Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 1656 (2004)[1]

Situation of European prisons and pre-trial detention centres

Parliamentary Assembly

1. The Parliamentary Assembly recalls its Recommendation 1257 (1995) on conditions of detention in Council of Europe member states. Since then, although the situation has improved in certain countries where it was regarded as giving serious cause for concern, Europe continues to face problems linked to ill-treatment, inadequate prison facilities, availability of activities and health care provision. Moreover, in most Council of Europe member states, there is also a trend towards overcrowding of prisons and pre-trial detention centres, a growing prison population and an increase in the number of foreign prisoners and of prisoners awaiting final sentencing.

2. The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126) and its monitoring machinery, as well as the Council of Europe's various legal instruments in this area, including Committee of Ministers Recommendation No. R (87) 3 on the European Prison Rules, are valuable tools for ensuring respect for human rights in detention centres. Work is in progress on revising these rules and the Assembly urges that it be speedily completed.

3. The Optional Protocol to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was opened for signature on 1 January 2003. The Assembly deplores that only seven member states have signed it (Austria, Denmark, Finland, Italy, Malta, Sweden and the United Kingdom) and that only two have ratified it (Malta and the United Kingdom). The setting up of a national machinery for the prevention of torture provided for by the protocol is a step forward.

4. Living conditions in many prisons and pre-trial detention centres have become incompatible with respect for human dignity. There is clearly a need to harmonise detention conditions and to introduce permanent external monitoring, which also implies harmonising the definition of offences and penalties. A general framework should be drawn up in the form of a European prisons charter, which would be binding on all Council of Europe member states, and a clear and comprehensive reminder of prisoners' rights and obligations.

5. In this respect, the European Parliament motion for a recommendation (2003/2188(INI)) on the rights of prisoners in the European Union expressly mentions the proposal for such a charter put forward by the Parliamentary Assembly's Committee on Legal Affairs and Human Rights.

6. The Assembly therefore recommends that the Committee of Ministers:

6.1. draw up a European prisons charter in conjunction with the European Union;

6.2. ensure, in particular, that the terms of reference of the committee responsible for drafting the charter require it to include specific rules that are binding on the member states, concerning:

a. the right of access to a lawyer and a doctor during pre-trial detention and the right for persons held pending trial to notify a third party of their detention;

b. detention conditions;

c. the right of access to internal and external medical services;

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1. Assembly debate on 27 April 2004 (11th Sitting) (seeDoc.10097, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Hunault). Text adopted by the Assembly on 27 April 2004 (11th Sitting).

d. activities geared to rehabilitation, education and social and vocational reintegration;

e. the separation of prisoners;

f. specific measures for vulnerable categories of prisoners;

g. visiting rights;

h. effective remedies enabling prisoners to defend their rights against arbitrary sanctions or treatment;

i. special security regimes;

j. promoting non-custodial measures and informing prisoners of their rights;

6.3. draw upon the guidelines appended to Document 10097 in preparing the charter;

6.4. submit the draft European prisons charter to the Parliamentary Assembly for an opinion;

6.5. invite the Council of Europe member states to sign and ratify the Optional Protocol to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as soon as possible.