of supervision, which must not be entrusted to the police but should be combined with effective social aid (Rule 60.2 of the *SMR*).

The Council of Europe prescribes similar rules recommending that prisoners should be assisted in good time prior to release by procedures and special programmes enabling them to make the transition from life in prison to a law-abiding life in the community (Rule 107.1 of the *EPR*). These programmes can be either programmes in prison or partial or conditional release under supervision combined with social support (Rule 107.3 of the *EPR*).

The *PCMI* evaluates the availability of pre-release programmes both within and outside the prison. However, the results of the pilot implementation show that unlike pre-release programmes inside the prison, which are generally available everywhere without any restrictions, programmes in which prisoners spend some time outside the territory of the prison are either not available at all or accessible only for special categories of inmates.

3.10. Time in the open

According to the United Nations, prisoners who are not employed in outdoor work must have at least one hour of suitable exercise in the open air daily if the weather permits (Rule 21.1 of the *SMR*). According to the Council of Europe, the same rule should apply to all prisoners (Rule 27.1 of the *EPR*).

Time in the open is important for the health of inmates and also facilitates the social contacts between them. The *PCMI* takes the one-hour standards introduced by international organisations as the absolute minimum and gives a negative evaluation to any prison that is not able to meet this requirement. Higher scores are assigned to prisons that are capable of providing their inmates with more time to spend in the open.

The pilot implementation of the *Index* shows that many of the examined prisons strictly adhere to the one-hour standard. However, there are also exceptions of individual prisons reporting up to or even more than three hours of time in the open allowed to prisoners each day.

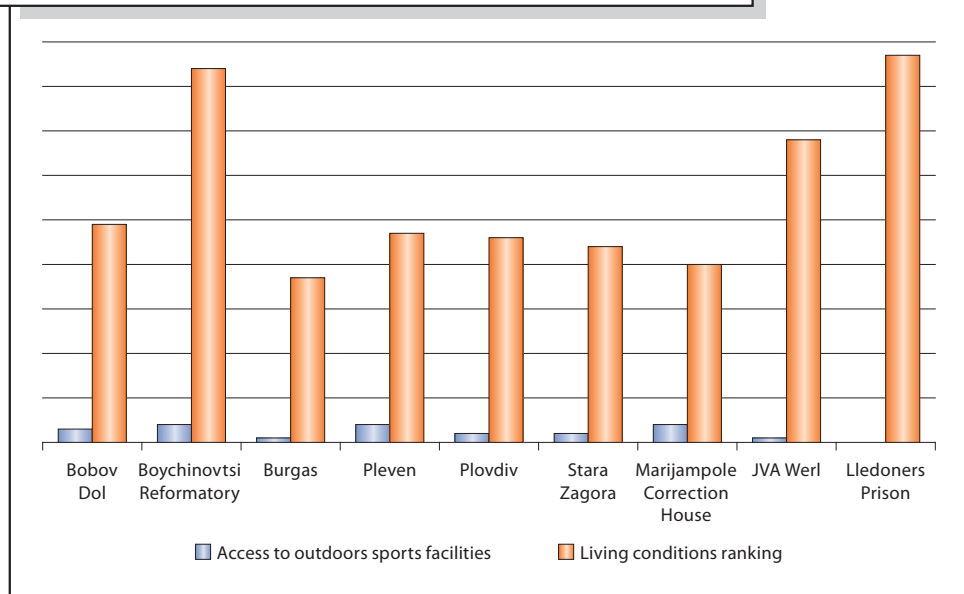
3.11. Sport

As noted by the CPT, sport and recreation are an ideal opportunity for involving prisoners in an important aspect of prison life and for developing their social and interpersonal skills.⁴³

According to the United Nations, young prisoners and prisoners of suitable age and physique must receive physical and recreational training during their periods of exercise and space, installations and equipment must be provided to this end (Rule 21.2 of the *SMR*). The Council of Europe recommends that prison regimes incorporate properly organised activities to promote physical fitness and provide for adequate exercise and recreational opportunities, while prison authorities are required to facilitate such activities by providing appropriate installations and equipment (Rules 27.3 and 27.4 of the *EPR*).

The practical involvement of inmates in sport activities is difficult to assess because it depends on a variety of factors, including the health condition, their will to engage in such activities, etc. For that reason, the *PCMI* evaluates

Figure 6. Relation between the ranking of prisons' living conditions and the access to outdoors sports facilities



⁴³ Ibid.

only the availability of adequate material conditions for practicing sports without going into further detail in terms of their actual use by the inmates. A separate assessment is done as regards the availability of facilities to practice sports outdoors and indoors. The highest score is assigned to prisons where prisoners are permitted to use the available sport facilities for at least 14 hours per week. Lack of facilities for practising sports justifies a negative evaluation.

3.12. Free time

There are various ways prisoners could spend their free time in prison. As an indication of the conditions provided to inmates for spending their free time, the *PCMI* looks at the access of inmates to six types of services: library, legal literature, newspapers, computers, the Internet and television.

Some of these services are explicitly referred to in international legal instruments. Thus, for example, the United Nations prescribes that all prisoners should be kept informed regularly of the more important items of news by the reading of newspapers, periodicals or special institutional publications, by hearing wireless transmissions, by lectures or by any similar means as authorised or controlled by the administration (Rule 39 of the *SMR*).

As noted by the CPT, the prison library has a key place in the provision of education but should also be seen as a facility for all prisoners and as an important recreational resource. The CPT also recommends that, in addition to books and electronically stored information, prison libraries should comprise legal materials including international instruments and the national regulations applicable to the prison.⁴⁴

According to both the United Nations and the Council of Europe, every prison must have a library for the use of all prisoners, adequately stocked with both recreational and institutional books, and prisoners must be encouraged to make full use of it (Rule 40 of the *SMR* and Rule 28.5 of the *EPR*). The Council of Europe also recommends that prison libraries be organised, wherever possible, in co-operation with community library services (Rule 28.6 of the *EPR*) and that prisoners should have direct access to them at least once per week.⁴⁵

⁴⁴ Ibid.

⁴⁵ Recommendation No (89) 12 on Education in Prison.

The availability of these services is evaluated in a different way depending on their technical specificities. Library and newspapers are assessed in terms of volume and diversity of content. The accessibility of legal literature and of the Internet is evaluated from the point of view of applicable restrictions. Access to computers and television is assessed on the basis of permitted time per day.

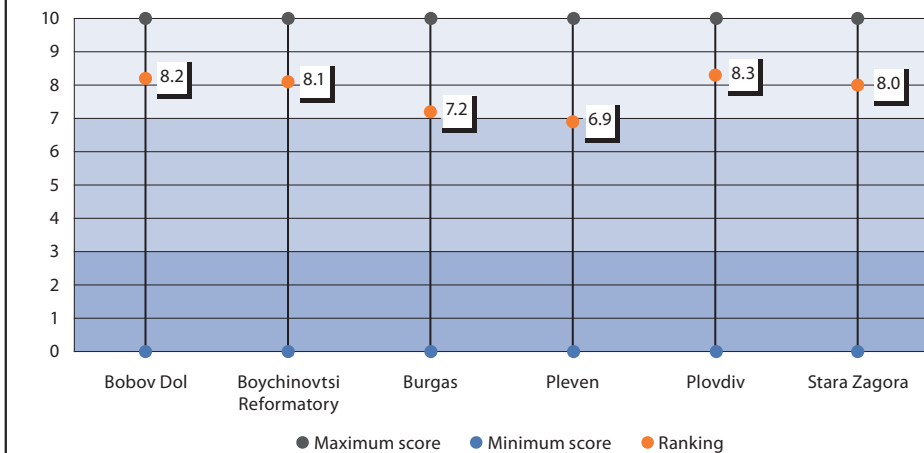
The pilot implementation of the *Index* shows that in terms of library (including access to legal literature) and television, all prisons provide adequate conditions, access to computers varies significantly from prison to prison (with individual prisons not providing inmates with any access to computers at all), while newspapers and the Internet are practically not accessible anywhere.

4. SECURITY AND SAFETY

Security and safety are important components of the prison environment. Security includes both the physical security of the prison facility and the internal security within the institution, while safety refers to the safety of both prisoners and prison staff.

When referring to security and safety, most international standards focus primarily on restricting the powers of prison authorities and safeguarding the rights of prisoners against potential abuses. Along these lines are the rules governing the application of special high security and safety measures, the procedures for searching and controls, the imposition of disciplinary punishments, the use of force, weapons and instruments of restraint, etc. At the same time, there are almost no provisions defining the minimum security and safety specifications that prisons have to introduce.

Figure 7. Security and safety ranking



4.1. Guards

International standards prescribe rules regarding the skills and training of guards but do not specify their recommended number. There are various schools on the topic, some of which advocate that higher staff – inmate

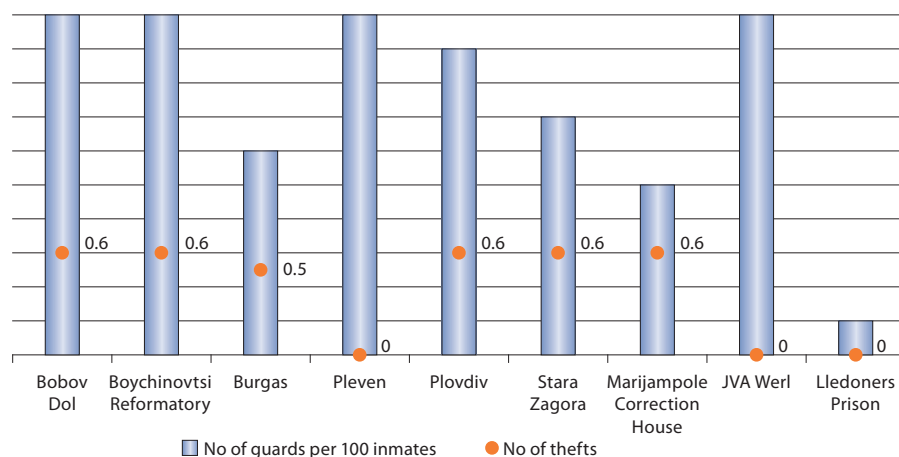
ratios mean greater levels of supervision, while others share the view that the deinstitutionalising effect of the presence of non-custodial staff may be more important than the extra surveillance custodial staff provide.⁴⁶

For the purpose of evaluation, the *PCMI* assumes that an adequate number of guards is essential for adequately ensuring the security of the prison and the safety of inmates, while the objective of causing less stress to prisoners could be achieved through other means, including the prisons' internal rules.

The *Index* presumes that a ratio of one guard per four inmates is sufficient to provide adequate arrangements in terms of security and safety. At the same time, prisons where there is one guard per 250 or more prisoners are seen as critically understaffed and practically unprepared to deal with serious security problems.

The pilot implementation of the *Index* shows that prisons are investing substantial resources in security personnel. Many of the examined prisons obtain the highest score for meeting or exceeding the ratio of one guard per four inmates. Even in the prison, which reported the lowest number of security personnel, the ratio is above 12.5 guards per 100 inmates.

Figure 8. Index ranking on the number of guards compared to the ranking on the annual thefts number*



* JVA Werl and Lledoners prison data on thefts is not available.

⁴⁶ Richard Wortley, *Situational Prison Control: Crime Prevention in Correctional Institutions* (Cambridge: Cambridge University Press, 2002).

4.2. Violations

Breach of internal rules and crime in prison are indicative for the level of security and safety. However, the country specific differences in terms of legal definitions of violations makes it difficult to assess, in a detailed, yet comparative way, the improper behaviour of prisoners.

For that reason, the *PCMI* looks at the four most widespread violations occurring in prison, which are also generally accepted as illegal by most jurisdictions. These include theft, damage of property, possession of forbidden items and gambling.

All violations are evaluated on an annual basis as a ratio per 100 prisoners. The assessment is also linked to the average crime level of these offences outside prison, but is adjusted to reflect the enhanced security within the prisons.

The pilot implementation of the *Index* shows that, with minor exceptions, most of the examined prisons report very low violation rates in terms of theft, damage of property and gambling. In terms of possession of forbidden items, however, the majority of prisons obtain a significantly low assessment. These results show that, while internal order and discipline is at a relatively good level, the control over what is imported in prison is ineffective.

4.3. Suicides

There are numerous studies examining the issue of suicide in prison. Most of them single out as contributory factors the disruption of relationships, lack of communication and support, bullying, threats, fear and violence, uncertainty, isolation, boredom, 'enforced idleness', insomnia and the prospect of a long or meaningless sentence devoid of future hopes or plans.⁴⁷

Prevention of suicides is a responsibility of both the security and the medical personnel in prison, although the Council of Europe puts the emphasis on the healthcare services, which are expected pay special attention to suicide prevention (Rule 47.2 of the *EPR*).⁴⁸

⁴⁷ Alison Liebling, *Suicides in Prison* (London: Routledge, 2002).

⁴⁸ See also *Commentary to Recommendation Rec(2006)2 of the Committee of Ministers to Member States on the European Prison Rules*.

The *PCMI* includes in the evaluation only the number of suicides. The number of unsuccessful attempts is excluded due to concerns that there are country specific differences in the definition of attempted suicides and the procedures for their registration. Even in scientific literature attempted suicide is found difficult to define and differentiate it from a deliberate self-harm without the intention to die (also referred to as parasuicide).⁴⁹

Similarly to the number of violations, the assessment of the number of suicides is linked to the average level of suicides in the free society but adjusted to reflect the specificities of the prison environment.

The pilot implementation of the *PCMI* shows that suicides are not a major problem in any of the examined prisons. Due to either enhanced security or effective prevention, the registered suicide rates in all of the examined prisons are within the reasonable limits.

4.4. Injuries

Injuries are indicative for the level of safety of both the inmates and the prison staff. The *PCMI* takes into account all four major categories of injuries: inmate-to-inmate, inmate-to-staff, staff-to-inmate and self-harm.

There are various studies assessing and analysing injuries in prison. Based on recent research, the World Health Organization concludes that 20 % of the prisoners have been subjected to physical violence on the part of other prisoners and 25 % to violence by prison staff. For females, the prisoner-on-prisoner rate is the same whereas the staff-on-prisoner rate is 8 %.⁵⁰

At the same time, prison staff is also permanently exposed to the risk of violent behaviour on the part of prisoners. Studies in the United States show that a significant share of the prison staff has suffered injuries due to violence.⁵¹

Self-harm is the last category of injuries examined by the *PCMI*. Self-harm, defined as self-inflicted injuries that were not intended to be fatal, failed suicide attempts and successful suicide attempts, appears to be among the most serious problems in prisons.

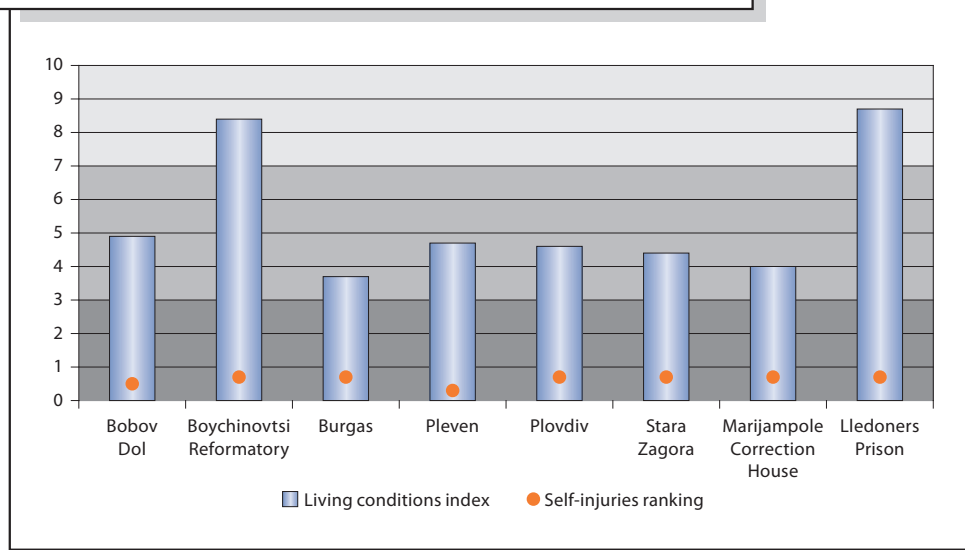
⁴⁹ Christine Tartaro and David Lester, *Suicide and Self-Harm in Prisons and Jails* (Plymouth: Lexington Books, 2010).

⁵⁰ Stefan Enggist et al., eds., *Prisons and Health* (Copenhagen: World Health Organization, 2014), http://www.euro.who.int/__data/assets/pdf_file/0005/249188/Prisons-and-Health.pdf?ua=1

⁵¹ Ibid.

The *PCMI* evaluates the annual number of registered injuries per 100 inmates. The pilot implementation of the *Index* shows that prisons are effectively preventing all types of interpersonal injuries but at the same time some of them have problems with dealing with self-harm.

Figure 9. Index ranking of self-injuries related to living conditions ranking



4.5. Escapes

There is extensive research on the reasons motivating prisoners to escape and on the prevention of escapes. According to studies, the two most widespread causes of prison escapes are outside problems and threats and pressure from other prisoners. Prevention strategies include development of better instruments for assessing individual escape risks, more contacts with the outside world, transfer to another prison, etc.⁵²

The rate of successful escapes is an undisputed indication of the effectiveness of security both within the prison and during escorting prisoners outside. The evaluation encompasses all types of escapes irrespective of whether they have happened inside or outside the prison (e.g. during prison leave, visit to hospital, etc.).

⁵² Wortley, *Situational Prison Control: Crime Prevention in Correctional Institutions*.

The *Index* looks at the number of successful escapes only. Similarly to suicides, differences in the way of defining and registering unsuccessful attempted escapes make their number difficult to compare internationally.

The pilot implementation of the *Index* demonstrates that prisons are well guarded and escapes are not a major concern. None of the examined prisons reports a number of escapes justifying a negative assessment.

4.6. Video control

Video control is a controversial issue not only as regards to prisons but also in the free society in general. However, its reasonable use could substantially improve security in prison. Studies show that video surveillance in prison is most often used as a means of detecting and/or preventing highly specific behaviours (such as contraband entering prison, self-harm or suicide, and escape), as a means of identification for remote access control, and to facilitate the coordination of responses to incidents, gather evidence, and improve safety.⁵³

To remain neutral as regards the ethical aspects of video control, the *PCMI* evaluates its availability only in the common areas of the prison, which are not supposed to ensure privacy. Premises such as cells, bathrooms and toilets are excluded from the evaluation, although there is evidence that in some prisons video control is applied even there.

The assessment looks at video control in three categories of premises: the perimeter fence including the gates, the common areas indoor including the corridors and staircases, and the common areas outdoors. The purpose of video surveillance of the perimeter fence and the gates is to help ensure the security of the prison, assess authenticity of people or vehicles and determine whether to subsequently monitor people entering prison. Video surveillance of common areas facilitates the monitoring of prisoner misbehaviour, the provision of back up for staff to improve their safety, the coordination of incident responses and the collection of evidence.⁵⁴

The pilot implementation of the *Index* shows that the majority of the examined prisons have employed some type of video control technology for improving security. It is mostly used to monitor the perimeter fence and the gates, while

⁵³ Troy Allard, Richard Wortley, and Anna Stewart, "The Purposes of CCTV in Prison", *Security Journal*, no. 19 (2006): 58-70, doi:10.1057.

⁵⁴ Ibid.

the common areas, both indoors and outdoors, are only partly covered. None of the examined prisons reports not using video control at all.

4.7. Fire protection

Fires are among the most dangerous and damaging incidents that may occur in prison. Fire can be caused by a variety of factors: electricity breakdowns, smoking, arson, etc. Research shows that very often fires are deliberately set by inmates to intimidate staff and other inmates, destroy prison or personal property, make a diversion for assault or escape attempt, suicide attempt and escape from boredom.⁵⁵

Effective prevention includes appropriate internal rules as well as educational and infrastructural measures.

Rules and educational measures are difficult to assess because they differ substantially from country to country and from prison to prison. The number of incidents is not a reliable indicator too, because the procedures for registering such cases differ from country to country and, less often, from prison to prison.

Because of that, the *PCMI* focuses on the infrastructural measures and, in particular, on the availability of operating fire alarm systems. Such systems are highly important as they provide for a timely reaction in case of fire and thus contribute to reducing the potential damages to persons and property alike.

The *Index* evaluates the availability of fire alarm systems both within the cells and in the common areas. The differentiated evaluation is based on the assumptions that, on the one hand, prison cells are less supervised compared to the common premises (e.g. through video control) while, on the other hand, they are more difficult to reach in case of an incident. According to studies, most often fires occur within the cells while there are inmates locked inside.⁵⁶

The pilot implementation of the *PCMI* shows that, except in the Lledoners Prison, fire alarm systems are not available both in the cells and, with minor exceptions, in the common areas. This indicates to a particularly worrying situation as it increases the prisons' vulnerability to fires and weakens the capacity of prison staff to respond timely and adequately in case of an incident.

⁵⁵ Joseph Su et al., "Smoke Detectors in Prison Cells", *Fire Protection Engineering*, 2006, <http://magazine.sfpe.org/fire-detection-and-alarm/smoke-detectors-prison-cells>

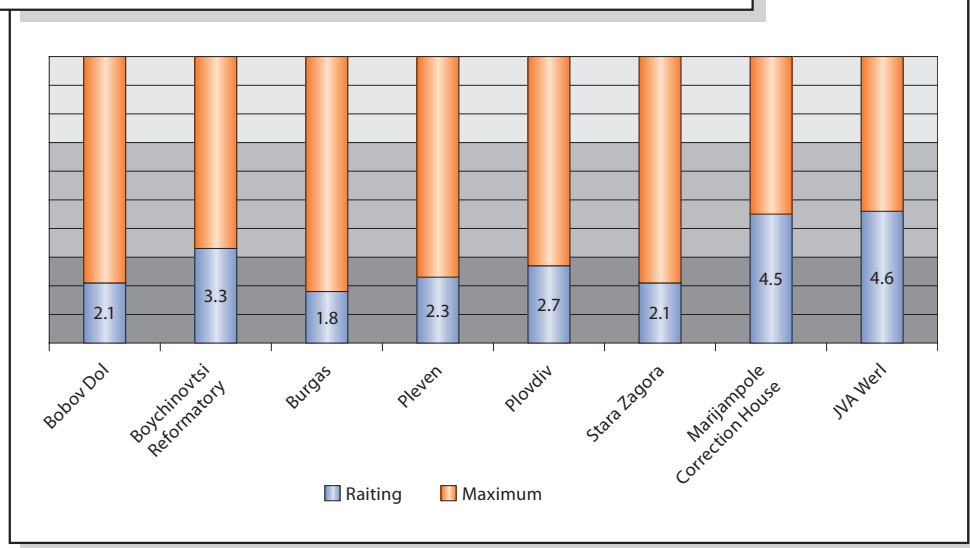
⁵⁶ Ibid.

5. EMPLOYMENT

Work in prison is an important instrument for the rehabilitation of offenders. It allows inmates to maintain their working habits and at the same time earn some income, which they can use during or after the serving of the sentence. In some countries, like Bulgaria, work is also a way to decrease the duration of the sentence.

The legal provisions governing work in prison vary substantially from country to country. At the same time, international standards focus on ensuring that the work corresponds to the inmates' physical and mental fitness and that it is not of an afflictive nature.

Figure 10. Index rating on employment



5.1. Employment capacity

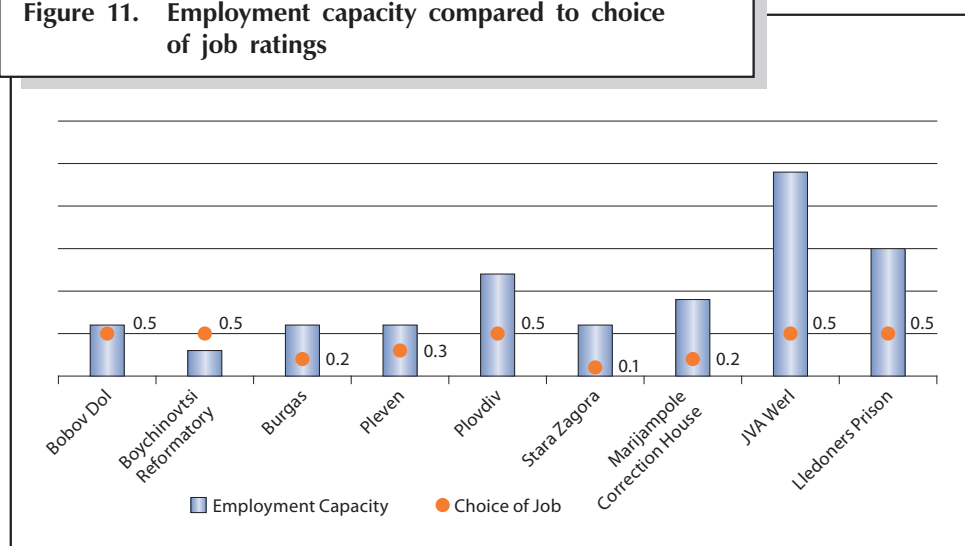
There are no internationally recognised norms in terms of employment capacity. The United Nations requires prisons to provide sufficient work of a useful nature to keep prisoners actively employed for a normal working day (Rule 71.3 of the *SMR*).

The *PCMI* evaluates only the capacity of prisons to offer jobs to inmates and does not take into account the actual number of working inmates. This approach is based on the fact that work in prison is not mandatory and depends on the free will of inmates. There are countries, like Bulgaria, where working leads to certain benefits, including, but not limited to, a decrease of the duration of imprisonment. In such countries, the responsibility of the prison to ensure a job for every prisoner is even higher because the lack of jobs prevent prisoners from benefitting from the available incentives. However, in many countries such incentives are not envisaged and therefore, to ensure comparability of evaluation, the share of working inmates was excluded from the assessment.

For the purpose of the evaluation, it is assumed that a prison should be able to secure jobs for at least 90 % of its inmates provided that its capacity is fully used. The assessment is based on the original capacity of the prison rather than on the actual occupancy rate because the latter is a dynamic figure and at the same time is often due to factors beyond the control of the prison administration. At the opposite end of the scale, prisons, which are not able to provide jobs for at least 10 % of their inmates, would receive the lowest score.

The pilot implementation of the *PCMI* confirms the already established worrying trend that the employment capacity of most prisons is critically low. With a few minor exceptions, the majority of examined prisons reported employment capacity of less than 30 %. In some particularly alarming cases, prisons were able to provide jobs to less than 10 % of their inmates.

Figure 11. Employment capacity compared to choice of job ratings



5.2. Choice of job

Both the United Nations and the Council of Europe require prisons to provide, so far as possible, work that will maintain or increase the prisoners' ability to earn an honest living after release (Rule 71.4 of the *SMR* and Rule 26.3 of the *EPR*). However, an objective assessment of whether the nature of jobs offered by the prison meets this requirement seems very difficult and would depend on a number of factors, some of which are external to the prison system.

In addition to the nature of the work, however, prisons are also required to provide inmates with the opportunity to choose among alternative jobs. Both the United Nations and the Council of Europe envisage explicit rules in this respect (Rule 71.6 of the *SMR* and Rule 26.6 of the *EPR*).

The *PCMI* evaluates the choice of job by looking at the number of alternative options offered to prisoners and assuming that this number should be more than five. Despite the critically low employment capacity of the examined prisons, they either meet this requirement or report a certain, although lower, number of alternative options. In none of the examined facilities the prisoners were deprived, at least on paper, of the choice of job.

5.3. Job opportunities for inmates with disabilities

International legal instruments recommend rules concerning persons with disabilities primarily from the point of view of healthcare. Thus, for example, the CPT requires prisoners with physical handicaps to be provided with facilities to assist them on lines similar to those in the outside environment.⁵⁷ In terms of employment, however, there are no special rules addressing the situation of these groups of inmates.

A key prerequisite for facilitating the rehabilitation and social reintegration of prisoners with disabilities and for avoiding their marginalisation within the prison, is to ensure they can get a job if they wish to.

The complicated classification of disabilities and country specific rules and regulations make it difficult to extend the assessment to all categories of persons with disabilities. For that reason, the *PCMI* evaluates the availability of

⁵⁷ *Commentary to Recommendation Rec(2006)2 of the Committee of Ministers to Member States on the European Prison Rules.*

jobs for three particular categories: inmates with vision impairment, inmates with hearing impairment and inmates with mobility impairment. On the one hand, these categories of disabilities are among the most widespread in the free society, while, on the other hand, they are among the most difficult to address in terms of employment.

The pilot implementation of the *Index* reveals that, with minor exceptions, prisons are not able to provide any of these categories of inmates with appropriate jobs. This is a particularly worrying conclusion in view of the recently identified trends that an increasing number of prisoners have physical disabilities, in part due to the ageing of prison populations.⁵⁸

5.4. Remuneration

It is generally accepted that work in prison should be paid, but the amount and methods of payment vary from country to country.

Both the United Nations and the Council of Europe require equitable remuneration of the work of prisoners allowing them to use their earnings by spending them on approved articles for their own use, sending them to their family or saving them for the time after their release (Rules 76.1, 76.2 and 76.3 of the *SMR* and Rules 26.10, 26.11 and 26.12 of the *EPR*). According to the CPT, wages paid to prisoners should ideally be related to those in the free society as a whole.⁵⁹

Research on the topic also recommends the provision of comparable remuneration to prisoners seeing it as a tool to encourage them to work and to increase their sense of responsibility and self-esteem.⁶⁰

The differences in the economic status and the financial regulations across different countries prevent the comparison of prisoners' remuneration without comparing it to a universally recognised standard for level of salaries. Out of all internationally available indicators in this field, the *PCMI* uses the Gross National Income (GNI) of the country. The GNI is the total domestic and foreign output claimed by residents of a country, consisting of gross domestic product (GDP) plus factor incomes earned by foreign residents, minus income

⁵⁸ Enggist et al., *Prisons and Health*.

⁵⁹ *Commentary to Recommendation Rec(2006)2 of the Committee of Ministers to Member States on the European Prison Rules*.

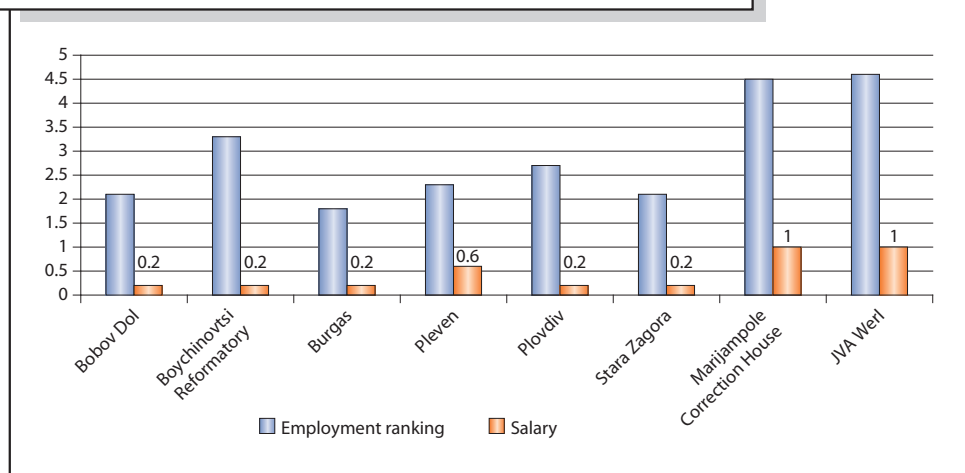
⁶⁰ Frances H. Simon, *Prisoners' Work and Vocational Training* (London: Routledge, 1999).

earned in the domestic economy by non-residents. The World Bank publishes annually the GNI of almost all countries around the world.

For the purpose of the evaluation, the *PCMI* assumes that the adequate remuneration of a prisoner should be equal to at least 5 % of the country's GNI. At the opposite end of the scale, the lowest score would be assigned to prisons where the remuneration of inmates is less than 0.5 % of the country's GNI.

The pilot implementation of the *Index* shows significant differences from country to country with prisons in Germany and Lithuania successfully meeting the 5 % target while prisons in Bulgaria registering moderate levels of between 1 % and 1.5 %. In Catalonia (Spain), the remuneration represents even lower share of country's GNI (0.5 – 1 %), with the majority of working inmates earning some EUR 100 per month, having in mind, however, that prisoners in Spain work 4 hours a day.

Figure 12. Assessment of remuneration compared to overall employment ranking



5.5. Social security

Depriving prisoners of their social security rights decreases their chances to successfully reintegrate in the society after their release. International legal instruments also acknowledge this risk and explicitly recommend that social security rights and benefits should not be affected by the sentence.

The United Nations advises that steps be taken to safeguard, to the maximum extent compatible with the law and the sentence, the rights relating to, *inter alia*, social security rights and social benefits of prisoners (Rule 61 of the *SMR*). The Council of Europe also requires working prisoners to be included, as far as possible, in the national social security system (Rule 26.17 of the *EPR*).

Due to the significant differences between national social security systems, it is difficult to evaluate, in a comparative way, the social security status of prisoners. What can be assessed, however, is the equality of this status compared to the one of those outside prison. The *PCMI* assumes that social security rights in prison should be identical or at least comparable to those in the free society in general and prisoners should not be discriminated solely on the grounds of their imprisonment.

The evaluation takes into account the social security status of both working and nonworking inmates comparing it with the status of working and unemployed persons outside prison. For working prisoners it is of particular importance to enjoy all the benefits related to their work irrespective of the fact that they are deprived of liberty. Equality of rights is even more important for nonworking inmates in view of the limited capacity of many prisons to provide jobs to all inmates willing to work.

The pilot implementation of the *Index* reveals the worrying situation that the majority of prisoners are fully or partly excluded from the national social security system. With a few minor exceptions, in none of the examined prisons inmates enjoyed the same scope of social security rights and benefits that were available in the society at large. The situation is particularly alarming in Bulgaria, where both working prisoners and those who do not work are completely excluded from the social security system.

5.6. Professional qualification and vocational training

Professional qualification and vocational training are a significant component of the rehabilitation of prisoners. The purpose of such qualification and training is to improve the professional skills of inmates thus increasing their chances to find a job after release. In addition to that, research has shown that prisoners in training courses, on average, derive more satisfaction from what they are doing than those engaged only in prison work.⁶¹

⁶¹ Ibid.

International legal instruments also acknowledge the role of professional qualification and vocational training, particularly for young offenders. According to both the United Nations and the Council of Europe, vocational training should be provided for prisoners able to profit thereby and especially for young prisoners (Rule 71.5 of the *SMR* and Rule 26.5 of the *EPR*).

Since in many countries the attendance of qualification and training courses is voluntary and the incentives for inmates differ from country to country, the *PCMI*, instead of looking at the share of inmates engaged in such courses, evaluates only the capacity of the prison to deliver them. Similarly to the assessment of the employment capacity, it is assumed that prisons should be able to provide professional qualification and training for at least 90 % of its inmates, provided that there is no overcrowding. Lower capacity would lead to a poorer evaluation.

The pilot implementation of the *Index* reveals that in the majority of examined prisons the capacity to provide professional qualification and vocational training is critically low. None of the prisons reported a capacity of more than 20 % and in many prisons, particularly in Bulgaria, capacity was found to be less than 10 %.

5.7. Allowances for unemployed inmates

The issue of unemployed inmates is particularly important taking into account the inability of many prisons to find jobs for all prisoners willing to work. Unemployed inmates do not receive remuneration and could not benefit for the other incentives available to those who work. With the exception of prisoners, who do not work because they do not wish to, the other unemployed inmates are in a disadvantaged situation and subject to unequal treatment.

Being unable to provide jobs to all inmates who have expressed their desire to get employed, prisons should apply an appropriate compensation mechanism to avoid discriminatory treatment.

The *PCMI* evaluates the allowances for unemployed inmates comparing them to the ones available to unemployed persons outside prison. This approach is based on the assumption that the rights related to unemployment should not be affected by the sentence and prisoners should obtain equal compensation for remaining unemployed irrespective of their specific status due to their imprisonment. The *Index* takes into account not only the amount of the allowances but also the eligibility conditions.

The pilot implementation of the *PCMI* reveals that prisoners in the majority of the examined institutions do not receive allowances for unemployment equal to those available to the unemployed persons outside prisons. The situation is particularly worrying in Bulgaria where most of the prisons reported the practice of provision of allowances to unemployed did not exist at all.

5.8. Applicability of labour legislation to work in prisons

Both the United Nations and the Council of Europe recommend that the organisation and methods of work in the prisons should resemble as closely as possible those of similar work outside prisons, so as to prepare prisoners for the conditions of normal occupational life (Rule 72.1 of the *SMR* and Rule 26.7 of the *EPR*). In its *Resolution No (75) 25 on Prison Labour* the Council of Europe explicitly recommends national governments to adapt conditions of work with outside standards.⁶²

In particular, the health and safety precautions for prisoners should be equally rigorous to those applicable to workers outside prison (Rule 74.1 of the *SMR* and Rule 26.13 of the *EPR*) and provisions should be made to indemnify prisoners against industrial injury, including occupational disease, on terms not less favourable than those extended by law to free workmen (Rule 74.2 of the *SMR* and Rule 26.14 of the *EPR*).

According to both organisations, the maximum daily and weekly working hours of the prisoners should be in conformity with local rules or custom in regard to the employment of free workers and leaving one rest day a week and sufficient time for education and other activities required as part of the treatment and rehabilitation of the prisoners (Rules 75.1 and 75.2 of the *SMR* and Rules 26.15 and 26.16 of the *EPR*).

The *PCMI* evaluates two components of the working conditions: working time, including days off, and occupational safety and health. The assessment is based on the assumption that rules in prison should be at least identical to those in the free society. Any deviations from this principle, especially as regards the occupational safety and health provisions, would lead to a negative evaluation.

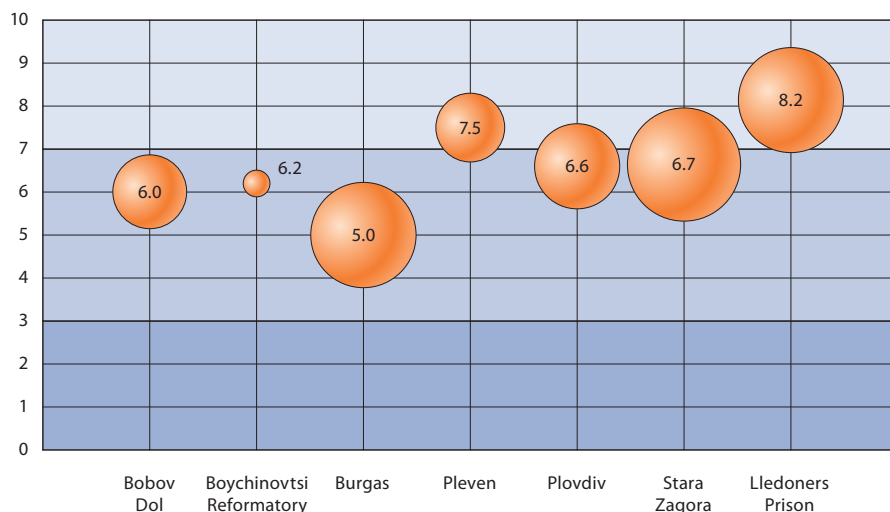
The pilot implementation of the *Index* shows that, in general, prisons comply with the applicable provisions although in terms of working time and days off some of them reported that rules are applied with restrictions.

⁶² *Resolution No (75) 25 on Prison Labour*, 1975.

6. HEALTHCARE

Healthcare in prison is important for a variety of reasons. Being isolated from society, prisoners are practically deprived of the health services they used to benefit from before their imprisonment. At the same time, studies show that the rates of transmittable diseases in prison are much higher than in the free society. Poor living conditions and overcrowding, typical for many prisons, also contribute to this situation. Healthcare in prisons is also closely linked to public health in general. As noted by the WHO, prison populations usually contain a high prevalence of people with serious and often life-threatening conditions who will return to the community, carrying back with them new diseases and untreated conditions that may pose a threat to community health.⁶³ The CPT also shares the opinion that the spread of infectious diseases is a threat to the health of not only the prisoners and the staff but also to the community at large.⁶⁴

Figure 13. Healthcare ranking with regards to the number of prisons' population



⁶³ Enggist et al., *Prisons and Health*.

⁶⁴ *Commentary to Recommendation Rec(2006)2 of the Committee of Ministers to Member States on the European Prison Rules.*

As noted by the CPT, when a state deprives people of their liberty, it takes on a responsibility to look after their health so that prisoners do not leave prison in a worse condition than when they entered.⁶⁵

6.1. Health insurance

Both the United Nations and the Council of Europe recommend the organisation of medical services in prison in close relation with the general health administration of the community or nation (Rule 22.1 of the *SMR* and Rule 40.1 of the *EPR*). In addition to that, the Council of Europe also prescribes integration of health services into, and their compatibility with, the national health policy (Rule 40.2 of the *EPR*).

Being deprived of their liberty prisoners should not be excluded from the national health insurance system. Such exclusion could restrict their access to health services not only during their stay in prison but also after their release. Therefore it is important for the government to introduce the necessary arrangements so that health insurance of inmates is duly covered for the period of their imprisonment.

Health insurance systems differ substantially from country to country so a detailed assessment of the status of prisoners in this context is difficult. Instead, the *PCMI* examines only the availability of state-provided health insurance or a comparable solution. The highest score is given to prisons, where health insurance is available for all the prisoners, while the lowest score is assigned if no such arrangements exist.

The pilot implementation of the *PCMI* shows that in all examined prisons health insurance of inmates is covered by the state or there is a comparable solution in place.

6.2. Medical staff

Sufficient and appropriately trained medical staff is a key prerequisite for the effective provision of health services to inmates. Insufficient staff would result in delayed or poor quality services, which could have a serious impact on prisoners' health. At the same time, many prisons face serious problems in

⁶⁵ Ibid.

recruiting medical personnel due to the difficult working conditions in prisons and, in some countries, the low level of remuneration.

When assessing the staffing of prisons in terms of medical personnel, the *PCMI* examines the availability of four categories of specialists: general medical practitioners, nurses, dentists and psychologists. The availability of other qualified personnel is also important. However, it often depends on either the specific category of the prison (e.g. gynaecologists in female prisons) or the existence of a hospital or similar facility on the territory of the prison. Since the *PCMI* is designed as a tool potentially applicable to all types of prisons, the availability of such medical specialists is excluded from the scope of assessment.

Most international legal instruments pay special attention to the medical staff in prison, including their training and skills, professional behaviour and ethics. At the same time, there are few concrete specifications in terms of the most appropriate number of specialists.

According to the United Nations, the services of at least one qualified medical officer who has some knowledge of psychiatry must be available at every prison (Rule 22.1 of the *SMR*). A similar rule is included also in the European Prison Rules (Rule 41.1 of the *EPR*).

The United Nations recommends further that in prisons, which are large enough to require the services of one or more full-time medical officers, at least one of them should reside on the premises of the prison or in its immediate vicinity (Rule 52.1 of the *SMR*). In smaller prisons, the medical officer should visit daily and should reside near enough to be able to attend without delay in cases of urgency (Rule 52.2 of the *SMR*).

The Council of Europe prescribes similar rules requiring prisons to ensure that a qualified medical practitioner is available any time without a delay in cases of urgency and that either there is a full-time medical practitioner or, alternatively, a part-time medical practitioner visits the prison regularly (Rules 41.1 and 41.2 of the *EPR*).

In its *Recommendation No R (98) 7 concerning the Ethical and Organisational Aspects of Health Care in Prison*, the Council of Europe provides further guidelines in terms of medical staff in prison. According to this document, the prison healthcare service should have sufficient number of qualified medical, nursing and technical staff and doctors and nurses should be available on a full-time basis in large penal institutions, depending on the number, turnover and

average state of health of inmates.⁶⁶ The explanatory report to *Recommendation No R (98) 7* adds that health care staff (qualified doctors, nurses and all other health professionals) may well be available on a part-time basis in establishments which care for a limited number of prisoners, particularly if the majority are young and healthy, but large institutions require full time health care staff, reinforced by additional part-time staff when necessary, especially to assist with out-of-hours cover.⁶⁷

The CPT underlines that, in order to ensure the access of prisoners to healthcare whenever required, each prison should appoint a medical practitioner, who is a qualified medical doctor, and shares the recommendation that larger prisons should have a sufficient number of full-time doctors.⁶⁸

Both the United Nations and the Council of Europe require the availability of the services of qualified dentists (Rule 22.3 of the *SMR* and Rule 41.5 of the *EPR*). The WHO elaborates on this requirement noting that prisons should offer a comprehensive dental health care and provide an appropriate range of treatments based on patients' clinical needs and recommending that dental teams should encompass include dental hygienists, therapists and oral health educators, where appropriate.⁶⁹

Although not mentioned explicitly, nurses should also be available in prison. According to the CPT, the personnel suitably trained in health care, referred to in the *European Prison Rules* (Rule 41.4 of the *EPR*), should include properly trained nurses.⁷⁰

As far as psychologists are concerned, according to the *European Prison Rules*, prison staff should include, as far as possible, a sufficient number of specialists including, among others, psychologists (Rule 89.1 of the *ERP*).

The *PCMI* assesses the availability of medical staff in terms of time. Thus, the highest score is given to prisons that are able to ensure their medical personnel

⁶⁶ *Recommendation No R (98) 7 Concerning the Ethical and Organisational Aspects of Health Care in Prison*, 1998, <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2622574&SecMode=1&DocId=463258&Usage=2>

⁶⁷ *Explanatory Memorandum to Recommendation (98) 7 on the Ethical and Organisational Aspects of Health Care in Prison*, 1998, <http://www.unav.es/cdb/ccorec98-7exp.html>

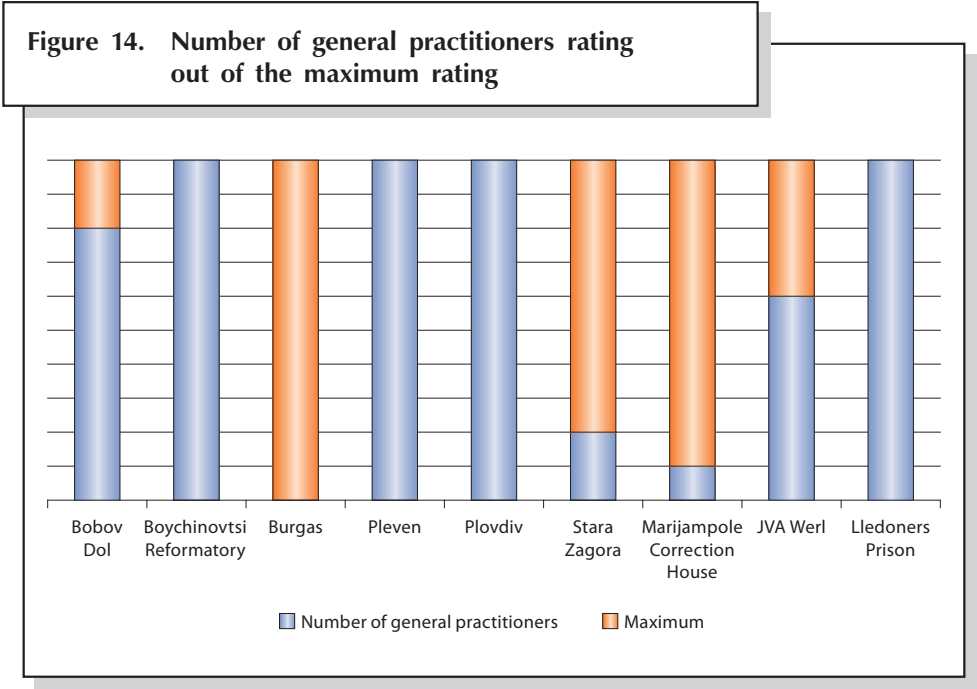
⁶⁸ *Commentary to Recommendation Rec(2006)2 of the Committee of Ministers to Member States on the European Prison Rules*.

⁶⁹ Enggist et al., *Prisons and Health*.

⁷⁰ *Commentary to Recommendation Rec(2006)2 of the Committee of Ministers to Member States on the European Prison Rules*.

are available 24/7 as recommended by the Council of Europe.⁷¹ Only as regards general practitioners and nurses, the *PCMI* also examines their number per 100 prisoners because it assumes that they have the biggest workload and are the ones to respond in cases of emergency.

The pilot implementation shows that the majority of examined prisons are understaffed in term of medical personnel. Doctors and nurses are not found available in most of the examined prisons. Some prisons even reported they did not use the services of nurses. Dentists and psychologists are also not permanently available, they are visiting the prison on specific days only, which restricts their ability to react in cases of emergency.



6.3. Choice of doctor

According to the *European Prison Rules*, prisoners should have access to the health services available in the country without discrimination on the grounds of their legal situation (Rule 40.3 of the *EPR*).

⁷¹ Explanatory Memorandum to Recommendation (98) 7 on the Ethical and Organisational Aspects of Health Care in Prison.

To assess the accessibility of health services in a country, the *PCMI* examines the permissions granted to prisoners to see a doctor of their choice. The usual practice in such cases is to invite the respective doctor to visit the prisoner, but it is also possible to allow the prisoner to visit the doctor provided that all necessary security arrangements are in place.

For the purpose of the *PCMI*, the place where inmates meet their chosen medical specialist is irrelevant. It is also irrelevant whether the inmate has actually seen the doctor or not, because their meeting might not happen due to reasons beyond the control of the prison administration. The *PCMI* assumes that by granting the permission the prison has done what is necessary to ensure the prisoner's access to external health services. In this respect, the *PCMI* examines the share of granted permissions, assuming that a rate of at least 75 % would satisfy the requirement for accessibility of external services. This rate also takes into account that in certain cases requests may be reasonably rejected due to security concerns or other reasons.

The pilot implementation of the *PCMI* reveals that most of the prisons are able to reach the 75 % target, irrespective of the great differences in the number of requests reported by the different prisons.

6.4. Inpatient treatment

The capacity of prisons to provide inpatient treatment to prisoners is an important factor taking into account the usually restrictive rules governing the transfer of inmates to external medical facilities. Prisons should be able to offer inpatient treatment to prisoners suffering from less serious diseases that do not require the intervention of a qualified specialist or the availability of special equipment.

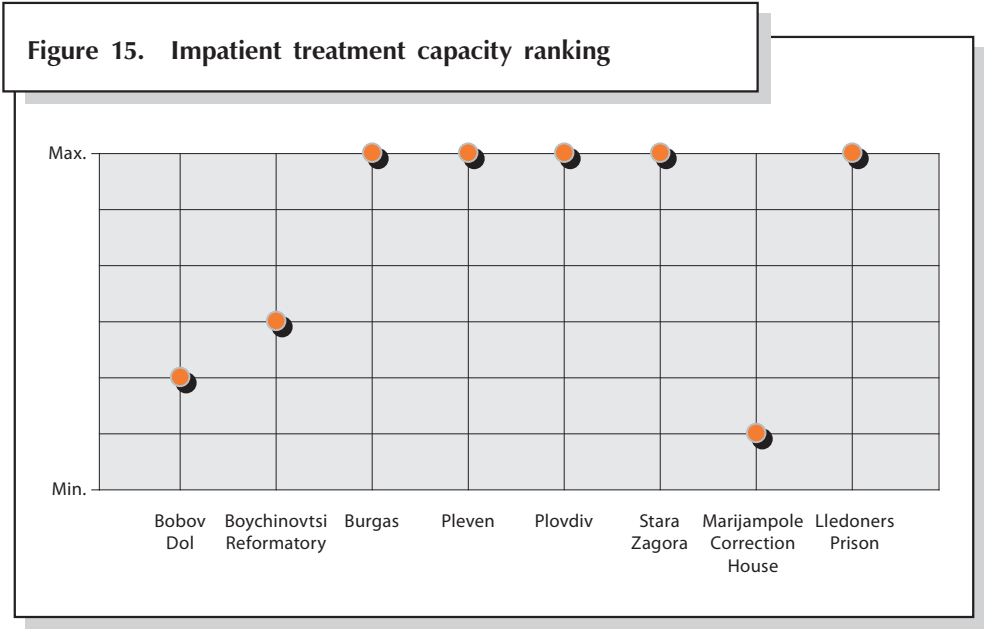
To assess the capacity of prisons to provide inpatient treatment for inmates, the *PCMI* takes into account the average capacity of the national healthcare systems for such treatment. Based on the principle of equivalence of care, the *PCMI* assumes that prisons should be able to provide comparable capacity as the medical facilities in the country.

The indicator used by the *PCMI* is the number of hospital beds per 100 prisoners, which is a universally accepted indicator for assessing the capacity of national healthcare systems. According to the World Bank data, the average capacity in the European Union is 0.56 hospital beds per 100 of the population.⁷²

⁷² *Hospital Beds (per 1,000 People)*, 2014, <http://data.worldbank.org/indicator/SH.MED.BEDS.ZS>

Taking into account that inpatient treatment in prisons is not expected to cover serious cases, which should be referred to outside hospitals, the *PCMI* assumes that a prison should have an average capacity of 0.3 hospital beds per 100 inmates.

The pilot implementation of the *Index* shows that the majority of examined prisons have the necessary minimum capacity for the provision of inpatient treatment. Although none of the prisons reported complete lack of capacity (no hospital beds at all), there were few penitentiary facilities where the number of hospital beds was significantly lower than the established minimum.



6.5. Medical examination upon entry

According to both the United Nations and the Council of Europe, prisoners should undergo a medical examination as soon as possible after their admission (Rule 24 of the *SMR* and Rule 42.1 of the *EPR*).

In its commentary to the *European Prison Rules*, the CPT explains the importance of the medical examination of prisoners when they first arrive in prison. According to the CPT, such examination would enable the medical staff to identify and undertake appropriate measures as regards any pre-existing medical conditions, effects of withdrawal of drugs, traces of violence and

vulnerability to self-harm.⁷³ The United Nations has a similar understanding of the role of the initial medical examination explaining that it is done with a view particularly to the discovery of physical or mental illness and the taking of all necessary measures, the segregation of prisoners suspected of infectious or contagious conditions, the noting of physical or mental defects which might hamper rehabilitation, and the determination of the physical capacity of prisoners for work (Rule 24 of the *SMR*).

The *PCMI* evaluates the time within which newly arrived prisoners undergo an initial medical examination. In view of the role of this initial examination, outlined in international legal instruments, its timely performance is crucial for achieving its objectives. Because of that, the *PCMI* gives the highest score to prisons that are able to arrange for such examination to take place within 24 hours of the prisoners' arrival in the prison. It is also assumed that when the initial examination is delayed by more than two weeks, it would become practically ineffective in view of the objectives it is designated to achieve.

The pilot implementation of the *PCMI* shows that in all examined prisons examination upon entry is available and it is done in reasonable time. In all of the prisons, such an examination takes place within a maximum of three days upon the prisoners' arrival with the majority of the prisons reporting that their prisoners undergo medical examination within 24 hours.

6.6. Medical examination before release

According to the *European Prison Rules*, if requested, prisoners should be offered a medical examination as close as possible to the time of release (Rules 33.6 and 42.2 of the *EPR*). The Council of Europe also recommends that all released prisoners should receive relevant written information concerning their health.⁷⁴

Medical examination before release is important both for the prisoners who receive information about their condition and for the local healthcare system, which will take over the provision of the medical services after release.

Unlike the examination upon entry, where the *PCMI* looks at the timing, the examination before release is assessed based on availability. For the purpose of the evaluation, it is irrelevant whether such an examination is mandatory or

⁷³ *Commentary to Recommendation Rec(2006)2 of the Committee of Ministers to Member States on the European Prison Rules.*

⁷⁴ *Recommendation No R (98) 7 Concerning the Ethical and Organisational Aspects of Health Care in Prison.*

depends on the prisoner's will. What is important is whether the prison has the necessary arrangements in place to offer such examination to all prisoners who may wish to benefit from it. Therefore, the highest score is assigned to prisons where examination before release is available to every prisoner without restrictions. At the same time, prisons that are offering examinations only to special categories of inmates (e.g. inmates who have spent more time in the prison, or inmates suffering from certain conditions) or prisons where such practice is not available at all would receive a lower score.

The pilot implementation of the *PCMI* reveals that, with a few minor exceptions, the majority of examined prisons offer medical examination before release to all of their inmates. Only two prisons reported different practices. In one of them, examinations are limited only to special categories of prisoners, while the other one reported that no such practice was in place at all.

6.7. Regular medical examinations

Regular (prophylactic) medical examinations are crucial both in terms of prevention and timely diagnostics. Regular medical examinations are available and often mandatory for people outside prison so, based on the equivalence of care principle, a comparable solution should be available for prisoners.

International legal instruments recommend regular screenings for specific transmittable diseases as a preventive measure but do not include any rules concerning general prophylactic examinations.

The scope of general prophylactic examinations, both inside and outside prison, may differ from country to country depending on the national healthcare standards and regulations. Therefore, instead of assessing the scope of the examinations, the *PCMI* looks at their availability and regularity. It assumes that the minimum standard prisons should be able to organise prophylactic examinations at least once a year. Lower regularity of examinations leads to lower assessment, while the lack of such examinations at all is seen as a complete inability to meet this requirement.

The pilot implementation shows that, with only a few exceptions, the majority of prisons have the necessary arrangements to organise annual prophylactic medical examinations of prisoners. None of the examined prisons reported the lack of such practice.

6.8. Transmittable diseases

Due to a variety of factors, people in prison are particularly vulnerable to transmittable diseases. The average rate of such diseases is indicative for the impact of preventive measures, the timeliness of diagnostics and intervention, and the effectiveness of the treatment.

For obvious reasons the *PCMI* is not able to encompass the great variety of transmittable conditions that usually occur in prison. Because of that, the assessment is based on a selection of four specific diseases: hepatitis B, hepatitis C, HIV/AIDS and tuberculosis. The selection is based on the conclusions of various studies, which identify these conditions among the most dangerous and widespread within penitentiary facilities.

As noted by the WHO, people in prisons are particularly at risk for hepatitis B, hepatitis C and HIV, due to their own vulnerability compounded by the characteristics of the environment. The prevalence of HIV, hepatitis B and hepatitis C is particularly high in prisons and all modes of transmission of these diseases occurring in the community also occur in prisons: through blood, sexual activity and vertical transmission to a child.⁷⁵ The same applies to tuberculosis, which also occurs in prison much more often than among the general population. Surveys show that European prisons notify tuberculosis at an average rate of 17 times higher than in the population at large, ranging between 11 times in Western Europe to 81 times in Eastern Europe.⁷⁶

The Council of Europe also shares the conclusion that the prison population has a worryingly high incidence of HIV infection and the occurrence of homosexual activities and intravenous drug abuse in prisons entail a considerable risk of spreading HIV infection amongst the prison population and eventually outside prison.⁷⁷

According to European Centre for Disease Prevention and Control (ECDPC), in 2012, the rate of HIV diagnoses per 100,000 people in the European Union was 5.8⁷⁸ and the rate of hepatitis B and C was 3.5 and 7.8

⁷⁵ Enggist et al., *Prisons and Health*.

⁷⁶ A. Aerts et al., "Tuberculosis and Tuberculosis Control in European Prisons", *International Journal of Tuberculosis and Lung Disease* 10, no. 11 (2006): 1215-23.

⁷⁷ *Recommendation 1080 (1988) on a Co-Ordinated European Health Policy to Prevent the Spread of AIDS in Prisons*, 1988, <http://www.legislationline.org/documents/action/popup/id/8065>

⁷⁸ *HIV/AIDS Surveillance in Europe 2012* (Stockholm: European Centre for Disease Prevention and Control, 2013), doi:10.2900/11420.

respectively.⁷⁹ As far as tuberculosis is concerned, in 2010 its rate in the European Union was 14.6 per 100,000 people.⁸⁰

For the purpose of the evaluation, the *PCMI* takes into account these rates but, since prevention and control within closed institutions such as prisons should be much more effective compared to society in general, gives the highest score only to prisons with no newly registered cases of the HIV/AIDS, hepatitis B and C, and tuberculosis. At the same time, medium scores are assigned to prisons where the rate of newly established cases is close to the average rate in the community, while the lowest scores are assigned only to prisons, in which this rate is much higher than the average in the free society.

The pilot implementation of the *Index* shows that, although many of the examined prisons reported there were no newly established cases of HIV/AIDS, hepatitis B and C, and tuberculosis, there are also a significant number of prisons where the situation is similar to or much worse than the one in the free society. This is particularly relevant for the cases of tuberculosis, which, in many prisons, are significantly higher than the average rate in the free society.

The *PCMI* also looks at the availability of HIV/AIDS testing. Such testing is universally recognised as an effective preventive measure. According to the WHO, it is both an information (prevention) measure and a diagnostic measure.⁸¹ However, there is a broad consensus that HIV testing cannot be mandatory and all health interventions need to have the informed consent of the people concerned. Obligatory testing is seen as ineffective, discriminatory and unethical.⁸²

⁷⁹ Erika Duffell and Andrew J Amato-Gauci, *Hepatitis B and C Surveillance in Europe 2012* (Stockholm: European Centre for Disease Prevention and Control, 2014), doi:10.2900/31062.

⁸⁰ *Tuberculosis Surveillance and Monitoring in Europe 2012*. (Stockholm: European Centre for Disease Prevention and Control, 2012), doi:10.2900/23941.

⁸¹ Enggist et al., *Prisons and Health*.

⁸² *Recommendation No (93) 6 Concerning Prison and Criminological Aspects of the Control of Transmissible Diseases*, 1993, <https://wcd.coe.int/com.intranet.InstraServlet?command=com.intranet.CmdBlobGet&IntranetImage=2622586&SecMode=1&DocId=611564&Usage=2>. See also: *Recommendation 1080 (1988) on a Co-Ordinated European Health Policy to Prevent the Spread of AIDS in Prisons*.

6.9. Premises for isolating prisoners suspected of infectious or contagious conditions

The availability of premises for isolating inmates suffering from or suspected of infectious or contagious conditions is crucial for preventing the transmission of such diseases to other prisoners.

Isolation of such persons is also referred to in international legal instruments. Thus, for example, according to the Council of Europe, when examining a prisoner, the medical practitioner or a qualified nurse reporting to such a medical practitioner should pay particular attention to isolating prisoners suspected of infectious or contagious conditions for the period of infection and providing them with proper treatment (Rule 42.3.f of the *EPR*).

The CPT also recommends that, when necessary for clinical reasons, measures should be taken to isolate prisoners for their own benefit and the safety of other persons.⁸³

Instead of examining only their availability, the *PCMI* assesses the capacity of the premises, if any, for accommodating inmates suspected of infectious or contagious conditions. The highest score is thus given to prisons that have at their disposal adequate premises capable of accommodating five persons per 100 inmates. The lowest score is assigned only to prisons, which do not have any such premises at all.

The pilot implementation reveals that prisons generally have suitable premises for separating inmates suffering from transmittable diseases, but their capacity is insufficient. With the exception of the juvenile reformatory in Boychinovtsi (Bulgaria), which, however, has an extremely low occupancy rate, none of the other examined prisons demonstrates an acceptable capacity of their premises.

6.10. Visits by a general medical practitioner to inmates in solitary confinement

Healthcare to prisoners in solitary confinement is indicative for the quality of health service in prison. The specific environment, in which such inmates are placed, increases their vulnerability and makes the special care for them an increased necessity.

⁸³ *Commentary to Recommendation Rec(2006)2 of the Committee of Ministers to Member States on the European Prison Rules.*

As noted by the WHO, although depending on various factors such as personal background, physical conditions and provisions, regime, and context and duration of the isolation, solitary confinement usually has negative health effects on prisoners, in particular psychological but also physiological.⁸⁴

Both the United Nations and the Council of Europe prescribe that a medical officer should visit all prisoners under conditions of solitary confinement on a daily basis (Rule 32.3 of the *SMR* and Rule 43.2 of the *EPR*).

The *PCMI* evaluates the healthcare for persons in solitary confinement in terms of regularity of visits by a doctor. The meeting of the standard of daily visits, set by the United Nations and the Council of Europe, leads to a positive evaluation, while lower regularity decreases the assessment accordingly.

The pilot implementation of the *Index* reveals the worrying trend that many prisons, particularly in Bulgaria, do not provide inmates in solitary confinement with the opportunity to be visited by a doctor on a daily basis. In the majority of examined prisons, such prisoners receive visits by a medical practitioner once in two days or, in some particularly problematic cases, even less often.

6.11. Sanitary inspections

Sanitary inspections have a specific role in terms of prevention and timely addressing of hygiene-related problems. The regular performance of such inspections is an indication for the overall level of sanitary control in prisons.

Both the United Nations and the Council of Europe require the performance of regular inspections of the conditions of detention including: quantity, quality, preparation and service of the food and water, hygiene and cleanliness of the prison and the prisoners, sanitation, heating, lighting and ventilation of the prison, suitability and cleanliness of the prisoners' clothing and bedding, observance of the rules concerning physical education and sports, etc. (Rule 26.1 of the *SMR* and Rule 44 of the *EPR*). None of the international legal instruments, however, sets specific standards in terms of how often such inspections should be performed.

Since the scope of the sanitary inspections and the bodies authorised to perform them differ from country to country depending on the domestic

⁸⁴ Enggist et al., *Prisons and Health*.

rules and regulations, the *PCMI* evaluates only their regularity. Taking into account the specific environment in the prison, it is assumed that appropriate sanitary control would require the carrying out of monthly inspections. Thus, prisons that are able to meet this target, receive the highest score. Lower regularity decreases the assessment accordingly with prisons organising sanitary inspections less often than once a year receive the lowest score.

The pilot implementation of the *PCMI* reveals the satisfactory situation of the majority of prisons providing for sanitary inspections on a monthly basis. However, there are a few exceptions where inspections are performed less often.

6.12. Prevention

Preventive healthcare in prison may include a great variety of measures such as education, counselling, screening, vaccination, rehabilitation, etc. For obvious reasons, the *PCMI* could not take into account or assess the availability and accessibility of all these measures in the prison. Because of that, the assessment of prevention is done following a different approach. Three categories of preventive measures were selected, which are aimed to reduce the spread of particularly dangerous diseases while at the same time are not yet sufficiently widespread. These measures include the provision of safe injection equipment (syringes), the implementation of substitution therapies and the availability of condoms. For the purpose of assessing prevention, it is assumed that the availability and accessibility of these measures would be indicative for the level of preventive healthcare in the prison.

The provision of safe injection equipment for drug users is being increasingly perceived as an effective approach to prevent the spread of transmittable diseases. It is made available through the health staff, by peers or through dispensing machines. According to the WHO, there is evidence that such programmes are effective, do not lead to security problems and even facilitate contacts with health staff and enrolment in a drug dependence treatment programmes. The WHO also notes that such programmes protect the prison staff as well because they reduce the risk of accidental puncture during cell searches.⁸⁵ The Council of Europe also recommends this approach, despite defining it as a measure of last resort.⁸⁶

⁸⁵ Ibid.

⁸⁶ Recommendation 1080 (1988) on a Co-Ordinated European Health Policy to Prevent the Spread of AIDS in Prisons.

Substitution therapy is seen as the most effective way to treat opioid dependence, to reduce the risk of HIV and hepatitis C transmission, and to reduce the risk of overdose.⁸⁷ Despite of that, and contrary to the principle of equivalence with health care offered in community settings, substitution programmes are rarely available in prison.

The provision of condoms is among the most effective preventive measures against the spread of the most dangerous transmittable diseases. However, there are no universally accepted standards in terms of how condoms should be provided, in particular if they should be sold or provided free of charge. The Council of Europe leaves it to national governments to select the most appropriate channel for the provision of condoms giving as examples the use of the medical services or the sale in the prison canteens.⁸⁸ The WHO emphasises on accessibility noting that condoms should be easily, discreetly and freely accessible and that staff in each prison should identify the best locations for making them accessible, taking into account the layout of the building, leadership and the movement of prisoners within the premises. In addition, according to the WHO, it is essential to make condoms available in the intimate visit rooms.⁸⁹

The pilot implementation of the *PCMI* shows that only the Lledoners prison in Catalonia (Spain) of all examined facilities provides safe injection equipment to prisoners. Condoms are generally available free of charge in almost all of the prisons. Substitution therapies are available in the examined prisons in Germany, Lithuania and Catalonia (Spain), as well as in some of the prisons in Bulgaria.

⁸⁷ Enggist et al., *Prisons and Health*.

⁸⁸ *Recommendation No (93) 6 Concerning Prison and Criminological Aspects of the Control of Transmissible Diseases*.

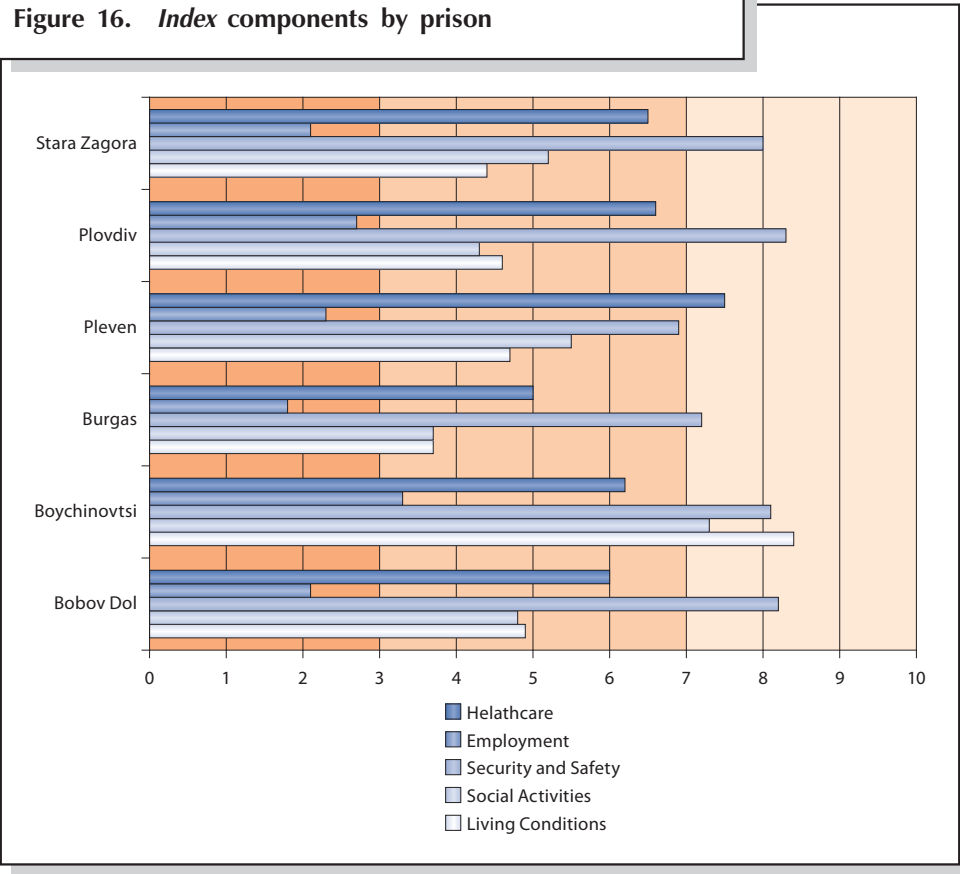
⁸⁹ Enggist et al., *Prisons and Health*.

CONCLUSION

The pilot round of the *PCMI* shows that in some of the countries part of the information necessary for its implementation is either unavailable or inaccessible. The full scope of the data for generating the entire *Index* was collected for six prisons in Bulgaria. For one prison in Germany, one prison in Catalonia (Spain) and one in Lithuania, the collected information was sufficient for producing some of the indicators but not enough for composing the entire *Index*. The information for the selected prisons in Belgium was not enough for generating any of the five indicators.

Despite the gaps in the available data, the results of the pilot round allow for drawing some substantive conclusions.

Figure 16. *Index* components by prison



Under the living conditions indicator, most prisons received comparable scores, which ranged between 3.7 and 4.9. These results place all the institutions in the lower part of the 'problematic' section of the scale (between 3 and 7) with some of the prisons being worryingly close to the 'alarming' section (below 3). The major factors leading to these results are the small living space, the unresolved problem of overcrowding and the large number of cellmates. The proper provision of other services deserves to be acknowledged, but at the same time it is not sufficient for compensating for the other problems. The two institutions that obtained a score within the 'acceptable' section of the scale are the Lledoners Prison in Catalonia (Spain) and the reformatory for juveniles in Boychinovtsi (Bulgaria), where low occupancy rates combined with relatively good material conditions contribute to its positive assessment.

Under the social work, free time and contacts with the outside world indicator, the majority of prisons ranked in the 'problematic' section of the scale obtaining scores between 3.7 and 5.5. The major factors leading to these results are the significant understaffing in terms of social workers, the insufficient capacity for offering education and the relatively restricted contacts with the outside world. Again, the reformatory for juveniles in Boychinovtsi (Bulgaria) received a much higher score of 7.3, which, in addition to the low occupancy rates, is due to the more relaxed environment justified by the age of the inmates.

The security and safety indicator is the one where all prisons obtained their highest scores. With minor exceptions, all examined institutions obtained scores in the range between 7.2 and 8.3 placing them in the middle of the 'acceptable' section of the scale (between 7 and 10). Even the prison, which did not manage to get 'acceptable' score, obtained a result of 6.9. These results are due to the adequate staffing in terms of guards and the low rates in terms of registered incidents. The only weak point in this area is the insufficient availability of technology and equipment such as cameras for video surveillance and fire protection systems.

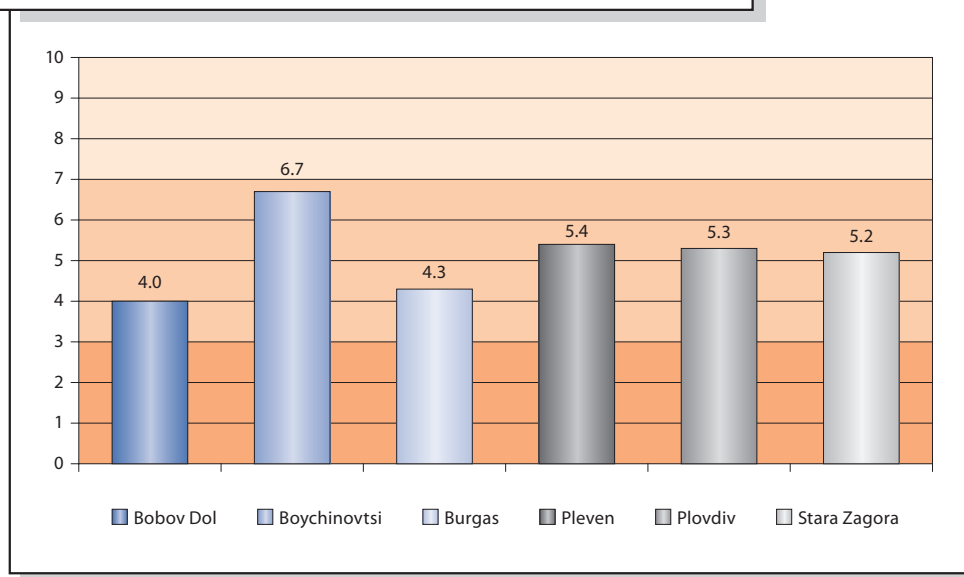
All the prisons registered their worst results under the employment indicator, obtaining scores within the 'alarming' section of the scale (below 3). Specific scores range from 1.8 to 2.7. These results clearly show the huge problems in the area of work in prison. Inadequate employment and vocational training capacity, low remuneration and inequality of social security rights are just a few of the factors leading to the critical situation.

Under the healthcare indicator, with the exception of two prisons, which received the 'acceptable' scores of 7.5 and 8.2, the rest obtained 'problematic'

scores of between 5 and 6.6. Despite the problems, mainly due to understaffing and insufficient capacity, it is encouraging that most of the prisons are close to the 'acceptable' section, which means that positive results could be achieved with a moderate increase of resources.

Overall, the *PCMI* shows that the conditions in the examined prisons are unsatisfactory but yet not critical. All of the prisons, for which the *PCMI* was successfully produced, ranked in the middle of the scale registering results between 4 and 5.4. Only the reformatory for juveniles in Boychinovtsi registered a significantly higher result of 6.7, which is due to a variety of reasons including the low occupancy rate and the special care provided to juvenile offenders.

Figure 17. Overall *Index* ranking of six prisons



Despite the gaps in the available data for some of the prisons, the pilot implementation of the *PCMI* proved that, provided that all necessary information is available, the *Index* is capable of producing an objective and realistic assessment of their conditions.

Therefore, it does not allow for the identification of specific weaknesses or shortcomings but outlines, in a general way, the most problematic areas.

The *PCMI* can serve as a tool for performing an overall diagnostics of the prison system while further research and analysis would be necessary for the

identification of the concrete problems. In this respect, the added value of the *Index* lies in its potential to outline the critical areas in need of reform and guide further analysis of the problems.

The *PCMI* can also be used to evaluate progress in time. If applied on a regular basis in the same penal institutions, it is likely to register the changes under the separate indicators thus showing whether the measures undertaken during the respective period of time are producing the expected results.

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