



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

MANAGEMENT BY PRISON ADMINISTRATIONS OF LIFE-SENTENCE AND OTHER LONG-TERM PRISONERS

Recommendation REC (2003) 23

*Adopted by the Committee of Ministers
of the Council of Europe
on 9 October 2003*

and Report

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COUNCIL OF EUROPE COMMITTEE OF MINISTERS

Recommendation Rec (2003) 23 of the Committee of Ministers to member States on the management by prison administrations of life-sentence and other long-term prisoners

*(adopted by the Committee of Ministers on 9 October 2003)
at the 855th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe;

Considering that it is in the Council of Europe member states' interest to establish common principles regarding the enforcement of custodial sentences in order to strengthen international co-operation in this field;

Considering that the enforcement of custodial sentences requires striking a balance between the objectives of ensuring security, good order and discipline in penal institutions, on the one hand, and providing prisoners with decent living conditions, active regimes and constructive preparations for release, on the other;

Considering that prisoners should be managed in ways that are adapted to individual circumstances and consistent with principles of justice, equity and fairness;

Referring to the Resolution on the implementation of long-term sentences adopted in October 2001 by the European Ministers of Justice during their 24th Conference held in Moscow;

Considering that the abolition of the death penalty in member states has resulted in an increase in the use of life sentences;

Concerned about the increase, in many countries, in the number and length of long-term sentences, which contribute to prison overcrowding and may impair the effective and humane management of prisoners;

Bearing in mind that implementation of the principles contained in Recommendation No. R (99) 22 concerning prison overcrowding and prison population inflation, as well as the provision to prison administrations of adequate resources and staff, would reduce to an important extent the management problems related to long-term imprisonment and allow for safer and better conditions of detention;

Considering that legislation and practice concerning the management of life-sentence and other long-term prisoners should comply with the requirements embodied in the European Convention on Human Rights and the case-law of the organs entrusted with its application;

Bearing in mind the relevance of the principles contained in previous recommendations and in particular:

- Recommendation No. R (82) 16 on prison leave;
- Recommendation No. R (82) 17 concerning custody and treatment of dangerous prisoners;
- Recommendation No. R (84) 12 concerning foreign prisoners;
- Recommendation No. R (87) 3 on the European Prison Rules;
- Recommendation No. R (87) 20 on social reactions to juvenile delinquency;
- Recommendation No R (89) 12 on education in prison;
- Recommendation No. R (92) 16 on the European rules on community sanctions and measures;
- Recommendation No. R (97) 12 on staff concerned with the implementation of sanctions and measures;
- Recommendation No. R (98) 7 concerning the ethical and organisational aspects of health care in prison;
- Recommendation No. R (99) 22 concerning prison overcrowding and prison population inflation;
- Recommendation Rec(2000)22 on improving the implementation of the European Rules on community sanctions and measures;
- Recommendation Rec(2003)22 on conditional release,

Recommends that governments of member states:

- be guided in their legislation, policies and practice on the management of life-sentence and other long-term prisoners by the principles contained in the appendix to this recommendation;
- ensure that this recommendation and the accompanying report are disseminated as widely as possible.

Appendix to Recommendation Rec (2003) 23

Definition of life-sentence and long-term prisoners

1. For the purposes of this recommendation, a life-sentence prisoner is one serving a sentence of life imprisonment. A long-term prisoner is one serving a prison sentence or sentences totalling five years or more.

General objectives

2. The aims of the management of life-sentence and other long-term prisoners should be:
 - to ensure that prisons are safe and secure places for these prisoners and for all those who work with or visit them;
 - to counteract the damaging effects of life and long-term imprisonment;
 - to increase and improve the possibilities for these prisoners to be successfully resettled in society and to lead a law-abiding life following their release.

General principles for the management of life-sentence and other long-term prisoners

3. Consideration should be given to the diversity of personal characteristics to be found among life-sentence and long-term prisoners and account taken of them to make individual plans for the implementation of the sentence (individualisation principle).
4. Prison life should be arranged so as to approximate as closely as possible to the realities of life in the community (normalisation principle).
5. Prisoners should be given opportunities to exercise personal responsibility in daily prison life (responsibility principle).
6. A clear distinction should be made between any risks posed by life-sentence and other long-term prisoners to the external community, to themselves, to other prisoners and to those working in or visiting the prison (security and safety principle).
7. Consideration should be given to not segregating life-sentence and other long-term prisoners on the sole ground of their sentence (non-segregation principle).
8. Individual planning for the management of the prisoner's life or long-term sentence should aim at securing progressive movement through the prison system (progression principle).

Sentence planning

9. In order to achieve the general objectives and comply with the principles mentioned above, comprehensive sentence plans should be developed for each individual prisoner. These plans should be prepared and developed as far as possible with the active participation of the prisoner and, particularly towards the end of a detention period, in close co-operation with post-release supervision and other relevant authorities.
10. Sentence plans should include a risk and needs assessment of each prisoner and be used to provide a systematic approach to:
 - the initial allocation of the prisoner;
 - progressive movement through the prison system from more to less restrictive conditions with, ideally, a final phase spent under open conditions, preferably in the community;
 - participation in work, education, training and other activities that provide for a purposeful use of time spent in prison and increase the chances of a successful resettlement after release;
 - interventions and participation in programmes designed to address risks and needs so as to reduce disruptive behaviour in prison and re-offending after release;
 - participation in leisure and other activities to prevent or counteract the damaging effects of long terms of imprisonment;
 - conditions and supervision measures conducive to a law-abiding life and adjustment in the community after conditional release.
11. Sentence planning should start as early as possible following entry into prison, be reviewed at regular intervals and modified as necessary.

Risk and needs assessments

12. A careful appraisal should be made by the prison administration to determine whether individual prisoners pose risks to themselves and others. The range of risks assessed should include harm to self, to other prisoners, to persons working in or visiting the prison, or to the community, and the likelihood of escape, or of committing another serious offence on prison leave or release.
13. Needs assessments should seek to identify the personal needs and characteristics associated with the prisoner's offence(s) and harmful behaviour ("criminogenic needs"). To the greatest extent possible, criminogenic needs should be addressed so as to reduce offences and harmful behaviour by prisoners both during detention and after release.
14. The initial risk and needs assessment should be conducted by appropriately trained staff and preferably take place in an assessment centre.
15.
 - a. Use should be made of modern risk and needs assessment instruments as guides to decisions on the implementation of life and long-term sentences.
 - b. Since risk and needs assessment instruments always contain a margin of error, they should never be the sole method used to inform decision-making but should be supplemented by other forms of assessment.
 - c. All risk and needs assessment instruments should be evaluated so that their strengths and weaknesses become known.
16. Since neither dangerousness nor criminogenic needs are intrinsically stable characteristics, risk and needs assessments should be repeated at intervals by appropriately trained staff to meet the requirements of sentence planning or when otherwise necessary.
17. Risk and needs assessments should always be related to the management of risks and needs. These assessments should therefore inform the choice of appropriate interventions or modifications of those already in place.

Security and safety in prison

18.
 - a. The maintenance of control in prison should be based on the use of dynamic security, that is the development by staff of positive relationships with prisoners based on firmness and fairness, in combination with an understanding of their personal situation and any risk posed by individual prisoners.
 - b. Where technical devices, such as alarms and closed circuit television are used, these should always be an adjunct to dynamic security methods.
 - c. Within the limits necessary for security, the routine carrying of weapons, including firearms and truncheons, by persons in contact with prisoners should be prohibited within the prison perimeter.
19.
 - a. Prison regimes should be organised so as to allow for flexible reactions to changing security and safety requirements.
 - b. Allocation to particular prisons or wings of prisons should be based on comprehensive risk and needs assessments and the importance of placing prisoners in environments that, by taking account of their needs, are likely to reduce any risk posed.
 - c. Particular risks and exceptional circumstances, including requests by prisoners themselves, may necessitate some form of segregation of individual prisoners. Intensive efforts should be made to avoid segregation or, if it must be used, to reduce the period of its use.

20. a. Maximum security units should be used only as a last resort and allocation to such units should be regularly reviewed.
- b. Within maximum security units, regimes should distinguish between the handling of prisoners who pose an exceptional risk of escape or danger should they succeed, and the handling of those posing risks to other prisoners and/or to those working in or visiting the prison.
- c. With due regard to prisoner behaviour and security requirements, regimes in maximum security units should aim to have a relaxed atmosphere, allow association between prisoners, freedom of movement within the unit and offer a range of activities.
- d. The management of dangerous prisoners should be guided by the principles embodied in Recommendation No. R (82) 17 concerning custody and treatment of dangerous prisoners.

Counteracting the damaging effects of life and other long-term sentences

21. In order to prevent and counteract the damaging effects of life and long-term sentences, prison administrations should seek:
- to ensure that opportunities are provided at the start of the sentence, and later as necessary, to explain to prisoners the prison rules and routine and their duties and rights;
 - to provide prisoners with opportunities to make personal choices in as many of the affairs of daily prison life as possible;
 - to offer adequate material conditions and opportunities for physical, intellectual and emotional stimulation;
 - to develop a pleasant and user-friendly design of prison premises, furniture and decoration.
22. Special efforts should be made to prevent the breakdown of family ties. To this end:
- prisoners should be allocated, to the greatest extent possible, to prisons situated in proximity to their families or close relatives;
 - letters, telephone calls and visits should be allowed with the maximum possible frequency and privacy. If such provision endangers safety or security, or if justified by risk assessment, these contacts may be accompanied by reasonable security measures, such as monitoring of correspondence and searches before and after visits.
23. a. Other contacts with the external world such as access to newspapers, radio and television and external visitors should also be fostered.
- b. Particular efforts should be made to allow for the granting of various forms of prison leave, if necessary under escort, taking into account the principles set out in Recommendation No. R (82) 16 on prison leave.
24. Prisoners should have access to appropriate counselling, help and support in order:
- to come to terms with their offences, the harm done to victims and any associated guilt feelings;
 - to reduce the risk of suicide, particularly directly after conviction;
 - to counteract damaging effects of long-term detention, such as institutionalisation, passivity, lowered self-esteem and depression.

Special categories of life-sentence and other long-term prisoners

25. Prison authorities should be mindful of the possibilities of repatriation for foreign prisoners as afforded by the European Convention on the Transfer of Sentenced Persons or bilateral arrangements with the relevant country. Foreign prisoners should be informed of these possibilities. Where repatriation is not possible, prison management and practice should be guided by the principles of Recommendation No. R (84) 12 concerning foreign prisoners.
26. Efforts should be made to protect vulnerable prisoners from threats and maltreatment by other prisoners. If protective segregation from other prisoners is necessary, complete isolation should be avoided and a safe and supportive environment provided.
27. Action should be taken to allow for an early and specialist diagnosis of prisoners who are, or who become, mentally disturbed and to provide them with adequate treatment. The guidance given in Recommendation No. R (98) 7 concerning the ethical and organisational aspects of health care in prison should be followed.
28. Elderly prisoners should be assisted to maintain good standards of physical and mental health. To this end, the prison administration should provide:
- access to appropriate diagnostic and remedial services;
 - opportunities for work, exercise and other activities that are suited to the individual prisoner's physical and mental capacities;
 - dietetically appropriate meals, taking into account special dietary needs.
29. a. In order to allow terminally ill prisoners to die with dignity, consideration should be given to releasing them so that they may be cared for and die outside prison. In each case, the prison administration should make every effort to provide these prisoners and their families with appropriate support and care.
- b. Appropriate help should also be given to assist these prisoners with any desired practical arrangements, for example, the making of a will, burial arrangements, etc.
30. a. Since women prisoners usually constitute a small minority of those serving long or life sentences, their individual sentence planning should be carefully considered so as to meet their specific needs.
- b. Particular efforts for women prisoners should be made to:
- avoid social isolation by merging them as far as possible with the general population of women prisoners;
 - give access to special services for women prisoners who have been subject to physical, mental and sexual abuse.
- c. Mothers serving life or other long sentences should not be denied the opportunity of having their young children with them solely because of their sentence. Where young children remain with their mother, the prison administration should provide appropriate conditions.

31. Special management care and attention should be given to the particular problems posed by prisoners who are likely to spend their natural life in prison. In particular, their sentence planning should be sufficiently dynamic and allow them to benefit from participation in meaningful activities and adequate programmes including interventions and psychosocial services designed to help them cope with their sentence.
32. a. Juvenile prisoners with long sentences of imprisonment should only be held in institutions or units designed for their special needs.
- b. Regimes and sentence planning for these juveniles should be guided by the relevant principles set out in the United Nations Convention on the Rights of the Child and in Recommendation No. R (87) 20 on social reactions to juvenile delinquency, and pay particular attention to:
- the provision of adequate education and schooling;
 - the need to maintain close contacts with their parents and family;
 - the provision of adequate support and guidance in their emotional development;
 - the availability of appropriate sport and leisure activities;
 - the careful planning of the transition of a juvenile to an adult regime taking due account of the juvenile's personal development.

Managing reintegration into society for life-sentence and other long-term prisoners

33. In order to enable life-sentence and other long-term prisoners to overcome the particular problem of moving from lengthy incarceration to a law-abiding life in the community, their release should be prepared well in advance and take particular account of the following:
- the need for specific pre-release and post-release plans which address relevant risks and needs;
 - due consideration of the possibility of achieving release and the continuation post-release of any programmes, interventions or treatment undertaken by prisoners during detention;
 - the need to achieve close collaboration between the prison administration and post-release supervising authorities, social and medical services.
34. The granting and implementation of conditional release for life-sentence and other long-term prisoners should be guided by the principles set out in Recommendation Rec(2003)22 on conditional release.

Recalled prisoners

35. If, following revocation of conditional release, a life-sentence or long-term prisoner is returned to prison, the principles enumerated in the foregoing should continue to be followed. In particular, a further assessment of risk and criminogenic needs should be undertaken and used for choosing a suitable allocation and further interventions, with the aim of preparing the prisoner for early reconsideration for release and resettlement in the community.

Staff

36. In general, the recruitment, selection, training, conditions of work and mobility, as well as the professional conduct of staff dealing with life-sentence and other long-term prisoners, should be guided by the principles contained in Recommendation No. R (97) 12 on staff concerned with the implementation of sanctions and measures.
37.
 - a. Since staff working with life-sentence and long-term prisoners need to deal with the specific difficulties posed by these prisoners, they should be given the special training necessary for their duties.
 - b. Staff should, in particular, be trained to have a full understanding of dynamic security so that they can use this approach to security in the performance of their duties.
 - c. Senior, specialist and supervisory staff should, in addition, be trained to supervise and support the basic grade staff in the use of dynamic security.
38. Given the increased risk of manipulation of staff by prisoners serving long sentences, mobility and rotation of staff should be encouraged.
39. Regular meetings and discussions should be arranged between the different staff categories in order to achieve and maintain a proper balance between a sympathetic understanding of prisoner problems and firmness of control.

Research

40. Research on the effects of life and long sentences should be undertaken with special reference to the part played by factors that inhibit deleterious effects and promote a constructive adaptation to prison life.
41. Evaluative research should be conducted and published on the effectiveness of programmes designed to improve post-release adjustment in the community.

REPORT

**accompanying the Recommendation Rec (2003) 23
on the Management by Prison Administrations
of Life-Sentence and other Long-Term Prisoners**

INTRODUCTION

Terms of reference

- 1 At its 49th plenary session (26-30 June 2000) the European Committee on Crime Problems decided that the time was ripe for a Committee of Experts to re-examine the question of the management of long-term prisoners. This question had earlier been dealt with in Resolution (76) 2 on the treatment of long-term prisoners. Reference was made to the conclusions of the 12th Conference of Directors of Prison Administrations (26-28 November 1997). At this Conference, it had been noted that a marked increase in the number of long and life-sentenced prisoners had taken place. It was emphasised that theory and practice concerning the management of such prisoners varied considerably from country to country. Nevertheless, there was a growing awareness among practitioners and penologists that the aim should be to secure a balance between preventing escapes, maintaining good order and discipline and providing active regimes.

- 2 Following the proposal by the European Committee on Crime Problems, the Committee of Ministers adopted, on 5 October 2000, the specific terms of reference for a Committee of Experts on the management of life-sentence and other long-term prisoners (PC-LT) and required the Committee to consider, in particular, the following questions:
 - What are the most pertinent criteria for classifying long-term prisoners – length of sentence, type of offence(s), dangerousness, need of psychosocial interventions and treatment, etc?
 - Should long-term prisoners be separated from prisoners serving shorter sentences?
 - How can the negative effects of imprisonment be so counteracted that adjustment in the community is not rendered impossible?
 - How can pre-release preparation be made as effective as possible and how can pre-release preparation be co-ordinated with post-release supervision and assistance?
 - What are the best ways of handling life-sentenced prisoners who under present legislation are not eligible for any form of conditional release?

- 3 The study conducted by the Committee should lead to a report and a Recommendation offering, in particular, a guide for good practice in the management of long-term prisoners, bearing in mind Resolution (76) 2 on the treatment of long term prisoners.

- 4 The initial terms of reference required the Committee of experts to have completed its work by 31 December 2002. Committee PC-LT held its first meeting in December 2000 and finalised its work at its sixth meeting in April 2003, following an extension of its terms of reference.

Composition of the Committee

- 5 The Committee consisted of government experts from Belgium, Cyprus, the Czech Republic, Denmark, Finland, France, Greece, Ireland, Lithuania, Moldova, Romania, "the former Yugoslav Republic of Macedonia", Turkey, Ukraine and the United Kingdom. Two scientific experts, Ms Hilde Tubex (Belgium) and Mr Klaus Koepsel (Germany), were appointed to assist the Committee. A third scientific expert, Mr Norman Bishop (Sweden), was appointed with effect from the third meeting of the Committee. Mr Włodzimierz Markiewicz represented the Council for Penological Co-operation. Mr Nigel Newcomen (United Kingdom) was elected Chairman of the Committee. Observers from the Canadian Correctional Service and Penal Reform International attended the meetings.

Methods of work

- 6 The terms of reference for the Committee's work referred to Resolution (76) 2 on the treatment of long-term prisoners as an earlier statement of principles that should be borne in mind. Another earlier statement of principles of relevance for the present Committee's work is to be found in Recommendation No. R (82) 17 on the custody and treatment of dangerous prisoners. An important task for the Committee was, therefore, to consider whether these earlier statements of principle continue to be realistic and relevant, and, if so, whether new knowledge and new prison problems require that they should be supplemented by further provisions.
- 7 The 24th Conference of European Ministers of Justice, which took place in Moscow on 4-5 October 2001, discussed *inter alia* the question of long-term and life-sentence prisoners. The reports of the various Ministers show considerable unanimity on a number of important points. These include the following:
- the requirement to respect the human dignity of even heinous offenders;
 - constructive efforts to prevent or at least reduce the harmful effects of life and long-terms;
 - the provision of possibilities for progression through the prison system;
 - the provision of possibilities for conditional release;
 - careful preparation for conditional release in collaboration with supervision authorities and social welfare organisations;
 - help and control during post-release supervision.
- 8 The conclusions reached on life and long-term prisoners are formulated as Conference Resolution No. 2. The Resolution recognises *inter alia* that life and long-term imprisonment places a heavy burden on the staff of prison administrations. They are required over long periods to strike a balance between ensuring security and good order in penal establishments whilst at the same time providing humane living conditions, active regimes and opportunities to prepare for release. The reports presented at the 24th Conference of Ministers of Justice provided the Committee with information about the situation in Member States and gave important indications about essential problems and their solution. These problems and solutions are reflected in the principles laid down in the Appendix to the present Recommendation.
- 9 Fifteen member countries were represented on the Committee. The fifteen member countries comprise one-third of the total number of Member States of the Council of Europe. In addition, these countries were distributed from the different geographical parts of Europe, and varied greatly in the size of their national and prison populations. The Committee was, therefore, considered broadly representative of the 45 different jurisdictions that make up the total number of Council of Europe member States. In consequence, and in order to facilitate rapid policy, practice and data comparisons, it was decided to make use of questionnaire responses only from those countries represented in the Committee. It was also decided to request participating countries to provide additional information in a written report on matters not easily covered by a questionnaire. The replies to the questionnaire were subsequently analysed by the scientific experts, and their reports, together with the national written reports, constituted the major elements for the Committee's deliberations. Finally, the Committee made use of the Council of Europe's Annual Penal Statistics (SPACE), other Council of Europe documentation, information supplied by the Correctional Service of Canada and relevant criminological literature and research findings.

Background information

Offences leading to long-term and life imprisonment

- 10 Although the Council of Europe's Annual Penal Statistics (SPACE) contain information on the main offences committed by the totality of different national prison populations, there are no analyses relating main offences to lengths of sentence. The reports from the 24th Conference of Ministers of Justice and questionnaire replies¹ show that murder, manslaughter, serious sexual offences, robbery, kidnapping, drug trafficking, involvement in organised crime, crimes against the security of the realm and against humanity commonly lead to long-term and life imprisonment.

Life sentences

- 11 With the abolition of, or moratorium on, the death penalty in Member States, the indeterminate sentence of life imprisonment has become the severest sanction available to the legislator. Life sentences can be imposed in most - but not all - member countries for serious offences that threaten life and health or the security of the realm (see paragraph 10 above). The extent to which life sentences are used in practice in the countries that provide for this sanction varies considerably. Unfortunately, the Committee had no access to statistics showing the number of offenders sentenced to life imprisonment each year over a period of several years in the majority of member States of the Council of Europe. Nor is such data available from comparative international statistics. This makes it impossible to compare trends in the use of life imprisonment.
- 12 A majority of Council of Europe Member States make legislative provision for life sentences. The extent to which such sentences can be, and are in fact, imposed varies. Life sentences do not necessarily imply imprisonment for the remainder of natural life. Most countries make provision for a review of life sentences with the possibility of granting release from prison. These possibilities are described in more detail below. Probably the most wide-ranging provisions for the use of life imprisonment are to be found in England & Wales. There, a life sentence is mandatory for murder and is a sanction that can also be imposed for other serious offences against the person (discretionary life imprisonment). With mandatory life sentences, a tariff giving the earliest date at which conditional release may be granted is set. Whole life tariffs mean that the imprisonment cannot be exhausted during the natural life of the prisoner. In addition, since 1997, an offender found guilty for the second time of serious sexual or violent crimes automatically receives a life sentence unless there are exceptional reasons for not imposing it (automatic life sentence).
- 13 By contrast, five European countries, Croatia, Norway, Portugal, Slovenia and Spain, make no legislative provision for life imprisonment. In Croatia, the most severe sanction is a sentence of from 20 to 40 years that may only be imposed exceptionally. Conditional release may be granted after one-half, exceptionally one-third, of the sentence has been served. Three persons were sentenced to exceptionally long-term imprisonment between 1998 and 2001. In Norway, the most severe sanction is a determinate sentence of imprisonment for 21 years. Conditional release is possible after 12 years has been served. In Portugal, the maximum prison sentence is for 25 years, exceptionally for 30 years. Slovenian legislation provides for a maximum of 30 years but such a sentence has never been imposed to date. Prisoners serving more than 15 years may be conditionally released after three-quarters of the sentence has been served. In Spain the maximum sentence is imprisonment for 30 years. In Iceland, the legislation provides for life sentences but no such sentence has been imposed since 1940.

¹ Including that from the Correctional Service of Canada.

- 14 The differences between countries that allow the use of life sentences and those that do not result from different national choices of criminal policy. The main reason given for using sentences of life imprisonment is that a sanction system, in addition to satisfying the requirements of justice, proportionality, clarity, predictability and consistency, should also provide protection from serious crime. Some offenders, it is argued, must be imprisoned for an indeterminate period, and perhaps even for the remainder of natural life since there is reason to think that they will continue commit abominable crimes. Critics of this criminal policy choice hold that offenders should be punished for the offences that they have committed but not for those that it is feared they may commit in the future. Since prediction of future behaviour is never completely certain, some false positives are bound to occur. The existence of false positive gives rise to ethical doubts and conflicts with the fundamental requirements of justice, that is that guilt must be proved beyond reasonable doubt. Moreover, critics consider that it is doubtful if life sentences offer worthwhile benefits when compared with extremely long, but determinate, prison sentences. What is certain is that the criminal policy choices made and the way in which they are implemented will have far-reaching consequences for the number and proportion of life-sentence prisoners in the prison population and for the way in which they are to be treated. Thus, for example, the possibility of release after serving a relatively limited time in prison will require an emphasis on release preparation while imprisonment for the whole of natural life will not require such preparation and, may in the last analysis, require preparation for dying in custody instead.
- 15 The proportions of prisoners serving life sentences in certain member countries are shown separately in Table 6.2 of the Annual Penal Statistics (SPACE) document PC-CP (2001) 12. Of these countries, by far the largest proportions are those for Northern Ireland, Scotland (13% in each country) and England & Wales and Luxembourg (9% in each country). A medium range from 2-6% is to be found for Albania, Belgium, Italy, Sweden and Turkey. The smallest proportions – less than 1% - are reported from Bulgaria, Estonia, Latvia, Lithuania, Moldova, the Netherlands, Romania, Slovakia and the Former Yugoslav Republic of Macedonia. These proportions do not, however, tell the whole story. The calculation of the proportion of life-sentence prisoners in the prison population is influenced by the size of the total prison population (i.e. the divisor in the calculation of a percentage proportion). Countries with large prison populations may, therefore, show relatively small proportions of long-term prisoners whilst for countries with small prison populations the converse may be true.
- 16 The proportions of life-sentence prisoners vary between less than 1% and 13%. The cross-sectional statistics presented in the Annual Penal Statistics (Space) document can only provide summary and partial information about the prevalence and incidence of crime in different countries. Nevertheless, the question arises whether the crime situation in the different countries can be the main explanation for the wide variation in the proportions of life-sentence prisoners. The more likely alternative possibility is that the penal ideologies and resulting criminal policies underlying the various sanction systems give rise to a widely differing reliance on imprisonment in general and life imprisonment in particular.

Long-term imprisonment

- 17 A large number of the national reports presented at the 24th Conference of European Ministers of Justice refer to a substantial increase in the number of prisoners serving long-term imprisonment in member countries. Broadly speaking, the increase in western European countries appears to be a *trend* arising partly because prison sentences have become longer over recent years and partly because an increasing number of offenders are so sentenced. In certain western countries there have been changes in legislation and practice over the last two decades in the punishment of serious crimes, notably sexual, violent and drug offences and relapse into serious crime. These offences are often dealt with by longer sentences and a more restrictive use of conditional release. In consequence, the number of prisoners conditionally released from prison has either decreased or taken place at later periods of time.

The Recommendation Rec(2003)22 on conditional release from prison seeks to maximise the possibilities for granting conditional release.

- 18 In Central and Eastern European countries, the number of long-term prisoners appears to result partly from the imposition of long-terms but also, and to no small extent, on the abolition of, or at least a moratorium on, the use of the death penalty. The abolition of, or a moratorium on, the use of the death penalty in a number of countries is largely related to their adhesion to the Council of Europe. Since adhesions are relatively recent, it is not yet possible in these countries to study the effects on long-term imprisonment.
- 19 As with sentences to life imprisonment, statistics were not available from most countries to show the numbers of offenders sentenced to long-term imprisonment each year over a period of years. The absolute numbers and percentage proportions of prisoners in certain member countries with different lengths of final sentences on 1 September 2000 are to be found in the Council of Europe's Annual Penal Statistics². These statistics are based on the numbers in prison on a particular day. Although such statistics do not enable trends to be determined, they do provide information on the lengths of sentences being served at a particular moment in time. The tables show *inter alia* the numbers and percentage proportions of prisoners serving sentences of different lengths. These lengths include those serving 5-9 years, 10 years or more and life. The proportions of those serving from 5 years to 10 years or more are also shown cumulatively (summed) for the different countries. These cumulative percentage proportions vary considerably between the various countries. Three prison administrations, the Netherlands, Northern Ireland and Sweden, had the lowest cumulative proportions of prisoners, 19%. Three prison administrations, Moldova, Turkey and Albania, had the highest cumulative proportions, 69%, 53% and 52% respectively. The remaining prison administrations had cumulative proportions varying from 22% (England & Wales) to 51% (Estonia).
- 20 The proportions of long-term prisoners in the different national statistics will also be influenced by the size of the total prison population (i.e. the divisor in the calculation of a percentage proportion). Thus, a country may have only a small absolute number of long-term prisoners. But if that country uses imprisonment sparingly and has only a small prison population, the proportion of long-term prisoners may appear to be high. Conversely, those countries that make extensive use of imprisonment and have large prison populations may show relatively small proportions of long-term prisoners.
- 21 The proportions of long-term prisoners in national prison systems vary between 19% and 69%. Whilst it is admitted that the cross-sectional statistics presented here can only provide summary and partial information about the nature and extent of crime in different countries, the question nevertheless arises whether the crime situation in the different countries can be the main explanation for such wide variations. This seems unlikely. An analysis of recent European data shows that the rate of imprisonment in 36 European countries is not related to the crime rate in those countries³. The more likely explanation is that the differences are the result of the differing extent of use of imprisonment in general and life and long-term sentences in particular.

² SPACE Survey 2000, Doc. PC-CP (2001) 2, Tables 6.1, 6.2 and 6.3.

³ See Aebi, M. and Kuhn, A., "Influences on the prisoner rate: number of entries into prison, lengths of sentences and crime rate", European Journal of Criminal Policy and Research, 2000.

THE RECOMMENDATION

Commentary on the Preamble

- 22 The Preamble has two themes. One is concerned with the problems and circumstances that give rise to the present Recommendation. The other concerns fundamental Council of Europe principles that should be taken into account when tackling these difficulties.
- 23 The Preamble recognises that the enforcement of custodial sentences in compliance with the European Convention on Human Rights and previous Recommendations encompasses a number of different tasks. In particular, prison administrations must provide decent living conditions for prisoners, ensure security, good order and discipline in penal institutions, arrange regimes that permit the constructive use of time in prison and, finally, prepare prisoners for leading law-abiding lives after release. Good prison management consists of striking a balance between the demands made by these various tasks. In its turn, this means that prisoners should be dealt with in ways that take due account of the individual differences between them and in ways that are just, equitable and fair.
- 24 One of the major changes that has occurred over recent years has been the increase in the number of Member States joining the Council of Europe. Consequently several of these countries have abolished the death penalty *de jure* or *de facto*. This means that life sentences and long-term imprisonment as substitutes for the death penalty tend to be used more frequently than was earlier the case. The Resolution on the implementation of long-term sentences adopted by the European Ministers of Justice at their 24th Conference expressed concern over the increase in the number and length of long-term sentences in general. Their use contributes to prison overcrowding and may impair effective and humane management.
- 25 The Preamble refers to Recommendation No. R (99) 22 concerning prison overcrowding and prison population inflation and notes that if its principles were followed an important contribution to solving the problems posed by long-term imprisonment would have been made.
- 26 The Preamble affirms that it is in the interest of member States to establish common principles and international co-operation concerning the enforcement of custodial sanctions. This is so because, as the Preamble makes clear, the management of life-sentence and long-term prisoners should comply with the requirements of the European Convention on Human Rights and the case law of the organs entrusted with its application, and take account of the relevant principles contained in Recommendations adopted by the Committee of Ministers. A list of the Recommendations of particular relevance for the present Recommendation is provided in the Preamble.
- 27 The Preamble concludes by recommending that the governments of Member States should be guided in their legislation, policies and practice by the principles contained in the Appendix to the Recommendation and that the Recommendation and its Report be disseminated as widely as possible.
- 28 The Appendix to the present Recommendation seeks to present the policies, practices and methods that maintain a proper balance between essential control in the prison environment, individual and collective help to prisoners, and protection of their rights. Member governments are requested to take account of these principles and to ensure that the reasons for them, as explained in the present Report, are widely disseminated.

Commentary on the Appendix

Definition of life-sentence and long-term prisoners

- 1**
- 29 The Appendix begins by defining life-sentence and long-term prisoners for the purposes of the present Recommendation. The responses to a questionnaire sent to member governments showed that no definitions exist in some countries, usually because no special regimes were provided for long-term prisoners. And where national definitions did exist, they made use of widely differing periods, varying from one year to twenty-five years. No definition was given in Resolution (76) 2 but the General Report that accompanied the Resolution defined long-term imprisonment as “sentences of five or more years of deprivation of liberty, including life imprisonment, regardless of the time actually served and of possible conditional release”⁴.
- 30 A similar criterion was used in the majority of reports presented at the 24th Conference of European Ministers of Justice, (Moscow on 4-5 October 2001). In addition, the Annual Penal Statistics (SPACE) of the Council of Europe categorise lengths of sentences as ≥ 5 -10 years, >10 years and life. Under these circumstances, it was decided that long-term imprisonment should mean sentences of five years or more.
- 31 The definition states that a life-sentence prisoner is one serving a sentence of life imprisonment and a long-term prisoner is one serving a sentence or sentences totalling five years or longer. The definition takes account of cases where more than one sentence of imprisonment has been imposed and the combined effect of these sentences is equivalent to a sentence of five years or longer.

General objectives

- 2**
- 32 The experience of member countries shows that the three basic aims for the exemplary management of life and long-term prisoners should be:
- ensuring that prisons are secure from escapes and are safe places for prisoners and staff and visitors.
 - counteracting the negative effects that may arise with long-term and, especially, life imprisonment.
 - increasing and improving the opportunities for released prisoners to adjust in society.
- 33 These general objectives were acknowledged in the national reports presented at the 24th Conference of Ministers of Justice. Achieving these objectives needs to take account of the interaction between individual factors linked to the personalities and social circumstances of individual prisoners and the nature of prison conditions. Accordingly, the general objectives enumerated in the Recommendation are followed first by general principles and subsequently by a number of specific principles for the constructive regulation of prison life.

⁴ “Treatment of long-term prisoners”, Council of Europe 1977, paragraph 10.

General principles for the management of life-sentence and other long-term prisoners

- 3
34 The first general principle is that of *individualisation*. It is based on the fact that life and long-term prisoners are no different from other prisoners in the sense that they comprise a wide diversity of individuals. Age, intellectual capacity, education level, social background, social circumstances, personality and typical ways of thinking and behaving all vary greatly. In addition, the nature of the offence that led to the sentence, the circumstances surrounding the commission of the offence and the criminal history of the individual prisoner constitute important areas of diversity. It becomes axiomatic that exemplary management must take account of this diversity when implementing the prison sentence. This is done through *individual sentence planning* (see below).
- 4
35 The principle of *normalisation* is emphasised as a countermeasure to the traditional prison situation. Traditionally, prison life has been characterised by requiring prisoners to obediently follow a series of unchanging routines. This leads – especially over long periods - to passivity, learned helplessness and an inability to exercise responsibility. Such routines *unfit* prisoners for life in the community.
- 36 The normalisation principle recognises that the practice of good citizenship is fostered by a continuing contact with the values, responsibilities and realities that characterise daily life in the community. Translating the principle into practice means reproducing to the greatest extent possible within the prison the typical situations, routines and problems that are encountered in the wider community and, as preparation for conditional release, providing opportunities for the prisoner to deal with these realities of community life.
- 37 Normalisation implies examining prison routines and activities of every kind and asking whether they are or are not comparable with the routines, responsibilities and realities of everyday life in the external world. To the extent that they are not comparable, consideration should be given to bringing them closer to the social practices found in the community.
- 5
38 The *responsibility principle* is closely allied to the normalisation principle since the exercise of responsibility is required when dealing with the typical situations of community life. Traditional prison routines rob prisoners of the opportunity to take decisions and the consequences of those decisions. Hence, there is no learning about taking responsibility. Without learning about responsibility, there can be no change of the attitudes and behaviours that lead to a life without crime. It is a major challenge for prison administrations to create situations for the exercise of personal responsibility and for their staff to assist prisoners to do so through motivating, counselling and guiding them.
- 6
39 The *security and safety principle* requires that the nature and degree of dangerousness that may be posed by life-sentence and long-term prisoners is carefully examined. The assumption is often wrongly made that the fact of a life or long-term sentence implies that a prisoner is dangerous. Once that wrong assumption is made, the management of such prisoners is inevitably less than exemplary. Careful assessment of whether prisoners pose a risk of harm to themselves, to other prisoners, to those working in the prison or to the external community is essential having regard to the individualisation principle. The level of security required when allocating prisoners to suitable prisons, transfer to other prison regimes, the specific programmes that should be offered – all are dependent on assessments of the eventual nature and degree of dangerousness.

40 Long-term and life-sentence prisoners should be subject to security and safety assessment as one part of sentence planning at the start of their sentence. Many countries have set up special centres for this purpose. Such assessments should not be restricted to surveying the risk for society in case of escape but should include an assessment of risk within the prison. This means that factors in the prisoner's life or previous criminal or prison history need to be considered from these two points of view.

7

41 The *non-segregation principle* follows from the assessment of dangerousness principle. The special segregation of life-sentence or long-term prisoners cannot be justified by an unexamined characterisation of such prisoners as dangerous. As a general rule, the experience of many prison administrations is that many such prisoners present no risks to themselves or to others. And if they do present such risks, they may only do so for relatively limited periods or in particular situations. In consequence, while it is fully recognised that time and resources are needed to implement this principle; these prisoners should only be segregated if, and for as long as, clear and present risks exist.

42 Life-sentence and long-term prisoners are thought in some countries to pose serious safety and security problems in the prison. The violence and dangerousness manifested in the criminal act is considered to carry over to their lives in prison. Offenders who, for example, have committed murder are among those most likely to receive life or long sentences. This does not necessarily mean that they are violent or dangerous prisoners. Indeed, prison authorities can refer to individual murderers with a life or long sentence as "good prisoners". They exhibit stable and reliable behaviour and are unlikely to repeat their offence. The likelihood of an offender engaging in violent or dangerous behaviour frequently depends not only on personality characteristics but also on the typical situations that permit or provoke the emergence of such behaviour.

43 Descriptions in terms of violence and dangerousness should, therefore, always be considered in relation to the specific environments or situations in which these characteristics may – or may not – be exhibited. In the management of long-term and life prisoners, a clear distinction should be drawn between safety and security risks arising within the prison and those that may arise with escape into the community. The classification and allocation of long-term and life-sentence prisoners should take account of these differing kinds of risk. Re-classification and re-allocation should also be undertaken when changes in the levels of security and safety risks warrant it.

8

44 The *progression principle* refers to the importance of trying to secure a beneficial movement through the prison system for all life-sentence and long-term prisoners. During the prison period, progression may be an important antidote to mental deterioration by providing for specific goals that can be achieved within foreseeable periods of time. Progression allows for the increasing exercise of responsibility and has as its ultimate aim, a constructive transition from prison life to life in the community.

Sentence planning

9

45 The achievement of the general objectives and the application of the general principles of the Recommendation cannot be realised unless comprehensive plans for each individual prisoner are made. These plans should seek to identify the most constructive ways in which life and long-term imprisonment can best be carried out. Such plans include the decisions and actions of the prison authorities and other competent authorities, their interventions in the life of the prisoner and offers of suitable programmes. The aim of such plans should be to assist the prisoner to adjust to the reality of the sentence imposed, to use to the full the opportunities offered for progression through the prison system and, eventually, to prepare for release and a constructive use of post-release

supervision. Participation in educational, cultural and personal change programmes should be seen as a key element in the management of life and long-term imprisonment. Prisoners should be given every encouragement to enter such programmes. If, for example, work is remunerated, programme participation in work time should equally be remunerated.

46 The plans will have an increased likelihood of being followed if they are developed as far as possible with the active participation of the prisoner. Sentence planning should seek, in accordance with the responsibility principle, to stimulate and motivate the prisoner to co-operate in addressing criminal behaviour and using personal, prison and community resources that promote coping with prison life and preparing for a crime-free life in the community. Where sentence planning impinges directly on post-release matters, it should be undertaken in close collaboration with the post-release supervision authorities. This collaborative planning for release is of particular importance when the prisoner is coming towards the end of the detention period. Since supervision includes help and support as well as control, relevant social services or agencies should be involved as necessary.

10

47 Sentence plans, adjusted and adapted as necessary to changing circumstances and conditions, are essential tools for systematic work with individual prisoners with the aim of achieving a positive implementation of the sentence. Sentence plans, in order to be realistic, should include a risk and needs assessment of each prisoner. The risks that should be considered, the needs associated with criminal behaviour and methods of assessments are commented on in detail in a separate section below.

48 Sentence plans provide a systematic basis for dealing with the totality of decisions that need to be taken on the implementation of the prison sentence. Among these decisions are those enumerated in the Recommendation. A first decision of importance is that concerning the initial placement of the prisoner in a suitable prison. A suitable prison is one that is best fitted to deal with the particular risks posed by individual prisoners, notably the risk of escape or harmful behaviour within the prison.

49 Thereafter, the aim should be to bring about movement through the prison system so that restrictive conditions of confinement are progressively eased. The final aim should be to allow the prisoner to spend the final phase of imprisonment under conditions that are minimally restrictive. Whenever possible this should include the possibility of placement in an open prison. Preferably, however, the final phase should be spent in the community. The nature of the community placement will vary with the needs of the prisoner. Placement possibilities include the prisoner's family, a foster family, a halfway hostel, or a treatment instance.

50 A major purpose of sentence planning should be to provide for the purposeful use of time which, if unstructured and not used purposefully, hangs heavily upon prisoners, contributes to the onset of apathy and, potentially, the reinforcement of criminal values and behaviour. A range of suitable occupations should be provided. By this is meant that occupational activities should be of interesting and demanding character. Undemanding, dull routine tasks will increase and not reduce the sense of waiting for meaningless time to pass. It may be necessary and desirable to interweave work with other forms of occupation of educational, physical or cultural nature. This will depend on the physical and intellectual capacities of the individual prisoner. Purposeful activities can provide intellectual and emotional stimulation and be of practical use in assisting adjustment in the community after release. Providing for demanding physical activities is no less important. Many prisoners wish to maintain health and physical fitness and counteract the effects of what easily becomes a sedentary life in prison. The provision of suitable work, educational, physical and leisure activities is also an important way of preventing or counteracting the damaging effects of long-term imprisonment. Recommendation No. R (89) 12 on education in prison gives detailed guidance on the provision of educational activities.

- 51 A further important aim of sentence planning is to identify any interventions necessary to reduce the risk of disruptive behaviour in the prison or re-offending after release. The purpose of such interventions should be to provide prisoners with opportunities to reflect on their criminal or harmful behaviour and provide programmes that enable them to find ways of neutralising it. Thus, sentence planning should focus upon the necessity of coming to terms with the sentence and starting to make use of the informational sources available about the rights, duties and opportunities afforded by the prison. Sentence planning should seek to offer prisoners opportunities for the purposeful use of time both as an antidote to mental deterioration and the achievement of goals related to a crime-free life. All areas of life in prison should be covered – work, vocational training or other occupational activities, education and leisure activities and, not least, personal change programmes that seek to reduce the possibility of disruptive behaviour in the prison and re-offending after release. Sentence planning also provides an opportunity for the exercise of personal responsibility by the prisoner. All good sentence planning provides opportunities for prisoners to become involved in influencing the plans that are being made. Contractual agreements that spell out what is required of prisoners and the positive or negative consequences of fulfilling, or failing to fulfil, these requirements, are a useful way of enhancing the taking of personal responsibility.
- 52 The nature of the plan drawn up or revised throughout the period of detention and the response of the prisoner make possible an effective consideration of the conditions and supervision measures that are best calculated to guide, support and control prisoners after release with a view to their achieving a law-abiding life in the community.
- 11
53 Sentence planning based on individual assessment should be initiated as soon as possible after entry into prison and result thereafter in action plans to take account of changing perceptions and situations during the various phases of the time spent in prison. Key concepts are *adaptation* (compromising between personal wishes and needs and the demands of the prison environment) and *coping strategies* (ways of adjusting to the role of being a life-sentence or long-term prisoner and reducing psychological stress). The passage of time can affect the prisoner's reactions to prison life and cause changes in adaptation and coping strategies. Plans should, therefore, be regularly reviewed and modified as necessary to take account of these changes.
- 54 It cannot be too strongly emphasised that carrying sentence plans into effect makes great organisational demands on the prison system and the supervising authority. The nature of the plans made at one place or at one point of time, the practical arrangements for carrying out the plans and the degree of success or failure in so doing, together with any necessary consultations, have all to be made known to any subsequent unit dealing with the prisoner. Thorough transmission of sentence plans is necessary whenever transfer to another prison or to another wing takes place or when, finally, the prisoner is released to a supervising body. Unless there is effective communication between those responsible for the implementation of sentence plans they risk becoming conflicting, nullified or otherwise ineffective. And such plans can only act to the detriment of the prisoner.

Risk and need assessments

- 12
55 The management of life and long-term prisoners, and especially, sentence planning, cannot be successfully undertaken without assessments of any risks posed by individual prisoners. The range of risks includes the risk of harm to the self, to other prisoners, to those working in the prison, to the community in the event of escape or absconding and to the risk of relapse into serious crime after release.
- 13
56 In addition to assessing the nature of any risks posed, the attempt should also be made to identify the forms of behaviour that lead to criminal activity and the maintenance of a criminal life style. These needs are, therefore, *criminogenic needs*. Examples include a craving for drugs, alcohol or sexual contact with children, the need to engage in risk-taking activities, to enjoy the approval of an anti-social group, to act impulsively rather than reflect on the consequences of actions or to react to frustration by aggression. Any form of thinking and feeling that is closely linked to criminal behaviour constitutes a criminogenic need. Since criminogenic needs are basic and powerful sources of motivation to commit crime, it is incumbent on prison administrations to provide opportunities for their modification. Current research suggests that the most effective ways of identifying and dealing with criminogenic needs are programmes based on cognitive psychological approaches and social learning. Prison administrations should, to the greatest extent possible, provide programmes to enable prisoners to become aware of their criminogenic needs and take steps to neutralise them.
- 57 A relatively recent significant advance in knowledge has emerged about programmes and interventions that provide positive results and those that are unlikely to do so. This body of knowledge has arisen as a result of rigorous research. This research demonstrates the importance of *evidence-based action*. The research and the methods to which it gives rise are often referred to as “What works” approaches. The findings also demonstrate the importance of programmes and interventions being conducted by appropriately trained persons and for sufficiently long periods to make possible evaluations of effectiveness in achieving specific objectives. Because of its importance for policies and practical work a fuller account of the “What works” approaches is now given.
- 58 Criminal policy and the implementation of custodial and non-custodial sentences during the 1970s was profoundly influenced by research findings that no matter what interventions were used to reduce individual criminal behaviour, the results were disappointing. Offenders relapsed into crime in accordance with statistical predictions based on personal historical factors, notably criminal history and age. No form of intervention or programme could be shown to reduce the predicted likelihood of recidivism. These findings gave rise to the notion that “nothing works.”
- 59 In the 1980s, however, a new methodology was developed for reviewing the findings of earlier research. This new method, meta-analysis, is a complex statistical technique that allows a number of studies and their findings to be combined. The findings are then based on the resulting larger research populations, and have, therefore, a greater degree of validity than those found in the individual constituent studies.

- 60 When this technique was applied to a large number of earlier evaluations of treatment effectiveness, it was found that there was evidence that some programmes had had a positive effect in reducing recidivism. The effect was not always present, nor was it always large, though this was sometimes the case. Just as important as the evidence for positive results with some offenders and some change programmes, was that meta-analyses gave indications of the *types of programmes* that were more likely to be successful in influencing offenders. These programmes are based on cognitive psychology, social learning theory and practising learned skills. They have consistently been shown to be among the most effective ways of influencing offenders to change their criminal life-style and identification.
- 61 The specific change programmes developed through “What Works” approaches are sophisticated and demand application by knowledgeable and trained persons. Those implementing programmes must know something about the theory on which the programme is based, be trained in using assessment tools that identify the offenders likely to benefit from the programme, be skilful in promoting social learning and be able to sustain these efforts over a sufficiently long period. Rigorous evaluation must be built in from the start in order to check on *programme integrity* as well as *effectiveness*. Programme integrity means that the programme is carried out as planned for a time sufficient to allow evaluation for effectiveness. (The question of criteria for measuring effectiveness is discussed below in the section on Research).
- 62 The main features of successful change interventions are:
- identification of offenders with a high risk for relapse into crime using appropriate risk assessment tools. The expensive resources involved in creating and evaluating personal change programmes should not be used on low risk offenders;
 - identification of the criminogenic needs of offenders and the behaviours associated with them;
 - getting offenders to *think* about their behaviour and its consequences for themselves and others (cognitive approach);
 - use of structured and consistent change programmes;
 - delivery and maintenance of such programmes as planned (programme integrity);
 - implementation of the programme by trained and competent staff;
 - provision of opportunities to learn and practise the skills necessary to avoid offending behaviour.
- 63 Interventions and programmes based on “What works” methods demand a sizeable financial investment in training staff to carry out competent implementation as well as a research staff for evaluation. This is not to say that all participating staff members must be specialised experts but they must be aware of the basic ideas that underpin the intervention and be able to act in accordance with programme requirements. An involvement of all prison staff and not solely specialised experts is necessary in order to provide an optimum environment for operating personal change programmes. Training, therefore, should also be undertaken to ensure that the entire staff works together as a team. This usually means training sessions at particular prisons that involve all grades and categories of staff. Finally, it should be noted that “What works” programmes in Canada and England & Wales must always be accredited by independent experts before they are initiated and executed. This means that they must satisfy the requirements of being soundly based on relevant theory, designed so that evaluation is possible and susceptible of implementation by a trained staff.
- 64 Interventions based on “What works” methods have been pioneered in Canada and England & Wales. They are beginning to be used in a number of European countries, among them Belgium, Denmark, Finland, Germany, Norway, Slovenia and Sweden.

- 14
65 As mentioned earlier, the initial assessment of risks and needs is an essential part of the sentence planning that should be initiated as soon as possible after entry into prison. The initial assessment of risks and needs, demanding as it does a comprehensive examination of each prisoner's history and circumstances, requires specialised knowledge and skills supplemented by accumulated experience. For this reason, assessments should be carried out by staff members who have been trained to make use of up-to-date techniques and instruments, preferably in an assessment centre set up to carry out initial sentence planning.
- 15a
66 Risk and need assessment instruments take account of the factors in the life histories of offenders that have been shown to be significantly associated with various kinds of risk. Earlier instruments focused chiefly on providing statements of the statistical probability of risks derived from examination of objective historical factors in the prisoner's life such as numbers of previous escapes, assaults, convictions, etc. By their very nature, these historically objective factors cannot be changed – they are historical facts. Of recent years “dynamic” risk assessment instruments have been developed. Dynamic instruments take account of factors that are susceptible of change. Dynamic instruments, in addition to historical facts, add in such factors as drug or alcohol misuse, educational level, family and marital situation, companions, level of mental health, attitudes to crime, self and the future.
- 15b
67 Modern statistical risk and needs assessment instruments have become useful aids for the management of movement through the prison system and in setting up programmes for offenders to address their offending behaviour both during detention and after release. But it should be remembered that risk assessments have significant limitations. They can never predict *individual* outcomes. They are estimates of the likelihood of, for instance, of reconviction, *for a particular group*. This means that even if a particular category of prisoners are assessed as having an 80% probability of reconviction, there remains the question whether an individual prisoner will belong to the majority that will be reconvicted or the minority that will not. The following quotation describes the practical difficulty in using risk assessment instruments in relation to decisions on whether to grant conditional release.
- “All risk assessment includes ‘false positives’ as well as ‘false negatives’ – so some prisoners who would not have offended will be held unnecessarily, while some released prisoners will offend, creating additional victims and undermining public confidence. Extra care to avoid either of these risks will only increase the other... A prisoner who did all asked of him/her, but was refused [release] on grounds of risk assessment alone is likely to be very unhappy and potentially disruptive.”⁵
- 68 The conclusion drawn here applies equally to a wide variety of decisions arising in the course of sentence planning, for example on such matters as placement in maximum, medium or minimum security prisons, granting prison leave, placement in half-way houses, etc. Since risk instruments cannot by their very nature provide infallible information about any particular individual, they need to be supplemented by other forms of assessment based on a comprehensive appreciation of the individual circumstances of particular prisoners as they occur in particular prison settings.

⁵ “Report on a Review of Sentencing Practice”, Home Office, England & Wales (p. 31, point 4.22).

69 A form of qualitative assessment, developed within psychiatry, is known as an Anchored Narrative Approach. Essentially, as the title implies, it consists of making a narrative account of an individual's previous history with an emphasis on key factors and events. A narrative analysis is the process through which events and happenings in the individual offender's life are organised into a coherent developmental account. "The information gathered should reflect the individual's functioning in multiple domains and through time... case information should be gathered from multiple sources and using multiple methods...[and finally] should make clear to others the narrator's opinions regarding the individual's motivations and emotions and should help others to develop clear and useful plans."⁶

15c

70 The predictive efficiency of risk and need assessment instruments varies between different instruments. An instrument may also become less efficient over different periods of time because of changes in the nature of crime and criminals, criminal policies or general social circumstances. Quantitative risk and needs instruments need therefore to be evaluated from time to time to determine whether a satisfactory level of predictive efficiency is being maintained. Inadequate efficiency should be remedied by improving an unsatisfactory instrument or replacing it with a better instrument.

16

71 Judgements from the European Court of Human Rights have emphasised that dangerousness is not necessarily a permanent characteristic of an offender⁷. The rulings apply both to the period of incarceration and to any time of recall to prison as a result of breach of conditional release conditions. In consequence, whenever the concept of dangerousness is invoked, arrangements should also be made to ascertain whether it is a continuing or abated condition. The same applies to criminogenic needs. Such needs are not necessarily stable and continuing. Both dangerousness and criminogenic needs may, for a variety of reasons, change over time. This means that risk and need assessments made at one point in time may not be valid at a later date. In consequence, assessments should be repeated at intervals or when special circumstances require.

17

72 The results of further quantitative and qualitative assessments should be used to consider whether changes are called for in the conditions of detention and/or individual programmes and plans. Thus, risk and needs assessments should always be linked to the *management* of risks and needs. Risk management can be broken down into two components: *monitoring* and *interventions*. By risk and needs monitoring is meant the process by which a supervisor continually keeps a case under observation. Suitable intervention is undertaken when the risk or need signals call for it. A risk and needs instrument can be used in this connection to assess both dynamic individual and contextual risk factors. Risk and need assessments can result in the prediction of some kind of negative outcome. When this occurs, the negative outcome should be lead to undertaking constructive interventions to prevent its occurrence. Risk assessment in practice should never be separated from ways of following up changes in the level of risk and needs over time and taking steps to deal with the any dangerous risk arising so as to minimise it.

⁶ Hart S., "Violence risk assessment: an anchored narrative approach", paper presented at the 12th European Conference of Law and Psychology on "Dangerousness, violence and fear of crime", 14 September 2002, Leuven, Belgium.

⁷ Judgment X v. the United Kingdom of 5 November 1981; Judgment Weeks v. the United Kingdom of 2 March 1987; Judgment Thynne, Wilson and Gunnell v. the United Kingdom of 25 October 1990.

Security and safety in the prison

18a

73 A primary task for prison management is to ensure an adequate level of control in the prison as a guarantee of security, order and safety. Although the nature and level of control will vary with the security category of a given prison and the kinds of prisoners that it holds, it should always be based on the notion of dynamic security. Dynamic security means that basic grade prison staff are trained and encouraged to develop good personal relationships with prisoners, to know and understand them as individuals, to provide sympathetic help with personal problems and to engage in meaningful dialogues with them.

74 Prisoners have their most frequent and continuing contacts with the basic grade staff. The nature of their daily interactions with this grade of staff greatly influence their behaviour and attitudes. Positive interactions tend to reduce destructive behaviour and attitudes and facilitate constructive work with prisoners. In addition, dynamic security permits the staff to become more easily aware of disturbing prisoner behaviour such as escape attempts, violence between prisoners or against staff, the smuggling of prohibited goods, etc. Some prison administrations have nominated particular staff members to act as contact persons for individual prisoners.

75 Resolution (66) 26 on the status, recruitment and training of prison staff lays down the following principle (paragraph 4):

“The essential task of the basic grade custodial staff has been, and is, to ensure safe custody and good order. However, it is apparent that basic grade prison staff can and should be actively associated with modern methods of treatment of prisoners.”

76 The principles of Resolution (66) 26 have been further developed in Recommendation No. R (97) 12 on staff concerned with the implementation of sanctions and measures. The Recommendation takes particular account of the fact that the prison services of many countries consider the development of dynamic security to be the most important way of maintaining security and safety in prisons and that technical devices constitute only an adjunct to it.

77 A particular problem, however, concerns the degree of distance that prison staffs need to maintain vis-à-vis the prisoners. On the one hand, the demands of security routines easily lead to staff exercising a high degree of formal control over inmates and keeping them unduly distant. But the opposite of this state of affairs is equally damaging. Over time, and in well-meaning attempts to maintain good staff-inmate relations, prison staff may become too close to prisoners with the result that the latter manipulate the former for improper purposes. Appropriate management means taking account of the kinds of prisoners present in the prison, the particular risks that they pose and, in consequence, the degree of formal control that must be maintained. Maintaining a correct balance between extremes of staff behaviour means that there must be a continuing awareness of any movement towards inappropriate extremes. Assisting the basic grade staff to maintain a correct balance is a responsibility of senior supervising staff. It is essential, therefore, for senior supervisory staff to keep themselves informed by direct observation and discussion of the nature of staff-prisoner relationships. Regular meetings between different staff categories can help to maintain alertness and correct any movement towards extremes of staff behaviour.

78 Principle 18a refers to the fact that positive relationships with prisoners must be based *inter alia* on firmness and fairness. This principle was emphasised by Lord Justice Woolf who, in a comprehensive report on a major riot in an English prison⁸, insisted that fairness, justice and equity in all aspects of the administration of the prison system was essential for the avoidance of destructive instabilities in the prison system. This fundamental principle comes to expression in the Preamble to the present Recommendation as well as in principle 18a.

18b

79 A number of countries make use of advanced technical devices, *inter alia* closed circuit television and alarms, to maintain security and safety. The Recommendation urges that the installation and use of such devices should always be an adjunct to the use of dynamic security. One important reason for this recommendation is that technical devices provide information about disturbed security or safety only when some threatening incident has occurred or is occurring. Any action taken on the basis of this information is therefore a *reaction* to the incident. Dynamic security, on the other hand, offers the possibility of providing warning information *before* some untoward incident has taken place. This allows prison staff to take preventive action to hinder the threatening incident from occurring.

18c

80 Internal safety and order are maintained in the prisons of some countries by the use of patrolling guards carrying weapons, notably truncheons and firearms. Other countries have long found it possible to dispense with such means of control not least because they may actually provoke prisoner aggression and hostage-taking. The presence of weapons works to the disadvantage of staff if they are rendered powerless by hostage-taking or otherwise overwhelmed and the weapons seized. Accordingly, the carrying of weapons by persons in contact with prisoners should be prohibited within the prison perimeter. The prison perimeter is that designated boundary over which unauthorised movement of a prisoner constitutes escape. Training in the use of dynamic security lays the foundations for forms of control built upon respect rather than force. Recommendation No. R (97) 12 on staff concerned with the implementation of sanctions and measures describes the implications for recruitment and training of enlarging of the functions of basic grade prison staff to include the development of positive relationships with prisoners.

19a, 19b

81 The general principles enunciated at the beginning of the Appendix⁹ presuppose diversity among life-sentence and long-term prisoners that should be matched by differentiated means and methods of management. This is particularly true of the need to differentiate between the methods for ensuring of security and safety adopted by different prison regimes. It follows that possibilities for flexible reaction to changing security and safety requirements should be an integral part of the prison system and its various regimes.

82 Earlier in the Recommendation it has been urged that there should be repeated assessments of prisoners' risks and needs to indicate when changes in their levels occur. These assessments should be comprehensive in character and lead to constructive ways of managing the risks and needs revealed by the assessments. The changes identified by assessments may be of positive or negative character. Whatever their nature, they emphasise the importance of prison regimes that make flexible reactions possible.

⁸ Woolf, H. and Tumim, S., "Prison disturbances April 1990", HMSO, London 1991

⁹ See General principles for the management of life sentence and other long-term prisoners above.

83 The Recommendation also emphasises the fact that prisoner behaviour is greatly influenced by the nature of the interaction between prisoners and their immediate environment, in particular their relations with basic grade staff. This means that the reduction of any risks posed by prisoners can be greatly influenced by placing them in wings or prisons with staff and activities appropriate to their needs and problems. In this connection, it has been pointed out that

“...Difficult prison behaviour is a function of many things in addition to the prisoner’s own character, and it is generally recognised in the prison service that a man who presents intractable control problems in one establishment may be little or no trouble in another.”¹⁰

19c

84 Despite all attempts to match a prisoner’s needs with allocation to a suitable wing or prison, exceptional circumstances may require segregating the prisoner from association with other prisoners. The exceptional circumstances that justify such action can include, for example, the persistent terrorising of other prisoners and the intimidation of staff and their families. Special circumstances may lead prisoners themselves to request segregation. Commonly such requests are made by prisoners who are victims, or likely to become so, at the hands of other prisoners. Where the grounds for fearing prisoner victimisation appear to be well-founded and if no other course of action can deal with the threat, protective segregation may be necessary.

85 Segregation tends by its very nature to nullify or at least diminish the opportunities to carry into effect the general principles of this Recommendation.¹¹ For this reason intensive efforts should be made to avoid its use, or, if it must be used, to reduce the period of use to the greatest extent possible. Efforts should also be made to ease the conditions of any necessary segregation as much as possible with a view to retaining opportunities for the operation of the general principles.

20abcd

86 The immediately previous section has recognised that on occasion segregation may be necessary to contain threatening, damaging or destructive behaviour. Providing for the segregation of a group of prisoners may require the setting up of a maximum security unit within the prison, even if this is a high security prison. Some prisoners may present exceptionally serious escape risks especially if a successful escape is linked to a serious threat to community safety. Segregation may also be required where there are good grounds for supposing that certain prisoners may be the subject of liberation attempts from outside the prison.

87 Some prisoners are seriously disruptive. In recent years, prison administrators have reported that a small number of long-term prisoners threaten and blackmail other prisoners and may carry out serious acts of violence against other inmates. This problem is often associated with the desire of drug misusing prisoners to get others to smuggle drugs into the prison, with carrying out revenge against an informer, with gang rivalry, etc. Nor are prison staffs and their families immune from such threats and violence.

88 Foregoing sections of the Recommendation have emphasised that intensive efforts should be made to contain and change damaging and destructive prisoner behaviour without the use of segregation. In consequence, the setting up of maximum security units should always constitute a last resort. Attempts should be made instead to deal with escape proneness and disruptive behaviour by other means. These can include re-allocation and modification of the regimes or other conditions of imprisonment and making clear the positive and negative consequences for the prisoner.

¹⁰ Control Review Committee, Home Office, England & Wales, 1984.

¹¹ See General principles for the management of life sentence and other long-term prisoners above.

- 89 A distinction should be made between maximum security units intended only to prevent escape and those used to hold disruptive prisoners. The regimes should differ according to their main purpose. Those dealing with serious escape risks will need to emphasise security routines and measures. Those dealing with disruptive prisoners may not need to emphasise security so much as efforts to change attitudes and behaviour. If no efforts, apart from a strict regime, are made to influence such prisoners, confinement to a maximum security unit runs the risk of confirming them in their unsafe behaviour. An attempt should be made to deal with antagonistic, exploitative and aggressive feelings since, if they are left unassuaged, they will continue to come to active or covert expression in behaviour. In consequence, regimes within maximum security units should aim at a relaxed atmosphere, provide for freedom of movement within the unit and a range of activities. Abuses by individual prisoners of opportunities offered should of course be dealt with by appropriate and proportionate action, for example, withdrawal of an opportunity or disciplinary action. The principle at 20c is in line with the recommendations made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment which considered that in the absence of such a regime prisoners become alienated from the staff.¹²
- 90 In addition, the Committee considers that for prisoners held, for whatever reason under conditions akin to solitary confinement “an essential safeguard is that whenever the prisoner concerned or a prison officer on the prisoner’s behalf, requests a medical doctor, such a doctor should be called without delay with a view to carrying out a medical examination of the prisoner. The results of this examination, including an account of the prisoner’s physical and mental condition as well, if need be, the foreseeable consequences of continued isolation, should be set out in a written statement to be forwarded to the competent authorities.”¹³

Counteracting the damaging effects of life and long-term sentences

21

- 91 The Recommendation provides principles for preventing and counteracting the damaging effects of life and other long-term sentences. There is thus a presupposition that there are damaging effects consequent upon life or long-term imprisonment and that they can be prevented and counteracted. An essential basis for planning the management of long-term and life-sentenced prisoners requires therefore an understanding of these effects of long-term and life imprisonment and the measures that can prevent or counteract them. This raises the question of whether research findings can provide useful knowledge about such effects and ways of hindering their emergence.
- 92 The Correctional Service of Canada in a working paper for the Committee that prepared the Recommendation noted that earlier research tended to show negative effects among offenders serving long sentences of imprisonment. Some of this research had been criticised as having methodological weaknesses. The report cited the results of Canadian researcher workers¹⁴ who had failed to find damaging psychological effects resulting from incarceration. In sum, the Correctional Service of Canada found a lack of consistency in the reported research findings. It was concluded that the differences and discrepancies were largely attributable to the methodology of the various studies. Qualitative and quantitative approaches tended to produce different findings. In consequence, “... Given the impact that current methodology appears to have on the findings, utilising multi-method assessments may be instructive in future research in this area.

¹² See the report of the Committee’s visit to Kumla Prison, Sweden, in May 1991.

¹³ See point 56 in the 2nd General Report on CPT activities for 1991, Document CPT/Inf (92) 3.

¹⁴ Wormith, J.S., Tellier, M.C. and Gendreau, P. (1988) “Characteristics of protective custody prisoners”, Canadian Journal of Criminology; Bonta, J. and Gendreau, P. (1990). “Re-examining the cruel and unusual punishment of prison life”, in “Long-term imprisonment: policy, science and correctional practice”, Sage Publications.

Further, perhaps an important area might be the investigation of protective factors that insulate offenders from responding negatively to their incarceration experience.”¹⁵

- 93 In another Canadian report that surveyed existing research¹⁶, it was suggested that long-term prisoners adopt coping strategies to deal with their experience and that these strategies might reasonably be expected to vary widely between different individuals. Varying strategies could also be expected to provide both more and less constructive ways of dealing with the experience of long-term imprisonment. It would contribute to a more humane and effective use of imprisonment if these strategies and their effectiveness could be studied more closely.
- 94 Further to the assertion that the methodology adopted tends to influence what is found, it may be noted that psychologists and sociologists tend to have differing views about what constitutes an effect. The research conducted by psychologists tend to make use of standardised psychological tests and procedures to examine psychological functioning, for instance, cognitive abilities, memory, self-image and dysfunctional emotional states such as depression. Sociological studies tend to focus on other effects. Thus, a large number of sociological studies conducted over the last fifty years have emphasised that imprisonment – and perhaps especially long-term imprisonment - tends to increase knowledge of criminal techniques, widen contacts with criminal circles and reinforce identification with a criminal lifestyle. One study of long-term imprisonment conducted by two sociologists¹⁷ took place over a period of four years during which they interacted with long-term prisoners in an education class and observed changes in their behaviour and attitudes. They also noted variation in the coping strategies adopted. In particular, they observed the breakdown of marital and family relationships and the fear that such breakdowns would occur. Although they carried out no psychological tests, they noted that the fear of mental deterioration was a recurring theme in discussion with prisoners and they observed deteriorated behaviour in the form of apathy and withdrawal from activities.
- 95 Even if the research findings to date are insufficiently clear-cut and conclusive, the following quotation, commenting on the inconclusive nature of research on the effects of long-term imprisonment, admirably sums up what is known and what should be done to mitigate damaging effects.

“... it is also clear that long-term offenders react in particular ways to the circumstances of prolonged confinement. We know that relationships with family and friends can be severed, that particular vulnerabilities and inabilities to cope and adapt can come to the fore in the prison setting, and that the behaviour patterns that emerge can take many forms, from deepening social and emotional withdrawal to extremes of aggression and violence ... In managing long-term offenders, therefore, it would seem reasonable to develop a range of strategies... In some ways these offenders would be dealt with similarly because of sentence length. In other ways, they could be dealt with quite differently in accordance with expected modes of adjustment and comportment during sentence ... [this] suggests variation in security and programming assignments, and much more focused and structured sentence planning in using scarce resources as appropriately as possible.”¹⁸

¹⁵ “Overview for the Council of Europe: Effects of incarceration on adult offenders”, report submitted to the Committee by the Correctional Service of Canada.

¹⁶ John Howard Society of Alberta (1999) “Effects of long term incarceration”.

¹⁷ Cohen, S. and Taylor, L. (1972) “Psychological survival: the effects of long-term imprisonment”, Penguin.

¹⁸ Porporino, F.J., date unstated, “Differences in response to long-term imprisonment: implications for the management of long-term offenders”, report prepared by the Research and Statistics Branch of the Correctional Service of Canada.

- 96 The provisions of the present Recommendation, with their emphasis on sentence planning and individualisation, are in line with the foregoing. In particular, sentence planning should seek to counteract any damaging effects of life and long-term sentences.
- 97 A first step is to recognise that life-sentence or long-term prisoners on entry into prison need to be oriented into the prison world in which they will live for a very long time. If they are in a state of confusion and shock because of their sentence, this orientation becomes even more important. An induction period should provide, therefore, for explaining and discussing the routines and rules that will govern their stay. They need from the outset to have a clear understanding of what is expected of them and their rights within the prison system. Explaining and discussing rules, routines, rights and duties may be necessary at intervals thereafter. This will also be necessary on transfer to another prison or to another wing where the conditions of confinement are different.
- 98 Sentence planning offers opportunities to motivate prisoners to exercise individual responsibility both in choosing activities and in carrying them out. In itself this provides a modicum of prisoner-exercised control over the environment and, to that extent, counteracts the sense of powerlessness. But possibilities for the exercise of group responsibility should also be provided. Traditional prison life consists of endless days with known and unchanging routines. Heavily ordered life takes away the possibility of exercising personal and group responsibility. Efforts should, therefore, be made at both individual and group level to give prisoners responsibility for the structuring of as many areas of prison life as possible¹⁹. Opportunities for prisoner groups to share responsibility with members of the staff can be utilised over such matters as food menu arrangements, the organisation of physical activities, invitations to outside groups for cultural events or entertainment, etc. The aim should be to share as much responsibility with prisoners as possible using staff-inmate discussion and clear agreements that spell out the consequences of compliance - and non-compliance - with what is agreed. Such methods counteract what otherwise are the deadening and dulling effects of prison life, allow it to approximate to normal life in the community and, thereby, to contribute to the prevention of damaging effects.
- 99 Prison administrations should, therefore, ensure that the prison environment offers material conditions and adequate opportunities for physical, intellectual and emotional stimulation. These opportunities should be related to the personal situation and developmental possibilities of each prisoner. Adequate sensory stimulation is important, not least because of the demonstrated damaging effects of sensory deprivation. Human beings also need to feel that they exercise some degree of control over their environment. If this sense of control is severely limited, feelings of powerlessness arise. Such feelings have damaging psychological effects and often lead to "learned helplessness". Lastly, there is the need to feel that life has some meaning. When life is felt to be meaningless, depression and suicidal thoughts or actions easily occur.
- 100 Education classes should be arranged, in accordance with Rule 77 of the European Prison Rules, to provide opportunities for life and long-term prisoners to deal with their handicaps. The Rule states that such programmes should have as their objectives the improvement of the prospects for successful social resettlement, the morale and attitudes of prisoners and their self-respect. A further objective is that participation in such programmes makes possible a constructive use of time and contributes to counteracting negative effects.
- 101 Damaging social and psychological effects are more likely to be avoided if the physical environment in which life-sentence and long-term prisoners must live is supportive of the active life which sentence seeks to ensure. Strenuous efforts should be made to provide premises, furniture and decoration of pleasant and user-friendly character.

¹⁹ See, in this connection, Rule 69 of the European Prison Rules (Recommendation No. R (87) 3).

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102

Life sentences and long terms of imprisonment tend to break up marital and family relationships. If their impairment can be prevented an important step has been taken to maintain the prisoner's mental health and, often, motivation to use time in prison positively. Marital and family relationships derive their strength from emotional ties. It is important, therefore, to try to ensure that the circumstances of life sentences and long-term imprisonment do not result in these ties withering away.

103

The maintenance of family relationships is facilitated if family visits can be easily undertaken. Family visits are hindered if the distances to be travelled are long, since considerations of cost and the amount of travel time involved will often render visiting infrequent. It is for this reason that Principle 22 urges that consideration be given to allocating prisoners as often as possible to prisons that are geographically near to their families or close relatives.

104

Liberal opportunities to receive and send letters are essential. Frequent visits and visits of long duration under conditions that allow for privacy and physical contact are equally essential. Telephoning offers further opportunities to maintain contact with families. Opportunities to make telephone calls should be made widely available to long-term and life-sentence prisoners. If it is feared that telephone conversations are being used to organise crime, plan escape or in some other way disturb security and order, they can be monitored, but prisoners should be informed that monitoring can be ordered if necessary. Similarly, if letters or visits endanger safety and security, consideration should be given to allowing them to continue using preventive procedures, for example reading correspondence and searching before and after visits.

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105

Other contacts with the external world should also be fostered. Television, radio and newspapers offer the possibility of keeping up with local, national and international events as well as providing entertainment. In some countries television courses are used as an adjunct to education programmes. Access to internet can however give rise to serious problems by facilitating continuation of criminal activities from within the prison. External visitors should be encouraged, both for prisoners as individuals and as a group. Such visits can be used for informational, entertainment and cultural programmes as well as purely personal contact. A form of external contact that is permitted in some countries for life-sentence and long-term prisoners is that they are allowed short escorted leaves. The prisoner is allowed to leave the prison for a few hours escorted by one or two members of the staff. The leave can have varied purposes: to visit a football match, to do some shopping, to hear a concert, etc. Such "breathing space" leave can be a welcome break in prison life and maintain some sense of awareness of life in the external world. Ordinary leave to visit families should be allowed after a qualifying period and with due account taken of the characteristics and situation of the individual prisoner. As prisoners approach the final stages of their imprisonment consideration should be given to allowing long leaves from prison. The provisions of Recommendation No. R (82) 16 on prison leave should be implemented with life and long-term prisoners.

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106

One of the most important and constructive activities that can be undertaken during the serving of a life or long sentence is to try to get prisoners to come to terms with their offences, the ensuing sentence and the harm done to victims. But the process of coming to terms with what crime has meant for the individual prisoner, close relatives and victims is painful. Especially where serious crime has been committed strong guilt feelings can be expected to arise. Moreover, since such feelings emerge in the course of a long prison sentence, the opportunities for reparation are almost certainly limited or non-existent. Unless these feelings are recognised and the prisoner is helped to deal with them, the gains in moral awareness risk being lost in damaging depression. It is, therefore,

imperative that the existence of guilt feelings be recognised, that opportunities are provided for their sensitive exploration and, where possible, for some form of reparative action. Counselling help and support should, therefore, be available throughout life and long-term imprisonment. The assistance that can be provided by sympathetic ministers of religion – even for those prisoners professing no religious faith – should not be overlooked.

- 107 The annual reports of prison administrations often carry statistics on prisoner suicides. The risk of suicide is to be found among all categories of prisoners but is perhaps of special importance where life-sentence and long-term prisoners are concerned. This risk often emerges after conviction and at the start of the life or long-term sentence. It is not sufficient to isolate a potential suicidal prisoner and provide preventive observation. This may well prevent the suicide but fails to provide the psychological help that will solve the underlying problem. The psychological help to be given may necessitate the use of a specialist. A preventive activity using a non-governmental organisation is to be found in the prisons of England & Wales. A lay organisation, the Samaritans, has the prevention of suicide in the community as its primary purpose. However, the organisation is also active in prisons. In addition to prisoner counselling, the Samaritans select and train individual prisoners as “listeners”. Listeners seek out prisoners who are experiencing personal mental difficulties that could lead to suicide with a view to supporting and helping them. This mobilisation of support among and by prisoners is probably also of significance in counteracting damaging effects and giving prisoners an enhanced sense of personal worth based on assuming a responsibility for helping other prisoners.
- 108 Depression, lowered self-esteem and apathy may occur in the course of long confinement. Prison staff need to be trained in noting any onset of negative psychological states and take steps to see that it is dealt with. Prisoners should have access to counselling help and support whenever psychological difficulties manifest themselves.

Special categories of life-sentence and other long-term prisoners

- 25
109 Recommendation No. R (84) 12 deals with foreign prisoners. The Explanatory Report to the Recommendation summarises the situation concerning foreign prisoners as follows:

“Foreign prisoners frequently encounter particular difficulties on account of such factors as different language, culture, customs and religion. If they do not understand the language of the country of detention they may not be able to communicate with staff and other inmates and may not have access to information and reading material, and they risk being excluded from participating in the prison” activities and facilities. Imprisonment in a foreign environment poses additional problems, especially if customs and food are unfamiliar or incompatible with the prisoner’s religious precepts. All this produces alienation and isolation that is increased by the fact that foreign prisoners have difficulty in maintaining contact with family, friends and others in their country of origin; visits are rare or non-existent. In addition, lack of a common language will impair communication with those persons and agencies responsible for assisting the prisoner in his resocialisation. As a result, the prisoner’s chances of social resettlement are greatly reduced.”

“At the same time, the problems.... place an additional burden on prison administrations: they must seek to provide interpretation and translation, to make special arrangements for prison visits and other contacts with the outside world, to adjust educational and professional training facilities, to observe special dietary requirements – to mention but a few of the problems posed by the detention of foreigners.”

110 The problems faced by foreign prisoners and prison administrations that have been described above become even more acute with long-term and life-sentence foreign prisoners. A first possible solution to these difficulties is to examine the possibilities of repatriation afforded by the European Convention on the Transfer of Sentenced Persons or through bilateral arrangements. Repatriation often makes for advantages in preparing for release and avoids many of the difficulties mentioned previously. Where repatriation is not possible, efforts should be made to implement the principles of Recommendation No. R (84) 12. These principles – thirty in all – deal with allocation, treatment in prison, assistance by consular authorities, assistance by community agencies, training and use of prison staff, the collection of statistics and expulsion and repatriation.

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111

Certain prisoners are particularly vulnerable to the pressures of life and long-term imprisonment. Special efforts may be necessary to counteract the emergence of negative effects. Thus, it is a general experience that certain offenders are likely to face the contempt of other prisoners and may even become subject to maltreatment, including threats and assaults. It is the duty of prison administrations to protect such vulnerable prisoners from any form of maltreatment by other prisoners. Protective seclusion from other prisoners may be necessary. If this, however, entails the complete isolation of the individual from other prisoners it may only mean exchanging one problem for another. Where seclusion becomes necessary, the dangers of isolation can be avoided if a safe and supportive environment is provided in a wing or unit reserved for vulnerable offenders.

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112

The life-sentence and long-term prisoner population may by its very nature contain a number of prisoners who are mentally disturbed or who become so. Mental disturbance may be a reaction to the conditions of long term or life imprisonment or, as with Alzheimer's disease, arise as a result of advancing age. Whatever the cause of the onset of mental disturbance, it is essential that a skilled diagnosis be made at as soon as symptoms become apparent. Any treatment that can be provided will naturally depend on the diagnosis made and the general characteristics of the prisoner, in particular the nature and degree of dangerousness. Severe disturbances may need treatment at a community or prison hospital that is staffed and equipped to deal with mental disturbance. In this connection, the guidance given in Recommendation No. R (97) 7 concerning the ethical and organisational aspects of health care in prison should be followed. Some long-term and life-sentence prisoners may be handicapped by low intelligence. The permanent nature of this condition calls for care and understanding on the part of the staff rather than treatment. It should not preclude strenuous endeavours to stimulate such prisoners to develop their intellectual and emotional capacities to the full and experience the reward of personal achievement.

28

113

Elderly life-sentence or long-term prisoners make special demands on health care. They should be assisted throughout the serving of their sentence to maintain good standards of physical and mental health. As life-sentence and long-term men and women prisoners become more aged they should have access to suitable diagnostic, remedial or other geriatric services. Opportunities for suitable exercise should be regularly provided. Weakened physical strength may mean that work and other activities should be flexibly adapted to the individual prisoner's physical and mental capabilities. Special dietary needs should be catered for.

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The age and health status of life and long-term prisoners together with the length of time that they remain in prison make it likely that some will die before they are released. The approach of death, implying as it does the final separation from all that constitutes living, is for all human beings a momentous matter. Dying may also be accompanied by bodily pain and acute functional deficiencies. Nearly all human beings are in need of special medical and emotional support in this final phase of life. Terminally ill prisoners present special challenges in this regard. Careful consideration should be given to allowing them to be released so that they may be cared for and die outside a prison. Not all prisoners will want this solution – they may be friendless and feel that they have special bonds with some member or members of the prison staff. If, of necessity, a prisoner must be kept in prison until death supervenes, special arrangements should be made to assuage the effects of any fatal illness and provide psychological help and support. Over and above the medical treatment given, in particular the alleviation of pain, efforts should be made to provide hospice-like forms of care with easement of prison conditions. Qualified help should also be given to assist the prisoner with any desired practical arrangements, for example, the making of a will, burial arrangements, etc.

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Women prisoners constitute a minority – perhaps a tiny minority – of those serving life-sentences or long-term imprisonment. Although their needs may often be similar to those of male prisoners, the fact of being a small minority of such prisoners and/or discriminatory attitudes and practices frequently operate to their being disproportionately disadvantaged in the provisions made for satisfying their needs.²⁰

116

Individual sentence planning, allocation to a suitable prison and providing access to special interventions acquires, therefore, a special importance when life-sentence and long-term women prisoners are involved. It may be especially necessary to merge them with the more general population of women prisoners in order to avoid harmful social isolation. Like male prisoners, female life-sentence and long-term women prisoners should also have the possibility of contact with staff of the opposite sex. Life and long-term women prisoners who have been subjected to physical, mental or sexual abuse before entry into prison should have access to special programmes to help them come to terms with such experience. Women prisoners should have good access to gynaecological services.²¹

117

When being with the mother is considered to be in the best interest of a young child, the principle of individualisation means that women serving a life or long-term sentence of imprisonment should not be denied this possibility solely by reason of their sentence. And where it is decided that a young child should remain with the mother, the principle of normalisation means that prison administrations should provide appropriate conditions, that is, conditions that are favourable to the rearing of a young child. It should be noted that in some countries there is an increasing tendency in the best interest of young children to place them with their fathers. Where this occurs, the principles of individualisation and normalisation should be applied to a father serving a life or long-term sentence in the same way as described here for women prisoners.

²⁰ In one member country, male prisoners are allowed weekend family visits in a private room so furnished that sexual intercourse is possible for those couples that desire it. Women prisoners are not allowed to have such family visits for fear that they will become pregnant. There is no provision for contraception. The practice discriminates against life-sentence or long-term women prisoners.

²¹ In the course of a 1991 visit made to a women's prison in a western European country, the CPT criticised the inadequate provision for gynaecological examinations and treatment.

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Life-sentence prisoners who are unlikely to be released and will probably spend the rest of their natural life in prison must also be considered a vulnerable category of prisoner. Nevertheless, such prisoners may have quite diverse ways of coping with their situation. Some may exhibit aggressive and rebellious tendencies, others may sink into apathy. Aggressive and rebellious attitudes and behaviour, even if they must not be allowed to do harm, may be an important part of a coping strategy and should not necessarily be seen as unhealthy. Apathy and withdrawal from active life are probably more worrying indications of mental ill health. Sentence planning for these prisoners will make great demands on imagination and flexibility in devising activities and psycho-social support that help the prisoner to come to terms with the hard reality of spending the rest of his or her natural life in prison. This will give rise to both ethical and practical problems when serious illness, age-related incapacitation and imminent death occur. Consideration should then be given to releasing the prisoner, or, if this is not possible, to allow the continued imprisonment to be carried out under compassionate conditions. Release may not be possible for example because the prisoner is homeless and friendless and prefers to die in prison.

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Concerning juvenile prisoners with long sentences of imprisonment, the Recommendation refers to the guidance given by the United Nations Convention on the Rights of the Child. This Convention defines a child as a person under the age of eighteen unless domestic legislation provides for an earlier age of majority (Article 1). It requires that all measures taken concerning children – public or private – shall be in the best interests of the child (Article 3.1). This provision is reinforced in Article 27.1 which requires that the right of every child to a living standard necessary for physical, mental, spiritual, moral and social development shall be recognised by the States party to the Convention.

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Article 34 requires that ratifying States take all necessary measures to protect children from all forms of sexual molestation or exploitation.

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In accordance with the provisions of the United Nations Convention, the Recommendation provides that juvenile prisoners with long sentences of imprisonment should only be accommodated in institutions or units that are designed for their special needs. The Council of Europe Recommendation No. R (87) 20 on social reactions to juvenile delinquency also provides general guidance on meeting the needs of juvenile delinquents. Examples are given in the Recommendation of the kinds of measures to which special attention should be given when dealing with long-term juvenile prisoners.

Managing reintegration into society for life-sentence and other long-term prisoners

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Release from a life or long-term prison sentence demands an approach to release planning that differs from that required with shorter sentences. The long time-perspective involved – perhaps with a considerable degree of uncertainty about if and when release will be granted – means that a number of the immediate practical arrangements must be delayed until the release date is known. But time in prison can be fruitfully used for general long-term preparations, some of which in any case require a good deal of time to execute. In this sense, release preparation can and should start well in advance of any known or presumptive date for release.

- 123 Earlier in this report it has been urged that a wide range of programmes that improve released prisoners' opportunities on the labour market should be developed. Such programmes encompass basic, further and advanced education, and work skills training. Programmes to improve employability are relevant regardless of whether national levels of unemployment are low or high since a well-trained released prisoner will always be better fitted to deal with the competition for employment than an untrained prisoner. The value of educational and training programmes is greatly enhanced if they lead to a nationally valid qualification. Programmes that enable prisoners to address their offending behaviour and improve social skills merit special consideration as part of long-term release preparation. Courses of this kind have been pioneered in Canada, and are in process of development in several member countries. These courses include anger control and violence prevention programmes, drug and alcohol abuse treatment programmes, cognitive self-change programmes, enhanced thinking skills, sex offender treatment programmes as well as similar programmes focusing on the special needs of women and young offenders.
- 124 Long-term release preparation is at the same time of short-term benefit. Personal change programmes, based on "What works" principles²² should be seen as an integral part of the programmes provided. Participation in personal change programmes can lead to a greater awareness of what criminal activities mean for the victim, the offender and those having a close relationship with the offender. The notion of personal responsibility and how it shall be exercised thereby becomes enhanced. Increased understanding of oneself and an improved awareness of what personal responsibility and irresponsibility means can contribute to personal change on the part of prisoners. And moral and mental growth are important ways of counteracting negative effects such as depression, the fear of deterioration, apathy and withdrawal from active life.
- 125 Throughout the detention period attention should be given to the risks and criminogenic needs presented by a prisoner through continual sentence planning. When the date of release is known or can be presumed, sentence planning should focus more on identifying the risks and needs that are likely to present themselves in the immediate post-release period and making plans to deal with them. In this connection it would be essential to give consideration to the desirability of arranging for the post-release continuation of any educational programme, vocational training, personal change course or other intervention that has been started during detention. Continued participation in such programmes or interventions can make a significant contribution to maintaining any personal progress made during detention and at the same time constitute an important form of informal social control.
- 126 As the time draws near for release, final release preparation should become more focused on practical aspects. The content of this final phase of release preparation will depend on each prisoner's specific personal and social situation. Ideally, the person or persons who will be responsible for any post-release supervision should be involved in all phases of release preparation and should have made some contact with the prisoner long in advance of release. Where, for practical reasons, this has not been possible, it is of particular importance that they should at least be involved in the final phase of the preparation.

²² The "What works" principles are dealt with in detail below.

- 127 Finally, the approaching release may produce a greater awareness of, perhaps accompanied by anxiety about, difficulties that have to be faced after release. Opportunities should be provided to discuss such difficulties, the feelings associated with them and the nature of possible solutions. The period immediately following release is a particularly difficult time for many released prisoners. Despite all that may have been done as pre-release preparation, they frequently find themselves isolated, lonely, anxious and uncertain in the world outside the prison. Under these circumstances, they easily seek reassurance by returning to criminal companions. And from there, it is only a short step to returning to a criminal way of life.²³
- 128 The foregoing considerations emphasise that release preparations should be closely linked to the specific post-release situations of individual prisoners and that post-release follow-up interventions will often be necessary. It is clear that such arrangements cannot be made unless there is a close collaboration between the prison administration and the various authorities who are to be involved in post-release interventions. In the first place, any authority with direct supervisory responsibility for the released prisoner should be a partner in the pre-release planning process. But if the assistance of social and medical services is required, they too should be involved in good time before the actual release date.
- 129 The skilful management of long-term and life-sentence prisoners involves both prison staff and those who are responsible for the supervision of conditionally released prisoners. This is recognised in Recommendation No. R (97) 12 on staff concerned with the implementation of sanctions and measures. Appendix I to the Recommendation contains 51 principles dealing with recruitment and selection, training, conditions of work and management responsibilities, and inter-service mobility. Appendix II contains European Guidelines for national ethical guidelines. Although the Recommendation does not focus specifically on staff dealing with long-term or life-sentence prisoners, its principles have considerable relevance for such staff. Professional prison work includes preparation for the release of prisoners. To this end, the Recommendation emphasises the importance of involving prison and post-release supervisory staff in mutual learning. Community agencies involved in the resettlement of released prisoners should also be involved in prison staff training.
- 34**
130 Principles for the granting and implementation of conditional release are contained in Recommendation Rec(2003)22 on conditional release. This Recommendation and its Explanatory Memorandum is, for the reasons given below, an essential complement to the present Recommendation. In addition, it should be noted that Rule 5 of the European Rules on Community Sanctions and Measures has been changed in order to allow indeterminate supervision with suitable guarantees for a just application of this measure²⁴. The amended Rule 5 is obviously of considerable relevance to the management of long-term and life-sentence prisoners. Even potentially dangerous offenders can be released and placed under life-long supervision in the community. Life-long supervision can be continuous or intermittent. In the latter form, it can be activated if the released prisoner's behaviour gives rise to concern.

²³ In Sweden, a non-governmental organisation, Criminals Return Into Society (CRIS) was started in 1997. Its members, over 3,100 in 23 municipalities in September 2002, are mainly former offenders. In addition to serious criminality most of them were dependent on drugs and alcohol. They have now been living drug-free and law abiding lives for a considerable time. CRIS seeks to prevent released prisoners from returning to criminal circles and offers help from the moment prisoners leave the prison and during the first difficult period in freedom. Prisoners expecting to be released contact CRIS at least three months before release is planned. Contacts are intensified on release, beginning at the prison gate. "Godfathers" and "godmothers" who have personal experience of the difficulties that face released prisoners are appointed as lay supervisors and are reachable by mobile phone at all hours. No scientific evaluation of this work has yet been undertaken, but results appear favourable and have led to increasing state and municipal financial support. An organisation on similar lines is in process of formation in Denmark.

²⁴ See Recommendation Rec(2000)22 on achieving a more effective use of community sanctions and measures and the Explanatory Report concerning the new formulation of Rule 5.

- 131 Recommendation Rec(2003)23 contains the principle that conditional release should be possible for all prisoners except those serving extremely short sentences. This principle is applicable, under the terms of the Recommendation, even to life prisoners. Note, however, that it is the *possibility* of granting conditional release to life prisoners that is recommended, not that they should always be granted conditional release. It also contains a provision stating that the granting and revocation of conditional release should be in the hands of an authority or body empowered by law and manifestly impartial and independent. Such a body is often referred to as a “court-like” body.
- 132 The content of any post-release supervision will need to be carefully explained, preferably with the participation of the person or persons who will be carrying out the supervision. The nature of the supervision and its implementation should be in accordance with the European Rules on Community Sanctions and Measures. In particular, Rule 24 requires that control requirements shall be practical, precise and only used to the extent that is necessary for effective implementation. Rules 30-36 deal with securing the co-operation of the offender and are, therefore, of central importance.
- 133 Currently, the mechanisms for granting life-sentence prisoners release from prison are as follows. In all countries provision is made for the release of life-sentence prisoners from prison for compassionate reasons. This special form of release is not considered further in this report. Release for other than compassionate reasons is, in the majority of countries, granted through a measure of clemency granted by the Head of State, or by decision of a government or government minister or through the decision or recommendation of a parole board, which may or may not be of quasi-judicial character. Granting or revoking conditional release is also undertaken by judicial review. Securing consistency of decision-making is dealt with in Recommendation Rec(2003)22 on conditional release.
- 134 Where a president or monarch takes the formal decision on release, it is customary for this to be done at the request of the government. The practice whereby a government or government minister takes, or exercises a decisive influence on, the final decision on release from a life sentence has been criticised in the public debates of some countries. Critics argue that such decisions are frequently coloured by the political stance of the government in power. A government with a lenient policy may supersede a government with a restrictive policy, and *vice versa*. The question also arises as to what extent the taking of decisions on release by the executive and not a court is in conformity with the European Convention on Human Rights.²⁵ Hence, it is argued, discretionary release from imprisonment, as with its imposition, is a matter for the courts and not the executive. There are indications that these views are tending to lead to changes in the procedure for reviewing life imprisonment.
- 135 Thus, on 1 July 2001, new legislation on the conditional release of life-sentence prisoners entered into force in Denmark. Before that date, the final decision on the release of life-sentence prisoners rested with the Crown. The new legislation aims to ensure that there shall be a regular review of life sentences and, especially, that under certain circumstances it will be left to a court, and not a political instance, to make a final decision. The first review must take place after 12 years have been served. This is conducted by the central prison administration with account taken of the views of the prosecution service, the local prison administration and, in the assessment of believed dangerousness, by a medical review commission. A positive decision states the date for conditional release and the conditions to be imposed. A negative decision gives detailed reasons for not granting conditional release. However, after 14 years without a positive decision on conditional release, prisoners have the right to request a court review of their case. The court nearest to the prison in which the sentence is being served decides whether a prisoner shall be conditionally released. A negative decision can be appealed to a county court.

²⁵ This question has been the subject of Judgment *Stafford v. the United Kingdom* of 24 April 2002 of the European Court of Human Rights.

- 136 In Sweden, a Commission on Life Sentences has reported on whether current legislation, which allows the government to commute life sentences into determinate sentences, should be changed. (Once the life sentence has been commuted to a fixed term, the ordinary rules on conditional release apply, i.e. conditional release is granted automatically after two-thirds of the fixed sentence has been served). The Commission recommended that in principle all life-sentence prisoners should eventually be released. It also recommended that a court, and not the government, should decide whether and when to release life-sentence prisoners. This recommendation makes it possible to appeal to higher courts. In order to achieve consistency in decision-making, the Commission recommended that only the Stockholm Court of First Instance should decide on the conditional release of life-sentence prisoners. The Commission has also proposed specific criteria, to be embodied in law that should guide decision-making on granting release.
- 137 In Finland, the Prison Sentence Committee presented proposals on the conditional release of life-sentence prisoners in 2001. Legislation to give effect to the proposals will be presented to Parliament in the autumn of 2003. The content of the proposals is as follows. Every life-sentence prisoner would be eligible for conditional release. A positive or negative proposal on the granting of conditional release would be submitted by the prison administration shortly before the prisoner has served 12 years of his/her sentence for decision by the Helsinki Court of Appeal. A negative decision by the Court would lead to further proposals by the prison administration and decisions by the Court at intervals of two years.

Recalled prisoners

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- 138 Failure to observe the conditions of conditional release can result in the released prisoner being recalled to prison. When it becomes necessary to recall a released prisoner, the principles of management enumerated in the present Recommendation should be applied during the further period of detention. Clearly, there is room to examine the nature of the previous implementation and to confront the recalled prisoner with the failure to fulfil the conditions of conditional release. The purpose of the examination and confrontation should not be one of recrimination but to make a new and sober evaluation of any risks and needs that were not adequately dealt with as well as the further possibilities for doing so. The allocation of a recalled prisoner and further interventions to be undertaken should be decided on in the light of the new assessment. A new decision on conditional release should depend largely on the results of these further interventions. The essential aim should be to prepare the prisoner as soon as possible for a further attempt at resettlement in the community.

Staff

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- 139 The principles contained in Recommendation No. R (97) 12 on staff concerned with the implementation of sanctions and measures deal with the recruitment, selection, training, conditions of work and mobility of staff working in custodial and non-custodial services. The Recommendation also contains ethical guidelines for such staff. Although the Recommendation's principles are not specially focused on staff dealing with life or long-term prisoners, they are of special relevance for them.

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Prison staff when dealing with long and life-sentence prisoners, as a group or in company with other prisoners, may face more serious difficulties than those occurring with shorter-term prisoners. The responsibilities carried by the staff are accordingly greater. So far as prison staff are concerned, their responsibilities stem directly from the three major aims of good management – the maintenance of prison security and safety, counteracting the negative effects of imprisonment and release preparation. Translating these aims into everyday action can only be done through all categories of staff working professionally as a team. This implies organisational leadership, the provision of support and advice to staff in continuous contact with prisoners and debriefing sessions if explosive situations do occur.

141

If the exacting duties of prison staff dealing with life and long-term prisoners are to be carried out satisfactorily, the qualities of empathy, strength of character and the ability to make calm professional judgements are fundamental. Furthermore, showing and maintaining respect for prisoners who may have committed abhorrent offences calls for great moral strength. To all these qualities must be added information and skills about security and safety arrangements, the prevention of negative effects and the execution of resettlement programmes.

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Some member countries with relatively large numbers of long-term and life-sentence prisoners have difficulties in recruiting a sufficient number of basic grade prison staff of good quality. Since the quality of staff is decisive for the humanity and effectiveness of a prison system, salaries that will attract suitable recruits should be paid (see in this connection Principle 40, Recommendation No. R (97) 12 on staff concerned with the implementation of sanctions and measures, Appendix I). Moreover, initial training is often of short duration and seldom followed up by regular further training. Improving the quality of work with life and long-term prisoners is, therefore, severely handicapped from the start. Nevertheless, efforts should be made to initiate forms of training and support for basic grade prison staff. Such training should not be limited to this category of staff. Prison governors and other senior and specialist staff should be included in the training schemes.

37b
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The present Recommendation emphasises the importance of using dynamic security. The nature of dynamic security and some significant aspects of its use have been explained earlier in the present Explanatory Report. Training in the use of dynamic security should be particularly emphasised for staff working in direct contact with life-sentence and long-term prisoners. Since dynamic security has to be practised under the special conditions obtaining with life-sentence and other long-term prisoners, special training is required.

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Reference has been made earlier in this report to the need to supervise and support basic grade staff in the exercise of dynamic security. Senior, specialist and supervisory staff need, therefore, to be trained in observing the ways in which dynamic security is operated in practice and providing appropriate guidance.

- 38
145 Special difficulties may arise where life and long sentence prisoners include those sentenced for organised crime or terrorism. Such prisoners can seek to manipulate staff for improper purposes and even to carry out serious criminal activities. This danger can be countered by ensuring an appropriate degree of mobility and rotation for staff so that they are not exposed to contact with these prisoners for unduly long periods.
- 39
146 Both experience and research on prison staff functioning show that conflicting perceptions of prisoners and ways of dealing with them are to be found among different categories of staff or groups within the same category. The typical difference is between the categories or groups who consider that prisoners are dealt with too leniently and with an inadequate emphasis on discipline, and those who emphasise empathy, understanding and flexibility. The management of prisoners is always weakened if they can exploit staff conflicts in approach and action. This is especially true when the prisoners concerned are life-sentence or long-term prisoners, some of whom may try to continue criminal or other harmful activities and whose sentences in any case entail deprivations over a long period.
- 147 The ideal is to prevent staff conflicts before they lead to a damaging imbalance between sympathetic and understanding relations with prisoners and firmness of control. Regular meetings and discussions are therefore recommended between different staff categories (or different groups within the same category, for example, different shifts) to explore and resolve potential conflicts.

Research

- 40
148 As mentioned earlier in this report, there is uncertainty about the nature and extent of various kinds of damaging effects that might arise during life or long-term imprisonment. This being so, there is a lack of knowledge about what activities, programmes and interventions might prevent the emergence of negative effects. This is clearly a research area of importance since improved knowledge can lead to a reduction of suffering and allow the stay in prison to be used constructively. Accordingly, research on possible negative effects and ways of preventing them should be encouraged.
- 41
149 The Recommendation also calls for research to determine the effectiveness of programmes and interventions designed to improve post-release adjustment in the community. The major element in post-release adjustment is abstinence from crime. The "What works" approach is designed to achieve this reduction in re-offending. Research is, however, necessary to ascertain whether particular programmes and interventions based on the theories underlying "What works" do in fact achieve this aim.
- 150 Such research is not easy to conduct and many problems have to be overcome. Although the aim is to reduce *re-offending*, in practice it is *reconviction* that is the commonly used outcome criterion in evaluations. The absence of a distinction between these two notions hides the fact that much crime is never detected (the dark figure) and that different crimes have different dark figures. The use of reconvictions as an outcome criterion needs, therefore, to be regarded with caution. In the first place, there are problems about what shall count as reconviction. Some studies, for example, ignore reconvictions leading to fines, while others ignore offences that lead to fines and a community sanction and count only the reconvictions that lead to further imprisonment. It is also, of course, possible to count all reconvictions and then present the varying rates of reconviction depending on which sanctions are used as outcome criteria. The criteria chosen should depend *inter alia* on the specific aims of the change programme that is being evaluated.

- 151 The time during which reconviction shall be counted also varies considerably in the studies carried out and can range from one to five years. And, for some kinds of offences, for instance, sexual offences, the dark figure means that long follow-up periods are required. Then, too, reconviction is not something that is solely dependent upon the offender's behaviour. The intensity and effectiveness of police work, and prosecutorial and judicial practice influence reconviction rates. Official reconviction rates can, however, be compared with offending rates derived from self-reported offences committed by prisoners after release studied under guarantees of anonymity. Such studies offer some possibility comparing re-offending with reconviction. Even self-report methods have weaknesses, however. It is by no means certain that a guarantee of anonymity will suffice for released prisoners to admit to committing further very serious offences, especially if the offence is subject to strong general moral disapproval, as is the case, for example, with rape or child abuse.
- 152 Yet a further problem is that of measuring the effect of *motivation* to change. The reconvictions of prisoners who volunteered for and completed a personal change programme are usually compared with a sample of similar prisoners who did not participate in or who did not complete the programme. The former group by volunteering presumably manifested a motivation for change whilst the latter group did not. For evaluations to be convincing it would be better if a population consisting entirely of volunteers were randomly assigned to either a programme or comparison group. The results concerning those who completed the programme, those who dropped out of it and those who did not enter it, could then be compared to provide a more modulated description of effectiveness. Even this design has a weakness. It is possible that getting prisoners to volunteer for a programme and then randomly refusing them entry into it in order to set up a controlled trial itself tends to produce a negative result.
- 153 There is no complete solution to the problems of measuring effectiveness. Ideally, perhaps, it would be desirable to use a variety of methods and criteria to assess the effectiveness of each personal change programme. In practical terms this would be a cumbersome and expensive way of assessing effectiveness, especially if a number of programmes had to be evaluated. It might instead be better to use easily accessible outcome data for initial (soft) evaluation of different programmes and reserve the (hard) multiple methods approach for only certain programmes of particular interest or importance.
- 154 Measuring the volume of reconviction, however defined, after some period, appears in much current research to obscure the importance of studying *when re-offending occurred* and using this to calculate the *probability of re-offending* during particular post-release periods for particular risk groups. Knowing the probability of actual relapse into crime during particular periods is of considerable interest and importance for effective supervision and risk management.

- 155 In an English evaluation²⁶ of the Canadian LSI-R risk assessment tool, an important finding was that various criminogenic needs were found to be significantly associated with reconviction. When some of the offenders were re-assessed in the course of supervision, increases and decreases in the new risk and need scores occurred. Changes in risk and need scores, occurring as a result of changes in criminogenic needs over time, were found to be indicative of changes in the likelihood of reconviction. Increased scores were significantly associated with higher reconviction rates and decreased scores with lower reconviction rates. This finding needs confirmation since it is based on small samples. But an instrument that measures *effective treatment progress or its absence* over time is clearly of value to practitioners.
- 156 Scientific research builds upon open communication in order that research methods and findings may be subjected to critical peer review and provide opportunities for replication. Penological research should not be excepted from this tradition and, therefore, the methods and findings of research on life and long-term sentences should always be published. In this connection it should be noted that well-founded negative results are as important as positive results. They show that which is ineffective or otherwise undesirable and therewith open up opportunities for new and better knowledge and ways and means of achieving desired ends.

²⁶ The instrument mentioned here was one of two that were evaluated. The LSI-R instrument has been developed over the last twenty years in Canada. It uses information derived from historical and dynamic 54 factors to forecast the likelihood of reconviction for a serious offence, in particular an offence likely to lead to custody. See Home Office Study No. 211, "Risk and need assessment in probation services: an evaluation", HMSO, London 2000.