



Foreigners in European Prisons
From 'good practices' to good policy'

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Welcome to the conference 'Foreigners in European Prisons'

Sjef van Gennip, Director Probation Service, The Netherlands

Keynote Speech

Dineke ten Hoorn Boer, Director – General Prevention Juvenile Justice and Sanctions of the Ministry of Justice, The Netherlands

This conference is a useful event, to exchange knowledge and it has a good timing:

1. EU political agreement about the framework decisions (Three years of implementing)
2. Publicity for 'Foreign Prisoners' will be helpful in process

There are three target groups:

1. Nationals detained abroad
2. Foreigners detained under penal law
3. Foreigners detained under administrative legislation (aliens law)

Dutch policies:

1. About 1.700 nationals detained in EU, more than 2500 in total. 80% for drugs. Long procedures, late stage of detention. Hardly any time left in prison. Agreements with 64 countries. Many prisoners can submit a proposal. At least in detention after transfer 4 months.
2. Total prison population in The Netherlands is 12.000. One quarter foreign nationals. People from Africa, Eastern Europe, Russia. Country of origin sometimes unknown. Translation of rules, foreign language books in library, spiritual assistance, interpreters.
3. Administrative detention aimed at departure

Until now the prison policies are nationally arranged. New EU policies expected soon. Think ahead on time. Social rehabilitation (family ties / linguistic / alternative sentences). Resocialisation and reduction of recidivism after detention period. 10% reduction recidivism is goal in next 4 years. High rates of recidivism. Implementation

Framework Decision might help. Crucial is that the formal adoption goes well on national level.

Welcome organization of the Conference

Rolf Streng, Head of the International Office, Probation Service, The Netherlands

The topic of this conference is: 'foreigners in European prisons' In several countries within Europe, NGO's have been dedicating themselves to this special group of prisoners. In 1993, a number of these organisations were united in a platform called EGPA (European Group for Prisoners Abroad). However, structure and means were insufficient to have EGPA operate effectively as an organisation.

Therefore, in 2007 EGPA was integrated in the CEP as a special interest group. It was decided that the first activity of this special interest group would be to introduce themselves with a CEP conference on the subject of foreigners in European prisons. Bureau Buitenland took upon itself the task to organize this event in 2008 and here we are!

Opening Speech

Leo Tigges, Secretary General of the CEP

It is a pleasure, as Secretary General of the CEP, the European Organisation of Probation to welcome you all to this conference on Foreigners in European Prisons: from good practices to policy.

CEP vision for Europe:

Community justice - Crime happens in communities and must be resolved in communities.

Human rights - Bringing alive basic rights and responsibilities.

Delivery of effective sentences

- Working to protect the public and reduce re-offending
- Developing options that are tough, consistent, fair, accountable

- based on good principles and good evidence

Having a vision is the vital first step but to make a difference to a whole society. CEP believes it is people – probation policy makers, managers, researchers, practitioners – who make the vision real. And each country has to restate the probation vision and interpret the vision for its own society.

How does CEP help?

- With a Programme of Activities - by organising Conferences, workshops, seminars
- By exchanging of Ideas - via the Newsletter, Bulletin, reports, a modern website
- with a lot of information, a new edition of the book Probation in Europe
 - by sustaining a commitment to the ‘what works’ agenda - evidence based practice - and public protection.
- By providing Experts - to the European Union and the Council of Europe.
- Probation Study CoE, framework decisions, statistics project

This conference is therefore in line with the Vision Statement of the CEP:

“The Conference permanent Européenne de la Probation will promote pan-European co-operation in the development and delivery of community sanctions and measures. It is committed to achieving just outcomes, increased public protection and community involvement in the reduction of offending across all the countries of Europe – based on the tenets of human rights, well thought out policies, and evidence based practice and the best use of public resources.”

One thing became clear during the first two seminars in 1981 and 1982: only by cooperation between the nations in question could such questions be addressed. And the cooperation between the probation organizations had to focus mainly on establishing possibilities for transferring aftercare as soon as the offender had been released and returned to his or her country of origin after their sentence was

complete. It is striking however that ever since the aforementioned conferences this subject has not been revisited in CEP seminars. The overall picture in Europe still is that the probation organizations do not pay much attention to the national offenders detained abroad.

The year 2008 is an opportune moment to organize again after 26 years a CEP-conference about Foreign Offenders. The European Union had and has as its goal the free movement of persons, goods, services and capital. All the member countries are faced with a huge proportion of prisoners with a foreign background, mostly from other European countries. This poses problems for the prison systems, in terms of management and in term of relating to the foreign offenders, but most of all, the preparation for release and the goal of reintegration of the offender, has remained a dead letter.

The EU has adopted a framework decision on the transfer of sentenced persons between member states. The member states will have to have implemented this decision within three years, so by 2011. The counterpart of this Framework regulation is the possibility to transfer the alternative sanctions and probation measures between the member states. This would for instance make possible the transfer of a Community Sanction like the Labour Penalty to the country of origin of the offender. This would in turn lead to a greater chance that the foreign offender will not be sentenced to a custodial sanction. The drafting of the framework decision on the transfer of alternative sanctions and measures has been a painstaking process as the national definitions of and procedures for applying an alternative sanction differ far more from country to country than the same for prison sentences.

Documentary 'Het ijzeren Paradijs' ('The Iron Paradise')

P.R. by the Ministry of Foreign Affairs

Documentary about Dutch Prisoners in Spain and Ecuador; why they got into drugtraficing, how they were arrested and their detention circumstances



Foreigners in European prisons - Results EU study

Femke Hofstee-van der Meulen, Prison Watch, The Netherlands

(www.prisonwatch.org)

Why foreign prisoners?

- Rising prison populations (+/- 9 ¼ million worldwide)
- Rapidly increasing number of foreign prisoners
- Overrepresentation
- Forgotten group
- Excluded from basics (work/education/contact family/aftercare)
- Situation is likely to have negative effect on successful resettlement

Objectives study

- Analyze situation in EU
- Identify good practices to address situation

Who are they?

All persons without citizenship of the state in which they are detained

Numbers

- More than half a million prisoners in EU (608.973) on October 13th, 2008
- Total number foreigners in EU prisons is 114.832
- Average percentage is 18,9%
- The numbers vary greatly per country: < 1% to > 73%
- Highest percentages in Luxembourg (73,3%), Cyprus (48,4%), Greece (43,9%), Austria (42,2%) and Belgium (42,2%)
- Highest absolute numbers in Spain (25.066), Germany (20.190), Italy (18.476), England & Wales (11.682) and France (10.806).

General outcomes EU study

- Due to linguistic problems no or poor communication
- Lack of knowledge about legal rights / position / case
- Inadequate or even lack of (free) legal aid
- Consular assistance varies
- Less access to medical/psychiatric care
- Often exclusion from work / education and training
- Poor quality of training prison staff

- Difficult to maintain contact with family
- Deprivation of contact with outside world
- No/less opportunities for early/conditional release
- Less opportunities for resettlement programmes

General outcomes EU study

- In general prison authorities do (can/will) not take into consideration the special needs of foreign prisoners
- Foreign prisoners hardly receive probation service during detention and are often excluded from it after release
- Consular assistance varies from pro-active to no interest at all
- Good / free and professional legal aid is hardly available
- There are a limited number of NGO's addressing needs of foreign prisoners

Good practices

Before imprisonment

- Alternative sentencing

During imprisonment

- Translation of prison rules / introduction fellow prisoner who speaks language
- Recruitment (multi-cultural / bi-lingual) and training (diversity) staff
- Participation in work / education / training
- Flexible times to keep in contact with family by phone and via visits
- Respect cultural and religious needs (prayer / food / clothing / holidays)
- No exclusion from prison leave / conditional release / transfer to more relaxed regimes
- Providing access to NGO's / volunteers
- Preparation for release

After imprisonment

- Reception centre first days (assistance paper work / house / social service)
- Aftercare by outside agencies / Probation Services

European legislation

European Prison Rules (2006) by Council of Europe

Foreign nationals

37.1 Prisoners who are foreign nationals shall be informed, without delay, of their right to request contact and be allowed reasonable facilities to communicate with the diplomatic or *consular representative* of their state.

37.2 Prisoners who are nationals of states without diplomatic or consular representation in the country, and refugees or stateless persons, shall be allowed similar facilities to communicate with the diplomatic representative of the state which takes charge of their interests or the national or international authority whose task it is to serve the interests of such persons.

37.3 In the interests of foreign nationals in prison who may have special needs, prison authorities shall co-operate fully with diplomatic or consular officials representing prisoners.

37.4 Specific information about *legal assistance* shall be provided to prisoners who are foreign nationals.

37.5 Prisoners who are foreign nationals shall be informed of the possibility of requesting that the execution of their sentence be *transferred* to another country.

European legislation

Recommendations No. R (84) 12 by Council of Europe

'Measures to reduce isolation and promote social resettlement'

2. Facilitate communication with other person of same nationality
3. Provide access to reading material (via consular services)
4. Prisoner likely to remain in country of detention, assist in assimilation
5. Same access to education and vocational training
6. Facilitate visits and other contacts with outside world
7. Ordinarily foreign prisoners should be eligible for prison leave
8. Prison rules and information should be made clear
9. Provide translation and interpretation services
10. Provide language training courses

Follow up

- New EU transfer regulation of sentenced EU citizens (Feb 2007)
- EGPA (European Group for Prisoners Abroad) became a special interest group within CEP (Oct 2007)
- 14th Conference of Directors of Prison Administration (CDAP) of Council of Europe countries (Nov 2007)

- CEP conference (Oct 2008)

Presentation - EU Framework Decisions

David O'Donovan, Deputy Director, Research, Training and Development, The Probation Service , An tSeirbhaidh Phromhaidh, Ireland

New Systems to be put into place - Two complementary systems:

- one for transfer of custody and
- one for transfer of probation supervision

They are to be put in place across all 27 Member States of EU over next 3 years, using mechanism of 2 Framework Decisions (FD). This not an optional extra, is mandatory on each Member State. So, binding legislation. Necessarily complex to fit in 27 different criminal justice systems, so simplifying for this presentation, only outlining bare bones of the system, stressing more the thinking behind it.

FDs in general

- Maastricht Treaty (1993), Treaty on European Union (TEU), as amended by Treaty of Amsterdam (1999). Introduced so called 'third pillar' of Justice & Home Affairs, or JHA.
- Not a matter for European Commission, but instead for European Council – Council of Ministers for Justice known as JHA Council.
- Key area is Police & Judicial Co-operation in Criminal Matters (PJCC). Clearly we are interested in Judicial, i.e. determining and executing penalties for criminal offences.
- Article 34 of TEU, Member States are required to inform and consult each other, with a view to co-ordinating action, while the Council is obliged to take measures to promote co-operation, using the procedures set down. So already, themes of co-ordination and co-operation.

One such measure is adopting 'framework decisions for the purpose of approximation of the laws and regulations of the Member States'. So creates agreed structures and legal formulae to enable effective inter-State collaboration in specific criminal law areas.

Texts and proposed changes debated in Working Party on Co-operation in Criminal Matters. The screens in the Council building give the title in French Comité des Matières Penales, hence COPEN. Its work is subject to review by supervisory co-ordination bodies. Final text has to be accepted by all 27 Member States so that the Council can act unanimously.

Must be transposed into national law, to detail how it will operate within the parameters agreed for achieving the mandated objective. FDs “shall be binding upon the Member States as to the result to be achieved, but shall leave to the national authorities the choice of form and methods” (Art. 34.2, TEU).

Used extensively since 2000. Examples, standing of victims in criminal proceedings (Restorative Justice principles) (2001), sexual exploitation of children (2004). The two we are interested in, political agreement has been reached and text is agreed but not yet signed off by Ministers in JHA Council. Further one at advanced stage, on pre-trial supervision in home States as alternative to remand in custody.

Objectives of these two FDs

Presently, courts have limited options when dealing with offender normally resident in another Member State if guilty of a midrange offence. They can:

- impose a custodial sentence, but offence may not be serious enough, and show to use up scarce reserves of custody or
- admonition, reprimand, verbal chastisement, but offence may merit more substantial penalty.

Either option, research show little or no effect on criminogenic factors, so high risk of further offending if circumstances are repeated. Court may not wish to keep offender in that jurisdiction, but up to now no legal enforcement of court orders in a foreign jurisdiction. So need system, to apply across all Members States, where:

- offender can be let go back to home State, but court order is recognised and made enforceable in that Member State. Therefore variations can be made to conditions in orders, if domestic law permits. Now it becomes an offence in that Member State to fail to comply, plus it is an offence that can be dealt with by courts in that Member State, need not revert to court in State of conviction that made original order,

- Also need implementation of probation intervention in home Member State, so programmes put in place to address criminogenic factors, and therefore reduce risk of repeat offending and of more victimisation.

The 2 FDs together meet these needs. Both state their aim as ‘facilitating the social rehabilitation of the sentenced person’. The Probation FD adds 2 related objectives:

- “improving the protection of victims and of the general public, and
- facilitating the application of suitable probation measures and alternative sanctions, in case of offenders who do not live in the State of conviction”.

Broad thinking is that best prospects for re-integration if offenders live where they have loved ones, friends and acquaintances, with opportunities for employment education etc., in language understands and culture that is comfortable with, i.e. where they have a stake in the community. Let me quote from one of the recitals to the FD, not binding in law but illustrates the objective to be achieved. “The aim of mutual recognition and supervision of suspended sentences, conditional sentences, alternative sanctions and decisions on conditional release is to enhance the prospects of the sentenced person’s being re-integrated into society, by enabling him to preserve family, linguistic, cultural and other ties, but also to improve monitoring of compliance with probation measures and alternative sanctions, with a view to preventing recidivism, thus paying due regard to the protection of victims and the general public”.

So essential for probation FD that “sentenced person has returned or wants to return to” the Member State in which he/she is “lawfully and ordinarily residing”. For prisoners FD, position is similar in that consent required unless transfer is to Member State of nationality or to which he or she is liable to be deported etc. Nationality is a different concept to ordinary residence but let us not go into that now.

Therefore probation FD has no application where:

- sentenced person wishes to stay in Member State of conviction, has emigrated and put down roots (e.g. Poles in Ireland), or
- non-custodial sanction which does not involve probation supervision.

As might be expected, both FDs apply to natural persons only, not legal persons.

Why bring in these FDs now, what preceded them?

Council of Europe, quite separate from EU, opened for signature on 30/11/64 a Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders. To date only 12 participant countries out of 45 have both signed and ratified this Convention, but with numerous reservations. France and the Netherlands did, neither Ireland nor the UK did. However, ratifying the Convention remains discretionary, it contains many opt-out clauses, and probation has moved on dramatically in Europe since 1964. So the Convention is widely regarded as a dead letter. Until recently, there was no political impetus to address it. Prisoners however take up scarce cell accommodation in expensive 24/7 facilities, so there has been unremitting pressure to find ways of sending them home and free up some prison space. We are here at this conference today because of the high numbers of foreign born offenders in all of our prison systems. The Council of Europe Convention on the Transfer of Sentenced Persons was opened on 21st March 1983, and by contrast has been, almost universally implemented across the Council of Europe.

The EU, taking action in the JHA area, as a means of working towards an area of freedom, security and justice determined that the point of Judicial Co-operation in Criminal Matters was to provide a high degree of security for all citizens, and a cornerstone of this is applying the principal of mutual recognition of judicial decisions. A programme of measures was adopted in November 2000 and confirmed in November 2004 that sought to advance the enforcement of criminal sanctions across all Member States, particularly by facilitating the re-integration of offenders into the community. Hence the FD on the transfer of persons serving custodial sentences, looking to fostering social rehabilitation, as noted above. To complement it, “further common rules are required, where a non-custodial sentence involving the supervision of probation measures or alternative sanctions has been imposed in respect of a person who does not have his lawful and ordinary residence in the State of Conviction” (Recital 2). These common rules constitute the FD on transfer of probation supervision.

Brief outline of systems proposed

Four categories of judgement giving rise to supervision are defined, as are sentences or measures involving deprivation of liberty. The Member State of conviction, where the judgement was delivered, is known as the “issuing State”, while the Member State in which it is to be implemented or enforced is known as the “executing State”. Under both FDs, each Member State must designate a competent authority – for many, one central co-ordinating body, perhaps the same body for both FDs – to whom are forwarded copies of judgements, accompanied by the specified certificate duly completed. The competent authority then has 60 days (90 for transfer of custody) within which both the judgement should be given legal recognition and steps taken to implement it. This may mean for example that a non-custodial sanction would be adopted or endorsed by a court in the executing State so that it would in law be equivalent to a similar order made by that court.

Both FDs are very clear. The competent authority “shall recognise the judgement and shall without delay / forthwith take all necessary measures” for its implementation, unless it decides to revoke one of the grounds for refusal specified in the relevant FD. The two lists of grounds of refusal are very similar, indeed many of them use identical wording, and cover both practical and technical issues.

Where the sentence or the probation measure is ‘incompatible’ with the law of the executing State, it may be adapted to fit national law (e.g. if the number of hours of community service exceeds the maximum in national law). There are safeguards to prevent abuse, but if the requirement is reduced to fit in with national law, it must be reduced to the maximum, not pro rata. Once implemented, it is governed by the law of the executing State, which then generally has jurisdiction to take subsequent decisions such as:

- modifying the conditions of supervision, e.g. to fit with local situations
- deciding that the offender has failed to comply, and so revoking the suspension of the sentence and /or imposing a custodial sentence.

The jurisdiction of the executing State ends when the order expires or sentence is completed, and it may transfer jurisdiction back to issuing State if the sentenced person absconds. Each FD specifies that it comes into force on the day of its publication in the Official Journal of the European Union, which is likely before end of this year. All Member States are then required to take the necessary measures to

comply with the FDs within 3 years, i.e. by the end of 2011. The text of provisions transposing the obligations imposed by the FDs into national law must also be sent to Brussels. By 2012, (a year later) the Council will assess the extent of compliance by Member States with the transfer of prisoners FD, and by 2014 will do the same for the probation FD. These reviews could of course lead to amendments or further legislation.

How probation agencies should prepare

We live in an age of frequent and mass travel. Despite economic downturn and environmental concerns raised by air transport, many go abroad on weekend breaks, second holidays, pre-Christmas shopping trips, etc. Very many young people particularly travel to other countries for work or education/training. Almost inevitably, it seems likely there has been and /or will be an increase across Europe of persons appearing before courts on criminal charges whose habitual residence is outside that Member State. A proportion will be found or plead guilty and have custodial sentences or probation measures imposed on them. FDs therefore will be utilised, since prison accommodation is under pressure in most Member States and courts will happily permit offenders to return home if they can make effective orders with extra territorial application, avoiding any impression of letting them off with a lecture. Must be alert to danger of net-widening, i.e. the availability of mechanisms introduced by these FDs encourage sentencers to impose 'tougher' penalties than they would otherwise have done, e.g. impose a 2 year rather than 12 month sentence since he will be transferred home anyhow and may well be given early release. Or applying probation measures when appraisal would suggest that there are no significant underlying criminogenic or social issues to be addressed and that relatively scarce – and expensive – probation intervention is not really needed for what would be termed a low risk offender. Any such patterns emerging may well be commented on in contributions to the reviews to be conducted in 2012 and 2014.

Therefore the first question is how many additional referrals are likely when the FDs are in full operation, of what calibre of offender and coming from what countries? This is not at all easy to answer. Data is available on nationals serving custodial sentences in other Member States, but not always the volume of those found guilty before courts, of what offences and resulting in what penalties. Even with such data,

how do we filter out those wishing to settle, or stay abroad for a lengthy period, so would not wish to return home? Some research may have to be undertaken, since we need as reliable as possible estimates of likely take-up.

The importance of planning ahead and starting to prepare now, cannot be overstressed. Three years seems a long time, but it will come on us very quickly if we don't prepare in advance. Each jurisdiction, each probation agency should consider:

- Resources needed - human, extra staff?

Fit this task into the present organisational structure, or create specialised units?

- financial
- technological.

Specific database to be established?

- Preparation and Training - become familiar with requirements of FDs
- plan implementation, e.g. will Electronic Monitoring be used?

The FD does not require Electronic Monitoring but one Recital points out that it could appropriately be used when permitted by national law.

- organise training (contents, for whom frequency)
- liaise with counterparts in neighbouring jurisdictions, perhaps share training, get to know key individuals.

Probation Reports, (PSRs) get only a bare mention in the Certificate. Yet a home circumstances appraisal is urgently required if assessment and a meaningful supervision plan is to be put in place. E.g. can offender return to family home and if not what are alternatives? What are his employment or training prospects? What lifestyle or relationship issues need to be addressed? Could therapeutic treatment be organised for substance abuse? The court in the issuing State is highly unlikely to be familiar with social circumstances, facilities available, even prevailing culture, in chosen locality in executing State (example given – from Timisoara in Romania to rural community, west of Ireland). So entitlement to seek modification of requirements during the currency of supervision is vital. Ideally a home circumstances appraisal should be prepared and considered before the decision is taken to recognise the judgement but the tight time-line (60 days) will militate against that in many cases, particularly if the offender in question has not been dealt with before by probation, or has no prior criminal record, in his or her home country.

Therefore a full assessment of social functioning and criminogenic attitudes or behaviour should be the first order of business when a referral is received.

Interestingly there is specific provision in the prisoners FD for the competent authority in the executing State to “present a reasoned opinion to the competent authority of the issuing State that enforcement of the sentence in the executing State would not serve the purpose of facilitating the social rehabilitation and successful re integration of the sentenced person in to the society”.

No prizes for guessing the likely source material for such an opinion on rehabilitation! Probation are also likely to have a lead role in planning and preparing, where prisoners are transferred, for their return to their community, and I suspect, for their early release in many cases, and perhaps supervising them while on release.

Role for CEP?

- Bring to notice, urge familiarity
- Advocate planning, preparation in advance
- Develop standards of best practice
- Institute network of key probation personnel
- Sensitivity, especially where to less developed jurisdictions.

The CEP could act as a spur to planning and preparation by taking a lead role in developing a network of key practitioners, individuals likely to be given responsibility for overseeing probations contribution to the implementation of these FDs. This would promote a uniform interpretation, make a co-ordinated contribution to issues as they arise and identify key contacts in hopefully most Member States. Of course, this would have to be done sensitively, and CEP would be very aware of jurisdictions where probation is less developed, and where there may not even be a probation agency. From its experience of offering advice and collective professional wisdom to governments, CEP would also recognise that in these our times, with economic and other pressures, implementing these FDs just might not be the number 1 priority of busy senior civil servants in Ministries of Justice across Europe.

Conclusion

These FDs, especially the probation one, present both a challenge and an opportunity particularly for probation agencies. The challenge is to make transnational supervision effective. Hence the importance of assessment, of programmes designed to deal with the criminogenic and social factors identified, and of ensuring that offenders are both motivated to participate and are returned to court if there is failure to comply with requirements. We must be prepared to monitor and publicise the rate of successful completions, and put our best foot forward to keep that rate as high as possible. Transfer of prisoners is believed to work well, we must ensure that transfer of probation receives the same accolade.

Of course, transferring prisoners essentially means swapping one prison cell for another while for probation, transfer to another jurisdiction involves preparing for accommodation, employment or training, family and interpersonal relationships, appropriate use of leisure time, etc, so is more challenging. Yet it yields longer lasting results because it lead to changes in attitudes and behaviour, reducing re-offending and sparing potential victims, as adverted to in the objectives of the FD. EU law is now extended to cover probation for the first time. Judges and policy makers will be watching to see how we respond. If there is a high level of failures or the impression is given that we don't take it seriously, then referrals will dry up and the FD will become another dead letter, like the 1964 Convention. That would be a great pity. Yet if on the contrary, the view is that it works well, then we can showcase what we do best and will make probation a valued option right across Europe, influencing positively those Member States where it is presently not much developed. The ball is at our feet, let us show what we can do!

Presentation 'Foreign National Prisoners'

Bob Daw, NOMS UK Prison Service, United Kingdom

DEFINITIONS

- Foreign National is a person who is not a British citizen
- EEA (?) National has the right to live and work in UK

- Asylum Seeker are people who have fled their country because of persecution and are unable or unwilling to return to their country
- Refugee are people who have been granted asylum under the UN Convention

FOREIGN NATIONAL POPULATION

- 173 Different nationalities
- Differences in criminal profile
- Differences in background

IMMIGRATION LAW

- Currently report to UKBA
 - Non EEA nationals serving a sentence of 1 year or more
 - EEA nationals serving a sentence of 2 years or more
- Automatic Deportation
 - Non EEA nationals
 - Secretary of State must make a deportation order
 - Can only appeal on asylum or human rights grounds

Implications for FNPs

- Earlier confirmation of nationality and immigration status will benefit prisoners by
 - Reducing uncertainty
 - Enabling appropriate sentence planning/resettlement activity
 - Reducing the likelihood of being held beyond sentence

Local Policies

- All prisons must have a local policy which should address
 - Barriers to FNP accessing the prison regime
 - Tackling isolation
 - Preparation for release

Job description for:

- FNP Coordinators
- FNP Liaison Officers
- FNP Peer Support

THE PRISON SENTENCE

- The Sentence Plan

- Must address risk
- VT training during sentence
- Immigration intervention
- Discharge

It should consider:

- Repatriation under a prisoner transfer agreement
- Early removal
- Removal at end of sentence

Incentives to Return

- Facilitated Returns Scheme
- Prisoner Transfer Agreements
- Early Removal Scheme

End of Sentence

Presentation ‘Assistance to Dutch detainees in foreign countries’

Wiebe de Boer, Deputy Head Social Consular Affairs Unit, Ministry of foreign Affairs

Scale of the problem

- World Champion
- October 2008 2,560
- Within EU > 1,500
- Central + South America 681
- US 74

What kind of assistance?

- Treaty of Vienna 1963 allows us:
 1. Supervision of Judicial Process
 2. Supervision of circumstances of detention

How do we provide assistance?

- Starts with a visit by the Embassy
- Tracking system “Prison”

- Visits minimal twice a year

Transfer of Prisoners

- Transfer of prisoners with > 60 countries
- > 200 cases a year
- Mostly based on multilateral agreement

Increasingly bilateral

Future

- More detainees European Arrest Warrant
- After 2010 European prisoners swap
- More media interest through EAW

Prevention

- Possibly increase of communication effort
 - Now
- Iron paradise (movie)
 - www.drugssmokkel.nl
 - TV series
 - educational material schools
 - campaign in prisons

Presentation Foreign Prisoners and Probation: To discriminate or not to discriminate?

Ioan Durnescu, University of Bucharest

General framework of the paper - Findings of two studies:

- van Kalmthout, A.M., van der Meulen, H., F.B.A.M. and Dunkel, F. (2007) *Foreigners in European Prisons. Nijmegen: Wolf Legal Publishers.*
- van Kalmthout, A.M. and Durnescu, I. (forthcoming) Probation in Europe.

The first study describes the vulnerabilities and the priorities of the foreign prisoners

The second provides some useful examples and some direction for further development of programs dealing with foreigners.

These two empiric studies are analyzed from the perspective of “race disproportionality” literature

Current situation of foreign prisoners - Not only worrying but dramatic!

- TRENDS:

➤ Belgium	: 1980 – 21,0%	2004 – 44%
➤ Germany	: 1985 – 14,5%	1995 – 29,4%
➤ Italy:	: 2005 – 33,3%	2007 – 37,4%

- Almost 2% increase per anum.

Percentages:

Luxembourg – 71,4%

Greece – 41,5%

Austria – 41,4%

Belgium – 44% (although non-nationals represent 10% of the total population of Belgium)

Explanations of over-representation - Four theories:

1. Different nationalities with different pattern and level of offending
2. Differential treatment within the criminal justice system
3. Socio-economic factors
4. Unfortunate interaction of socio-economic factors and criminal justice treatment.

Most of the studies including the ones included here confirmed the last two theories.

Socio-economic factors

- Massive immigration movement of the working class towards countries with strong economies:

• Germany	: '80 - 4,5 million immigrants	1990 – 6,7 million
• Finland	: 1990 -25,000 immigrants	2003 – 100,000 immigrants

- Some of them with no legal permit of residence or with no working permit.
 - Belgium: 76% of the foreign prisoners with no legal permit of residence
 - Study in Greece: “others are incarcerated for property crimes which are often committed under the pressures created by their illegal status”

Discriminatory practices within criminal justice system

Pre - trial stage

‘consists of unfavourable treatment based on a person’s sex, gender, race, ethnicity, culture, religion, language, class, sexual preference, age, physical disability or any other improper ground’ (Bowling, 2006, p.135).

Ex.: proactive policing, bail decision.

Evidence of discrimination in the first study:

1. Proportion of foreigners among pre-trial detention:

- Luxembourg – 55,2%
- Italy – 49,1%
- Poland – 55,2%

2. Causes identified: lack of legal residence (risk of absconding), absence of work permit, poor socio-economic resources, intercultural misunderstanding, lack of links with local community etc.

BUT ALSO: Indirect discrimination

- ‘Indirect discrimination refers to a treatment that might be described as “equal” in a formal sense between different groups, but as discriminatory in its “actual effect” on a particular group’
- Ex. of indirect discrimination: bail decision taken on the ground like: to have stable home address, to have a job etc.
- They are not “neutral norms” but induce in the criminal justice system a biased practice.
- Foreigners might end up in pre-trial detention because they are more likely to be unemployed (consistent with Hood, Jehle etc.).
- Another example is provided in a lot of jurisdictions where the law states that there is no different treatment for foreigners.

- Treating foreigners as nationals could be compared with treating mentally disturbed offenders as “ordinary”.
- Foreign offenders have special characteristics and particular needs (see language barriers, the level of information about the criminal justice system, community ties etc.)

Once they are on remand, a custodial sentence is more likely

Trial stage

Ex. trial, length of custodial sentence, decision of early release

- Although most of foreigners are convicted for property crimes they tend to be sent to prison for the reasons described at the pre-trial stage: lack of residence permit, lack of job, no community ties, language difficulties etc.
- All these reasons convince the judge to impose a custodial sentence rather than an alternative.

Institutional discrimination

- Is a form of discrimination practiced by the law or a state institution.
- Ex.: the prosecutorial guidelines in the Netherlands (!): specific categories of foreigners are excluded from alternative sanctions or from task penalties (community service), electronic monitoring etc.
- They are irregular migrants and foreigners who are expected to lose their residence permit.

Probation and foreign offenders

General remarks:

1. Probation services are starting to work more and more with foreigners:
 - Germany : 2002 – 17% foreigners on probation
 - Italy : between 1st of January – 1st of June – 15% foreigners granted an alternative measure.
 - Catalonia : 26,8% foreigners on probation
2. With some exceptions (Norway, Switzerland) probation services are not involved in transfer, expulsion, extradition of foreigners.
3. Only foreigners with residential permit and not subject to expulsion are eligible for alternatives to custody.

4. Probation services with a dominant social work approach towards offender and / or working close to the prison system (Italy, Denmark) seem to be more aware and ready to treat foreign offenders as special group.

Good initiatives within probation services:

1. Understanding programs (ex. Foreign nationals and criminal justice – Canton Zurich) – meant to better understand different foreign groups,
2. Special training for probation officers dealing with foreigners (Italy),
3. Professional interpretation available for probation service (Finland),
4. Phone line for relatives (Denmark) – providing information and counseling for the relatives of those under a prison or probation sentence,
5. The Mentoring Programme Denmark
 - is designated to support young offenders between 15 to 25 years old with another ethnic background to understand the criminal justice system and find their ways to reintegrate into society via ‘intensified supervision’.

Some ways to strengthen the non-discriminatory practice within the criminal justice system via probation service:

- The first step toward an improved practice with foreign offenders would be to recognize this group as special group of clients, with special needs and particular characteristics.
- Probation services in Europe is currently dealing with special groups like drug addicts, drink driving clients, mentally disturbed clients.

The advantage of looking at a group of clients as to a special group is that specific priorities could be set and particular procedures could be employed.

Top priority: reduce the risk of remand

- To reduce the risk of pre-trial detention probation services across Europe could develop bail hostels (like approved premises in England and Wales) or intensive forms of electronic monitoring (like mobile electronic monitoring in France) using GPS technology (like in France and Austria).
- This forms of surveillance seems to be convincing for judges as an alternative to pre-trial detention.

Second priority: improve the supervision capacity of probation service

- In order to improve supervision of this group, probation services could train probation officers to be more culturally sensitive and enhance the co-operation between the adoption countries and the countries of origin (ex. Italy and Romania).
- In this context the role of CEP is crucial in my view for preparing the enforcement of the new Framework Decision of European Commission on transferring community sanctions and measures.
- For those foreigners who could not be transferred to the country of origin programs like prisoners abroad could be developed and probation officers from one country could be working with clients in another country. For instance justice assistants from Belgium could work with Belgian probationers in the Netherlands or the other way around.

Presentation Prisoners Abroad - Do we make a difference?

Pauline Crowe, Chief Executive – Prisoners Abroad - UK

- How many of your citizens are held in prisons overseas?
- What problems are caused for your country in having these citizens held in prisons overseas?

Prisoner clients – two categories:

a) held overseas whilst travelling

b) ex-pats who have committed crime in their adopted country but who did not change their nationality

Additional problems faced by foreign nationals:

- More isolated than domestic prisoners
- Difficulty communicating in a new language
- Loss of contact with families and friends
- Problems understanding rules and culture

- Less likely to get work to earn money
- May not know their rights
- Less likely to access healthcare and education

1,600 prisoners per year / 80 countries / 850 families / 300 resettlement service users

Services to breakdown isolation:

- Information and advice service
- Free-phone helpline
- Help with arranging visits
- Freepost envelopes and post forwarding
- Books, magazines, newspapers, dictionaries
- Birthday cards
- Translations
- Survival and medical grants
- Family days
- Website

'I'm not isolated anymore. Many people around the world seem worse off than me. You are also in touch with my mum and dad and they need a lifeline too. Thank you.'

'Absolutely incredible. I can't imagine how long and how difficult it would have been to get back into the system without their help. It's beyond words. To be able to talk to someone who isn't judgemental – it's pretty remarkable to have that support.'

Resettlement Service:

- Accommodation and then longer term housing
- Money – food and water
- Clothing
- Travel card
- Obtaining identity documents
- Access to medical support
- Access to benefits
- Referral to agencies for employment etc.

'Without them I don't know where I'd be. Because of them I've gained employment – because of their leads. They provide all the tools, it's just up to the individual whether they can put them to use.'

Self actualisation

Do we make a difference?

“Yes, definitely – if I hadn't had contact with them I would have been desperate, completely stuck and stuffed. A huge difference – things would have been pretty rough otherwise. It's been 4 months now and I've got my own flat, got my benefits sorted out, seen a doctor and a dentist – a lot of things happening. I've landed on my feet pretty well.”

“I think they've done as much as they can and are able to. A bit of tough love going on too. I was quite institutionalised and used to being spoon-fed, everything controlled, it was hard for me to start with – realising I had to do this. But my resettlement worker helped me through that process. Helped me wake up and think I'm a big boy – now get on with it! That was good. At the time I did feel sad and bewildered but it did spur me forwards.”

“Prisoners Abroad has made me feel that even after 10 years of incarceration, I can still make it in life.”

Vertige Training and Consultancy

Funding by ministry of Foreign Affairs

Needs of volunteers

- control of conversation
- put emphasis on one's own responsibility
- dealing with feeling of despair and ...

Methods

- interactive theatre
- discussion, modeling
- 20-45 participants => practice skills – input to practice
- e.g. two actors theatre:



General training. How to deal with anxiety? Role play. Interactive theatre. 20-45 participants. Trainer and actor. How to calm down a prisoner?

1. First contact, listen, introduce
2. Explain what can be expected
3. Setting the boundaries
4. Ask questions
5. Help the prisoner to organise mind (what is most important)
6. Prioritise
7. Keep control over situation
8. Draw a line during conversation when prisoner starts pressuring
9. What is in for prisoner? The fact that you are present, you are there for him/her

Workshops

Probation Service in the Netherlands and worldwide

Rolf Streng and Nick Hammond

Prisoners in the Netherlands

- Number of prisoners on 1 September 2007: 19.000 (11.800 in 2000)
- On average 44 % is in remand,

- 44 % is sentenced; 2 % under a hospital order and 10 % detention of aliens
 - 25 % is in prison 1 year or less,
 - 14 % 1 to 2 years,
 - 18 % 2 to 4 years
 - and 23 % longer than 4 years

- Sex: 92,7 % male and 7,3 % female

- Age: 36,1 % between 25 and 35, 18,9 % between 20 and 25

- Nationality: 64,7 % Dutch; 6,4 % Moroccan; 3,9 % Turkish and 8,6 % Surinamese

- Born: 43,2 % Dutch; 9,4 % Antillian; 8,6 % Surinamese; 6,5 % Moroccan and 4,0 % Turkish

Dutch Probation Service - International Office

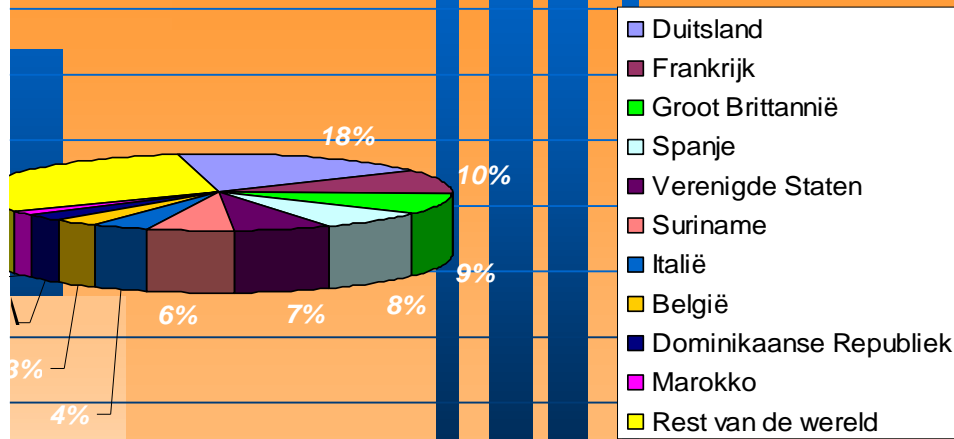
Dutch prisoners abroad -Number of prisoners:

■ 1997	1584
■ 1998	1755
■ 1999	1885
■ 2000	1958
■ 2001	2250
■ 2002	2330
■ 2003	2528
■ 2004	2444
■ 2005	2575
■ 2006	2525
■ 2007	2545

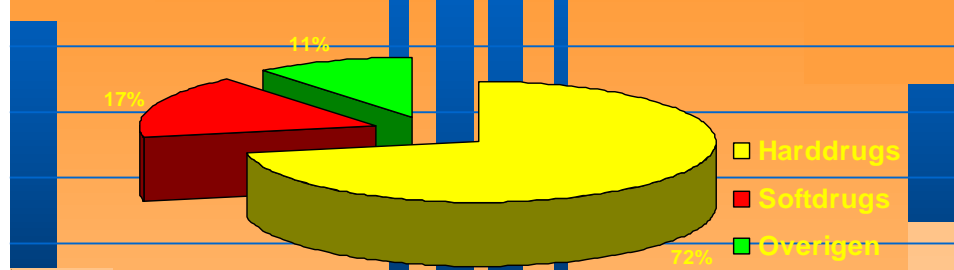
Now more than 2500 Dutch prisoners abroad

Male : 84% Female : 16 %

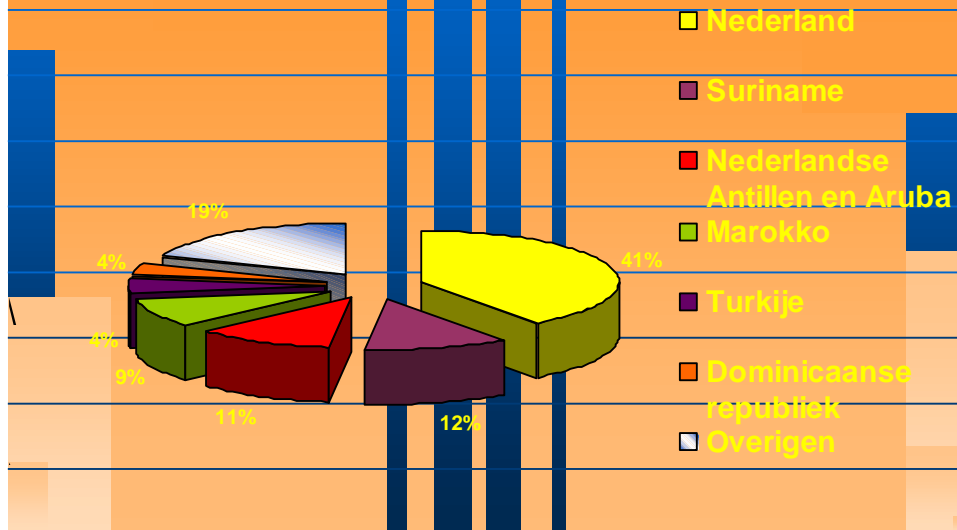
TOP 10 Detention countries



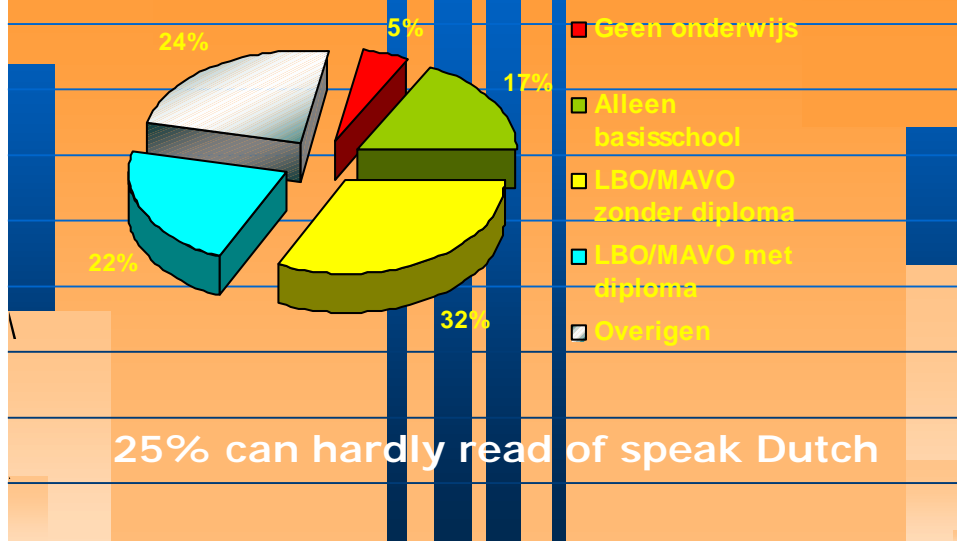
Offences



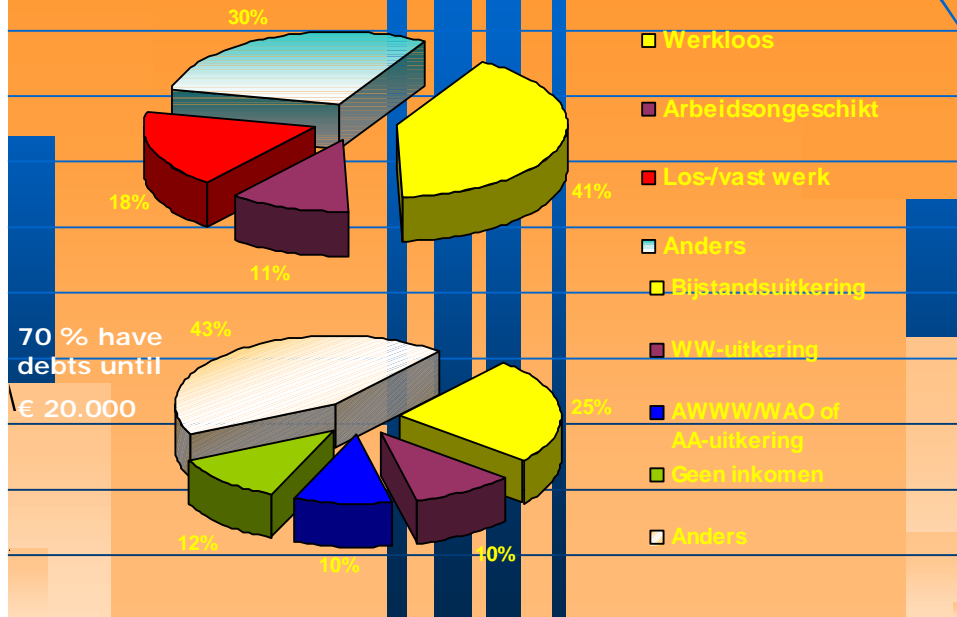
Country of origin



Education



Work and Income



How do they come back?



- No income
- Debts
- No housing
- Lost relationships
- No current knowledge of society

The work of the International Office

Co-ordination of probation counselling

- Information and advice
- Home circumstances report
- Investigation rehabilitation in The Netherlands
- Co-ordination volunteers
- Co-ordination education

Actionroute

Arrest

Questions of stay-behind

Probationform

- Problem inventory
- Permission to act

First aid and information

Home circumstances report

Volunteers

Education

Diagnose and Plan of Action

Plan of reintegration



Volunteers

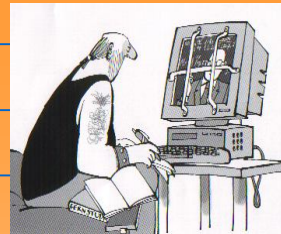


The probation volunteers are being coached by the International Office.

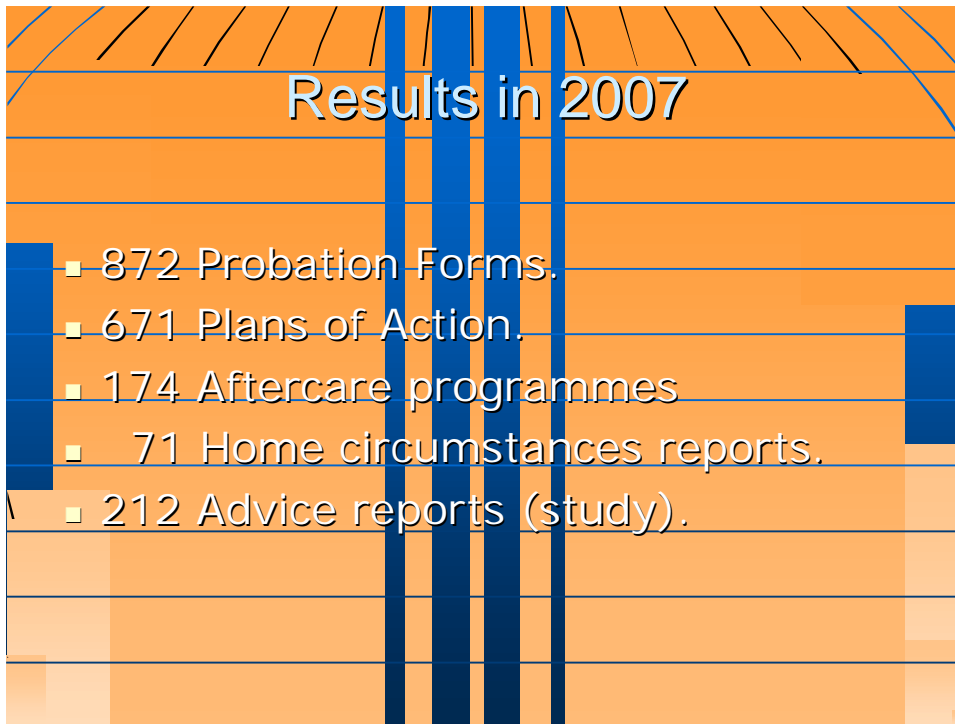
2007

- 279 probation volunteers/visitors in 46 countries.
- 1867 prisoners have been visited by 7389 visits. (with report)
- 10 correspondence volunteers are writing with 39 prisoners.

Education project



- 432 prisoners are studying
- Supplementary to education in prison
- Written primary education and pre-vocational professional training
- Budget training
- Individual coaching



UK Probation and British Prisoners Abroad

Prisoners Abroad provide support during sentence

No access to pre - sentence information

No probation resettlement role - except -

monitoring high risk prisoners - public protection procedures

Issues

Advantages of NGO vis a vis statutory involvement

Public protection role

Attractions of prisoners Transfers Agreements

Probation work with foreign national prisoners in UK

Sentencing reports = feasible community options

FNPs post - sentence, limited role if being deported

Increased links with immigration service

Provision of risk reports for bail consideration and on EEA nats

Issues

Maintain community penal options
previous convictions via EU framework Agreement
Probation needs to be 'more outward looking'
Increasing links with Immigration
Staff training - prison and probation

Synopsis:

Though foreign prisoners in Malta have their full legal and human rights guaranteed, conditions on the ground may not be that sure. Indeed, with regard to foreign prisoners Malta has some good practices and policies, but others are not so good.

Summary of presentation

Though foreign prisoners in Malta have their full legal and human rights guaranteed, conditions on the ground may not be that sure. Indeed, with regard to foreign prisoners Malta has some good practices and policies, but others are not so good. The worse scenario can be when foreign prisoners—especially non-European—are simply forsaken. This happens for the simple reason that in Malta's prison foreign prisoners are given *exactly* the same treatment as Maltese prisoners, irrespective of the qualitative difference in the prevailing conditions of both groups. Though this relates directly to their incarceration conditions, it also affects the status of their case before the law. Differences in the personal background and conditions of foreign prisoners—especially those who are effectively deserted—are neglected or even ignored. Hence, due to their personal background and conditions, which very frequently pitch most of them into a general state of estrangement that is markedly characterised by broad disorientation, such prisoners simply vegetate within the prison walls while their case lingers on.

NGO's: Support for foreign prisoners and national citizens detained abroad

Mark Montebello

Jackson

- people who come back from U.S. they know nothing about society
- offer to this people services
- new framework decisions
- what we can do aftercare
- they are limiting to visit people abroad detention

What will be priorities for NGO's in this domain? Money?

We can spend money for the greatest things

- When they are deported from different country it's coming a lot of new issues with them
- The biggest – what we can do for them?
- Send postcards, Birthday's card – that's important they can write back and...
- Start to feel be friend and that's so important fort them

Montebello

- a) General work
- b) Individual
 - they looks from eyes of prisoners to issues

TARGETS:

- 1) Prison system need feedback from NGO's
- 2) NGO's over the coming years will face increasing ...bilateral
- 3) NGO's – better cooperation – worlwide network – to be easy to find “partner”NGO's in country we need
- 4) NGO's still aren't accepted – they are something “extra”

Prisons need feedback from NGO's

Foreign prisoners do not know their rights

Ministries of foreign affairs should be more pro-active

Equal treatment

NGO's need to understand their own role, act professionally according to that

Montebello: NGO's not taken seriously, seen as just something extra, they are not part of policy.

Salvation army: international network of army, good cooperation.

NGO network EU wide?

How to make foreign prisoners less isolated, give them more direction, where to find help, make a directory for example of services available (if there are any).

Note by Kate

- Prison systems need a sounding board – prison systems vis a vis NGO's
- NGO's will face a quite significant economic hardship in the coming years.
How to sell?
- Repatriation / bilateral agreements / public interest, reduce risk, how to prepare better for release
- Probation varies country to country
- Different legal systems
- Different access to legal aid
- When foreign prisoners are treated the same as national prisoners, this may paradoxically result in unequal rights
- NGO's should have liaisons on the ground
- Directory services for foreign national prisoners
- NGO's should be part of policy making. Different skills, casework vs policymaking

Prison Service

Mr. Hindpal Singh Bhui, Inspector at HM Inspectorate of Prisons, United Kingdom and Mr. Paul Geurts, Director External Relations, Dutch Prison Service, The Netherlands

Prison inspectors - who is it?

- they go to every single prison

- they can go everywhere, everytime
- => to make public results and then recommendations
- => plans for future

- bad reports leads to bad reputations in public – it's big power
- problem : contra prison x inspector
- they have contract with prisoners
- they look from beginning to the end of process imprisonment

What they do?

- they make survey and analyse it
- talking to staff
- looking documentation
- they spend usually 5 days in prison

Who they are?

- independent but founded by government
- they have public control and some “control” from ministry
- they try help prisoners to be treatment
- they make tests
 - o safety
 - o resettlement
 - o assessment
 - o education

- they have some help from people who looked at education – like school inspector
- they are interesting in prisoner's experience
- they don't do complains – they have prison “ombucman” for that
- they are 7 years old

Belgium - question: it there 2 controls?

1. independent – human rights – comission

2. depend – government's control inspectors

NGO's are very important here

- more than 30 NGO's in UK
- money for them – that's big question
- fantastic effective – it's cheap

- *question: What do you expect from them?*
 - o They expect intelligence from NGO's and prison staff

- 15-20% prisons they visit - statistic
- they compare it with other prisons (survey) = > better or worse?
- focus group – talking with people
- prisoners know them
- they do different rules between offences
- immigration sentences – rules should be relaxed
- they have 25 inspectors in UK
- 140 prisons
- double system: government targets (inspectors) x goals of Prison Service

different results and standards

- *question: qualification of inspectors?*
 - o prison governor, teachers, probation worker, employers from prison, just justice education
 - o people with really different background

- if they have special needs they call experts :
 - o health care – doctors and nurses
 - o drugs experts
 - o = main team + experts – they use them quite a lot

- main issue of nationals problematic
 - 2006 big study to find differences in prisons (10 prisons)
 - a lot of in depth
 - immigration specialist
 - results – biggest problems:
 - o contact with family
 - o legal assistance
 - o language

- two prisons only for nationals - study - bad resettlement
- need national strategy with this 3 issues
- they want work with nationals but they don't know where to start – they don't have standards – strategy and standards
- communication with family
- special team – there is something but it is not organize

PLANS:

1. conference about inspectors in prison – to start talk about it
2. exchange program – look how EU standards are developing – special policy

Embassies and legal representatives workshop

Wiebe de Boer and Micheal Koch

Round of introduction participants and what they like to learn.

Contact with lawyer or embassy is first human contact after detention. Has a big influence on prison experience. Micheal Koch, member of European network of lawyers, annual meetings, share experience and knowledge, ask advice, complicated cases. In first interview it is mainly about social support. In Frankfurt prison at least 40% is not German. First person from outside they see. Consulat from Holland is doing good job in Frankfurt.

People from some countries like Nigeria are not willing to contact embassy, life at risk upon return or second sentence. Advice by lawyers to some nationals is not to

contact embassy. Embassies in general are not used to get into contact. 'Wildest time' is pre-trial detention. Waiting period. Normally 6 months in Frankfurt. Lawyers work is also a lot of social work. Every day new experiences. Lack of professionalism Language problem. He takes an interpreter with him. Confidentiality is not a problem, if client agrees. Spend lot of time, not always on bill. As lawyer you have to know about immigration laws, deportation legislation.

Co-operation between embassies and lawyers is pivotal. In UK legal officer provides information. It is being felt as a necessity. How do we see optimal co-operation?

Notes by Wiebe de Boer:

Cooperation among national organisations

Assistance to detainees abroad should preferably be done by a coalition of the embassy, probation service and private organisations like lawyers and specific foundations. By doing so optimal use is made of the specific strengths of the various organisations.

Cooperation with prison – and judicial authorities

A clear insight into each others responsibilities between local authorities, lawyers and organisations of the country of citizenship of the detainee, is crucial for a successful cooperation that will benefit the detainee.

Bob Daw: probation services are very different in many countries.

What would be helpful? Custom made (one per country) overview of social services / Co-operation is very important although / despite the fact that the situation in each country different is / Acknowledgement of prison service of problems (embassies and lawyers) is important

Conclusions and closing of session

Drs. Leo Tigges

CEP action points

- Members should grab change of new framework decision, raise profile. It will make a real change. CEP may offer assistance by exchange of information
- Prison and probation services should pay particular attention to Foreign National Prisoners. Institutional discrimination. Good practices (like UK invitation for embassies to meet), inspectorate critical about implementation.

How to limit discrimination. Avoid pre-trial detention. It predicts sentence. How? European supervision order pre-trial detention, other EU countries / use of electronic monitoring and bail houses

EGPA

- EU study
- how to implement framework decision
- make good practices widely available
- Make governments to pay attention, important to reduce reoffending
- Humane and economic point of view

Appendix

Programme

Foreigners in European Prisons

From 'good practices' to 'good policy'

'Nieuwersluis' Penitentiary Institution (The Netherlands)

16-17 October, 2008

Wednesday, October 15th

19.00 Reception at the Van der Valk hotel, Breukelen

Thursday, October 16th

10.00 – 10.15 **Welcome**
Sjef van Gennip, Director, Dutch Probation Service

10.15 – 10.35 **Keynote speech**
Dineke ten Hoorn Boer, Director-General Prevention, Juvenile Justice and Sanctions of the Dutch Ministry of Justice

10.35 – 10.45 **Introduction**
Leo Tigges, Secretary General of the CEP and *Rolf Streng*, Director, International Office of the Dutch Probation Service

10.45 – 11.00 **Documentary 'Het IJzeren Paradijs' ('The Iron Paradise')**

11.30 – 12.00 **Presentation of results of the EU 'Social Exclusion' study: 'Foreign Prisoners'** *Femke Hofstee-van der Meulen*, Prison Watch

- 12.00 – 12.30 **Insight into new (upcoming) EU legislation**
David O'Donovan, Deputy Director, Research, Training and Development, the Irish Probation Service, An tSeirbhís Phromhaidh
- 13.30 – 14.00 **Overview of (good) practices (for example, 'prison orderlies') and experiences with centralising foreign prisoners**
Bob Daw, NOMS (UK) Prison Service
- 14.00 – 14.30 **Embassies' role in care for nationals detained abroad and in preparing for the transfer of prisoners, in the light of the coming EU legislation**
Wiebe de BOER, the Dutch Ministry of Foreign Affairs
- 15.00 – 15.30 **Human rights, foreign prisoners and probation'**
Ioan Durnescu, Lecturer at the Faculty of Sociology and Social Work, University of Bucharest, Romania
- 15.30 – 16.00 **Introduction to Prisoners Abroad: its aims, activities, after-care facilities and surveys**
Pauline Crowe, Director of Prisoners Abroad (UK – NGO)

Friday, October 17th

09.00 – 09.30 Presentation by Vertige (a training company working with actors)

09.30 – 10.30 Workshops:

A: Probation Service: **Aims, activities, working with volunteers, aftercare, relationship with Ministry of Foreign Affairs and Ministry of Justice, sharing information about clients.** *Rolf Streng*, Head of the International Office, Dutch Probation Service

B: Prison Service: **Introduction to HM Inspectorate of Prisons: its aims, activities, impact, reports on special foreign nationals' prisons** (Canterbury, Bullwood Hall. *Hindpal Singh Bhui*, Inspector at HM Inspectorate of Prisons (UK)

C: Embassies and Legal Representatives: **Insight into the care for nationals detained abroad** (*Wybe de Boer*)

D: NGOs: **Support for foreign prisoners and national citizens detained abroad** - *Mark Montebello*

12.00 – 12.30 Conclusions and close of conference - Leo Tigges