

RE-SOCIALISATION OF OFFENDERS IN THE EU: ENHANCING THE ROLE OF THE CIVIL SOCIETY (RE-SOC)

Workstream 4: Civic monitoring of prisons

Analysis of availability and accessibility of data in Spain

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I. Introduction

Statistical prison data appear as a basic source of information for analysing the prison system reality, as well as for the implementation of the Prison Conditions Monitoring Index (PCMI), a tool designed to measure in a comparative way the conditions in prisons.

The main problems concerning prison data are related to their official or non-official character, availability and accessibility, as well as their veracity.

As in many other countries, in Spain in general and in the autonomous community of Catalonia, official statistical data on prison do not provide sufficient information for an in depth quantitative analysis. At least there are deficits in its availability and accessibility. In this sense one must count on the political will of penitentiary institutions for a good co-operation in providing data beyond of what is published.

Alternative prison data is provided by other institutions, NGO or international monitoring bodies, but there are problems to what extent it is reliable and comparable.

The lack of information impede to make a complete study on any prison and therefore, to go forward and make comparable studies on different facilities or even on different facilities from different countries.

1. Publicly available general information on prisons

The General State Administration (excluding Catalonia) owns 68 ordinary penitentiary centers, 2 Penitentiary Psychiatric Hospitals¹, 32 Social Integration Centers (CISs)², 3 Mothers Units and 14 Dependent Units³. These different centers are made for considering

¹ Penitentiary Psychiatric Hospitals are special facilities conceived for the execution of custodial security measures by inmates diagnosed with mental disorders.

² These centres are for inmates who are serving their sentence in open regime, or who are in an advanced process of reintegration.

³ They are prison units, situated outside prisons, usually in ordinary flats or houses without any outward sign that identifies them. Dependent Units are, together with the CISs, one of the resources used by the penitentiary authorities for the enforcement of sentences in an open environment. They depend on a particular prison but are managed, preferentially and directly, by associations and collaborating NGOs under the supervision of the Penitentiary Administration.

the personal characteristic and penal situation of the prisoners. The geographical distribution of the centers is adjusted to the penitentiary demand concerning each territory of the country, which allows prisoners serving their sentences in their nearest hometown facility⁴.

The official information offered by the Ministry of Interior in its annual reports of the penitentiary system's situation provides narrative information of the different types of centers, on the treatment training and education programmes but no comprehensive specific data and statistics. However, there are statistics available on prison population (number of offenders per year and per prison)⁵.

From an organisational point of view the penitentiary policy is managed by the Ministry of Interior through the General Secretariat of Penitentiary Institutions (<http://www.institucionpenitenciaria.es/web/portal/index.html>). In some cases, these competences can be assumed by the Autonomous Communities, which are the political and administrative territorial divisions of the State of Spain. Today, the autonomous community of Catalonia is the only one which has these competences transferred. For this reason, there has been created a Joint Commission to coordinate both administrations. In Spain the planning and design of prison policies is strongly centralised, while the execution of these services is decentralised.

2. Publicly available specific data on prisons in Spain

Both the General Secretary for Penitentiary Institutions (GSPI, Spain) and the General Directorate of Penitentiary Services (GDPS, Catalonia) carry out an official statistical data collection and some of this information is public and for free access. However, these two different statistical sources create some difficulties for making comparative analysis. The first one is that the GSPI and the GDPS collect data in an independent and different way,

⁴ The legal framework is established by the article 25.2 of the Spanish Constitution, the Penitentiary Organic General Law 1/1979 and the Penitentiary Regulation. It establishes the guidelines of the modern penitentiary system.

⁵ See more in "The Spanish Prison system" 2014, available in English at: http://www.institucionpenitenciaria.es/web/export/sites/default/datos/descargables/publicaciones/SIS_PENITENCIARIO_2014_ING_acc_2.pdf

using different methodology, indicators, etc. And the second one is that each one modifies periodically its own methodology, making more difficult the information to become comparable⁶.

2.1. Official data availability in Spain

For the Spanish general prison administration the information comes from the Ministry of Interior⁷ and the GSPI and some of the data could be consulted online: (<http://www.institucionpenitenciaria.es/web/portal/documentos/estadisticas.html>).

The statistical information is monthly updated.

Other data are available in the annual reports of penitentiary administration (General Reports from the GSPI). In addition, more information can be found at the National Statistics Institute (<http://www.ine.es/>), part of which is used by the Ministry of Interior.

Examining all these different sites and documentation is possible to find information on the following categories:

- Prison population desegregated on (a) men and women (b) national and foreigners (c) remand and sentenced
- Foreigners are desegregated by country, sex and by their remand or sentenced situation.
- Entries and exits to penitentiary institutions.
- Age structure of prison population: With some lacks and with different divisions from those used by the Catalan administration.

⁶ On 01.01.2012 entered into force a significant methodological change in the statistic information sources of the prison population depending on the GSPI. The Prison Information System (PIS) replaced the statistical questionnaires completed by each prison (see GSPI Annual Report 2012: 18). Available at: http://www.institucionpenitenciaria.es/web/export/sites/default/datos/descargables/publicaciones/Informe_General_2012_acc_Web.pdf

⁷ In Spain, prison administration depends on the Ministry of Interior. In Catalonia, penitentiary system is under the Department of Justice.

- Type of offense committed: data can be obtained from 2009. There are difficulties with the name of the categories and the existence of prisoners sentenced by the old and the new Penal Code (from 1995).
- Prisoners with major diseases as HIV or Hepatitis C.
- Deaths: desegregated by natural, suicide, accidents, aggressions, AIDS and overdose. In Spain, as opposed to Catalonia, figures do not include deaths occurred outside prison.

The most important missing data is related to:

- Some categories of the type of offense committed. For instance on smuggling or fraud, or in other especially sensible data for the administration as torture or other crimes related to institutional violence.
- Prison population by length and average of length of sentence imposed and for the average of sentence observed.
- Some confusion in the way people with mental illness and people declared as drug addicted or dependant are registered. This is because some of them can be inside prisons (in psychiatric units), some in psychiatric hospitals (also drug addicted), and some in non-penitentiary centres. In the same way, some people declared not guilty serve their Security Measure in prison.
- Total capacity of prisons, density per 100 places and surface area per prisoner.
- Probationers and measures attached: many gaps, incongruence with other international public statistics (v.g SPACE).
- Number of prisoners in parole.
- Information on some prisoners with special needs as for example persons mentally, psychiatric or physically handicapped.
- Injuries: neither self-injury, between inmates, from workers to inmates or vice versa.
- Treatment: general lack on information on different issues related to treatment as: number of social workers, of volunteers, of educational and training programmes, on the number of inmates working, etc.

2.2. Official data availability in Catalonia

For the Catalanian Administration the information depends on the Justice Department and can also be consulted online (http://www.gencat.cat/justicia/estadistiques_serveis_penitenciaris/). The statistical information is monthly updated but the Office offers a weekly summary. Older data is achieved in the annual reports of the Justice Department. In addition, more information can be reached at the Idescat (Catalan Statistics Institute - <http://www.idescat.cat/>), part of which is used by the Department of Justice.

There is also some information available the studies made by the Centre for Legal Studies and Specialised Training, a public body subordinated to the Department of Justice who carries out training courses and reports on topics related to the justice system (<http://cejfe.cat/index.php>).

Examining all these different sites and documentation is possible to find information on the following categories:

- Prison population desegregated on (a) men and women (b) national and foreigners (c) remand and punished
- Foreigners are desegregated by country, sex and by their remand or sentenced situation.
- Entries and exits to penitentiary institutions in a given year.
- Age structure of prison population: With some lacks and unexplained incoherencies⁸ and with different division form those used by the Spanish administration.
- Type of offense committed. There are difficulties with the name of the categories and the existence of prisoners sentenced by the old and the new Penal Code (from 1995).
- Number of prisoners in parole.
- Prisoners with major diseases as HIV or Hepatitis C.

⁸ Although data for 2007 in Catalonia shows an inconsistency with the dynamics of the decade, official statistics do not explain any peculiarity.

- Deaths: desegregated by natural, suicide, accidents, aggressions, AIDS and overdose.
- Injuries: self-injury and between inmates (but not from workers to inmates or vice versa)

The most important missing data is related to:

- Some categories of the type of offense committed. For instance on smuggling or fraud, or in other especially sensible data for the administration as torture or other crimes related to institutional violence
- Prison population by average of the length of sentence imposed and for the average of sentence observed (there are some data on the length of sentence imposed)
- There is some confusion in the way people with mental illness and people declared as drug addicted or dependant are registered. This is because some of them can be inside prisons (in psychiatric units), some in psychiatric hospitals (also drug addicted), and some in non-penitentiary centres. In the same way, some people declared not guilty serve their Security Measure in prison. The Penitentiary Hospital in Catalonia does not have 'own' people. The ones admitted for clinical reasons are still included in the counting of the centres where they serve their sentence.
- Total capacity of prisons, density per 100 places and surface area per prisoner.
- Probationers and measures attached: many gaps, incongruence with other international public statistics (v. g SPACE).
- Information on some prisoners with special needs as for example persons mentally, psychiatric or physically handicapped.
- Treatment: general lack on information on different issues related to treatment as: number of social workers, of volunteers, of educational and training programmes, on the number of inmates working, etc.

3. Results based on the collected data

The prison population has been sustainably decreasing during 2013 with an annual decrease of 2.3%⁹.

The Spanish prisoners estimated rate per 100,000 inhabitants is similar to Great Britain and a little bit bigger than Italy, Portugal, France and Germany. In February 2014 there were 66,706 prisoners in Spanish institutions without counting alternative sentences. A great percentage of these people are functional analphabetic and another group doesn't have primary education studies. There are also a big number of foreigners who cannot speak Spanish. Another characteristic of Spanish prisoners is a high degree of their drug dependency. The majority is represented by 41-60 years old prisoners, which presents 35.5% of the population. Women are 7.6%, among them a number of foreigners sentenced by drug dealing. In comparison to this percentage, the European average of women is about 4-6%. The most common crimes committed by males are property-linked (robbery) and by females are linked to public health (drug dealing).

There exists an imprisonment module where the newcomers are entering the system. The new incomer passes a medical examination and is interviewed by a technical team of different professionals, like educators, social worker and psychologist. Some information steps are followed when a new prisoner arrives:

- Personal identification. Alphabetic, tactile and photo registration only during the first entry of each prison facility.
- Inscription on the incomers' book and personal record opening. The record is in paper and in digital format, and it will be reopened with every new entry.
- Body search procedures and personal belongings. Non permitted objects are withdrawn until the end of the stay.

⁹ In the past the population increased, even double from 1990, after several reforms of the Penal Code, especially strengthening of the sentences for gender violence and road safety.

- Information for the new incomer about his rights and obligations, and the possibility of answering doubts and questions. There is a “step by step” informative brochure¹⁰ available in Spanish and other languages.
- Medical visit and interview.

The prisoners’ records are shelved when they get permission to go out of the facility and reopened when they come back from the permission or in case they get a new sentence. In case of transference to another facility a new prison record is opened.

The newcomer is evaluated and assigned to his/her most adjusted facility, according to his personality, criminal record and separation¹¹ and classification¹² criteria. The classification or grade system involves a great flexibility concerning the categorisation of the newcomers in one of the three grades:

- First grade: The most restrictive control and security measures (closed regime).
- Second grade: The ordinary regime.
- Third grade: The open regime in different modalities of semi-freedom.

Towards the reinsertion and re-education programmes, there are different branches focused on the personal requirement of each prisoner. They are training and education programme, labor and work insertion programme, entertainment and cultural programme, sport programme, as well as narrowed and specific programmes¹³. The assignment of these programmes is based on the prisoners’ personality, risk, violence and criminal dimension together with the periodic prognostic of their evolution. Although corruption and fraud

¹⁰ The English version of the “step by step” informative brochure can be consulted in http://www.iipp.es/web/export/sites/default/datos/descargables/publicaciones/Paso_a_Paso_en_ingles.pdf

¹¹ Men and women are separated, except in mixed departments; arrested and prisoners are separated from sentenced; first sentence prisoners are separated from repeat criminals; the young ones are separated from the adults; sick prisoners, mental and physical deficiencies are separated from the rest; and there are also separations among prisoners with medical treatment, like therapeutic or drug addicted treatment.

¹² The grade classification allows the individualization of the treatment towards the reeducation and social reinsertion of each prisoner. This classification is specified in the article 72.1 of the LOGP. <http://www.institucionpenitenciaria.es/web/portal/laVidaEnPrision/clasificacion/sistemaGrados.html>

¹³ For sexual aggressors, disables, drug-dependents, mental illness, youth, mothers, respect modules, therapeutic modules, women, foreign people, suicide prevention, close regime, conflict dialogue resolution, animal assisted therapy, genre violence and road security.

prisoners have been increasing during the last year, penitentiary Institutions¹⁴ doesn't have in 2015 a reinsertion programme for these kinds of inmates.

All the inmates have the right to participate in the treatment programmes provided by the Penitentiary Administration. Through the Individual Treatment Programme (PIT in Spanish) there are pursued different objectives, like personal promotion and growth, improvement of social and labor capabilities and abilities and the overcoming of conduct or exclusion factors which provoked their criminal activities. There exists a personal programme design for each prisoner. Aspects took into consideration:

- Labor occupation
- Cultural and professional education
- Aid, treatment or any needed measure for his/her liberation day

The PIT is based on the initial classification of the prisoner and it is reviewed and updated periodically, maximum up to six months. The PIT has two level of activities:

- Priority activities
- Complementary activities

Meeting the PIT's objectives and activities is not obligated. The programming, evaluation and incentive actions of the PIT is regulated by the Instruction 12/2006 and modified by the Instruction 4/2009.

The Permanent Commission of the Statistics Superior Council approved in February 2014 the publication of punishment statistics from 2009. The publications show punishment and crime statistics, prisoners' degree shifts, nationalities of the offenders living in Spain, etc. ¹⁵

The medical assistance is setteled by the Section I, Chapter I, Title IX of the Penitentiary Regulation. It provides information about the assistance procedures, extreme urgencies,

¹⁴ Penitentiary Institutions (*Instituciones Penitenciarias*) is the name used for the denomination of the single actor formed by the amount of centers, facilities and prison management organs.

¹⁵ Statistics from 2014 can be consulted on <http://www.institucionpenitenciaria.es/web/portal/PenasyMedidasAlternativas/estadisticas.html?anyo=2014>

medical investigation, equipment, nursery and other facilities, data confidentiality and medical information, communication with relatives, receptions by non-penitentiary hospitals and epidemiological measures.

All new inmates pass a medical test during the first 24 hours since their entry. The result will be noted in the entry registry and the personal medical record, which will be opened for every inmate. In case of detection of communicable diseases, medical authorities will be instantly informed, as well as the Direction Centre attached.

4. Other publicly available primary sources

There are several publicly available sources of information in data collection, like penitentiary regulation, descriptive information brochures of some centers, the penitentiary magazine, general and annual reports of the Penitentiary Administration and work programmes, plans and studies. The website offers the possibility of contacting the central penitentiary office via telephone, email or contact sheet.

There is a syndicate-type association, APFP (*Asociación Profesional de Funcionarios de Prisiones*), which tries to offer new regulations, and which tries to act as a prison workers' defender and a human rights observer.¹⁶ Another association, Acaip (*Asociación de los cuerpos de la Administración de Instituciones Penitenciarias*), provides with a very extensive statistical database. On its domain can be found data on Spanish prisons, European perspective of Spanish prisons and prisoner, salaries, costs, conditions and budget comparisons; real situation of some Autonomous Communities' centres; annual, weekly and monthly prison statistics; mortality, drugs and suicide statistics; and prisoners' situation evolution reports in 2-3 years.¹⁷

Some information provided by the annual reports from the Ombudsman from Spain and from the one of Catalonia, especially those report elaborated by their National Prevention Mechanisms on Torture. They are also available online at:

¹⁶ APFP domain can be visited: <http://www.apfp.es/web/>

¹⁷ Online available reports of Acaip: <https://www.acaip.es/areas/informacion-general/estadisticas>

<http://www.defensordelpueblo.es/es/Mnp/?conversationContext=1> (Spanish NPM) and <http://www.sindic.cat/es/page.asp?id=239> (Catalan NMP).

5. Conclusion

There is no information about some specific issues in the Spanish prisons, i.e., the availability of daily hot water in the showers, emergency facilities and fire extinguishers. There are good statistics and reports about the general situation of the prisons, workers and prisoners, but there is no public available data about the inside of each prison. However, Spanish Penitentiary System doesn't seem to be reluctant of showing internal data of the daily life of prisoners, as well as their personal treatment. A human rights watcher can get access to internal data of each prison upon reasonable request.