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Women in prison

Report
Social, Health and Family Affairs Committee
Rapporteur: Mrs Minodora CLIVETI, Romania, Socialist Group

Summary

The number of women prisoners in custody in Europe is constantly increasing. Despite this increase, however, women are still only a minority of the prison population, with the result that there are very few prisons for women. For this reason, they are often imprisoned in places far from their homes, which makes it very difficult to maintain family ties. Furthermore, because prison regimes have been specially designed for men, in most cases one finds a glaring lack of programmes and provisions suited to the female prison population.

Even if it is short, a prison sentence has disastrous effects on women because it seriously disrupts family life. Most women in prison are mothers and usually in sole charge of the children.

In order to improve the conditions of detention of women in prison, the report calls for the implementation of the revised European Prison Rules and, in addition, it formulates specific recommendations for the member states of the Council of Europe as regards the detention of mothers or pregnant women in prison, the health and educational needs of women prisoners, the respect of human dignity of women prisoners and measures to assist them in their social reintegration.

A. Draft resolution

1. The number of women in prison in Europe is growing. Despite this increase, however, women are still only a minority of the prison population. Prisons are indeed designed with men in mind. Because of this, and because of the evidence of disadvantage in the social and educational background of women prisoners, prisons, prison regimes and prison rehabilitation and education programmes often do not address the specific needs of women.

2. In this context, the Parliamentary Assembly recalls its Recommendation 1469 (2000) on mothers and babies in prison and it invites member states to fully implement its provisions.

3. The Assembly also considers that at each re-examination of the European Prison Rules, the Council of Europe's expert body, the Council for Penological Co-operation, should aim to strengthen existing provisions and add new ones that will encourage member states to improve conditions for women in prison.

4. Similarly, the Assembly considers that during each inspection carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and the Council of Europe's Commissioner for Human Rights, at least one prison holding women should be visited. Specific sections on women in prison should be included in the relevant reports by the CPT and the Commissioner for Human Rights.

5. In general, the Assembly believes that, when imprisoning a woman, particularly if she is the sole or main carer of children, the judicial authorities of member states should be convinced that this decision is more justifiable than a non-custodial sentence, given the disruption and emotional costs which may ensue to both the mother and child(ren). In all cases, prison should be used as a last resort only if no other options are available and alternative forms of sentencing, including community service orders or similar and restorative justice approaches should be considered first.

6. With a view to improving the conditions of detention of women in prison, the Assembly calls on the member states to:

6.1. implement without delay the provisions of the revised European Prison Rules, noting that Rule 4 states that "prison conditions that infringe prisoners' human rights are not justified by lack of resources."

6.2. collect information on all aspects of imprisonment, make a gender breakdown of all data and make the statistics publicly available;

6.3. record the number, ages and location of the prisoner's children and the children's carer immediately upon arrival of the prisoner at the prison (regardless of whether the prisoner is male or female) and make such statistics publicly available;

6.4. ensure that women who are the sole carers of young children are not imprisoned while awaiting trial, except in circumstances where there is a real risk of re-offending, of absconding or of interfering with witnesses. Moreover, the suspension of the imprisonment sentence during pregnancy could also be considered.

7. As regards the detention of mothers or pregnant women in prison, the Assembly calls on the member states to:

7.1. ensure that pre-trial conditions for prisoners who have not yet been found guilty of a crime are as favourable as possible. In the case of restrictions which adversely affect the families of prisoners, such as restrictions on visits and place of detention, prisons must be as flexible as possible;

7.2. ensure that, where mothers are imprisoned, the State authorities are obliged to inform them of the whereabouts of their children and reassure them that their children are receiving suitable care and that they will be able to be reunited with them on release. It is thought that this would result in more women registering their children;

7.3. ensure that prison regimes and facilities are flexible enough to meet the requirements of pregnant women, breast-feeding mothers and prisoners whose children are with them;

7.4. ensure that, in situations where babies and young children in prison with their mother have to be separated from her, this is done gradually, so that the process is as painless and non-threatening as possible;

7.5. ensure that prison authorities are sensitive to the particular needs of foreign prisoners in relation to language and cultural differences. Prison authorities should ensure that foreign nationals are given help in contacting their consular authorities. In particular, the needs of foreign women whose children are in other countries must be fully considered and met wherever possible.

8. As regards the health needs of women prisoners, the Assembly calls on the member states to:

8.1. ensure that prison policies and programmes for women in the area of health care exist and that they are specifically tailored to their needs and that the health care needs of minority groups of women prisoners, such as pregnant, breast-feeding, post-natal and older women, are identified and met;

8.2. ensure that, whenever possible, prisoners are allowed to see a doctor on their own and not in the presence of guards or other prison staff and that male guards are never present when women prisoners are consulting a doctor or nurse;

8.3. ensure that women prisoners living with HIV/AIDS are given the specific care, treatment and support that they need;

8.4. ensure that, throughout a prisoner's sentence, she is monitored for signs of depression or other mental illnesses. Particular attention must be paid to vulnerable groups such as women prisoners who are more likely to self-harm;

8.5. ensure that further research is done on the types and prevalence of different mental disorders affecting women in prison and that resources to treat such disorders should be made available;

8.6. ensure that prison inspectors monitor the provisions made for women prisoners with a history of drug and alcohol addiction and that suitable programmes are in place with their specific needs in mind.

9. As regards the educational needs of women prisoners, the Assembly calls on the member states to:

9.1. ensure that women are given equal access to education, training and work opportunities as male prisoners which will provide them with skills that they can use on release;

9.2. ensure that crèches are made available to mothers with babies or young children in prison with them, thereby allowing them to work or take educational classes if they wish;

9.3. ensure that female juveniles are imprisoned separately from adult females. However, if this would lead to fewer opportunities for education, safeguards shall be put in place so that juveniles do not mix with women with serious long-term criminal histories.

10. As regards the organisation of visits for women in prison, the Assembly encourages member states to:

10.1. ensure that all prisons have visitor centres. Such centres may be particularly beneficial for young children;

10.2. ensure that special efforts are made to allow the children of prisoners to visit the prison and that staff are given training in dealing with visiting children. Any new measures or policies proposed shall be analysed for the effects they may have on children visiting the prison and take into account the rights of the child. Security measures imposed around visits must not be intimidating to children;

10.3. ensure that prisons shall provide supervised play areas that allow children to be looked after while their mother and other visitors can talk privately during the visit if necessary;

10.4. make conjugal visits available to all prisoners and ensure that contraception is made freely available. Prisons which already allow conjugal visits for male prisoners shall also allow them for female prisoners. Conjugal visits shall be available to prisoners in same-sex relationships, as well as those in heterosexual relationships.

11. As regards the respect of human dignity of women prisoners, the Assembly calls on the member states to:

11.1. ensure that male prison guards do not hold positions involving physical contact with female prisoners and do not supervise female prisoners when they are likely to be in a state of undress;

11.2. put in place safeguards to protect female prisoners from all forms of abuse including gender-specific abuse, violence or exploitation from other prisoners or staff within the prison or during transit;

11.3. ensure that women prisoners have the possibility of lodging complaints in the event of sexual abuse or violence be it on the part of other prisoners, visitors or from staff within the prison or during transit.

12. As regards the social reintegration of women prisoners, the Assembly calls on the member states to ensure that the needs of female prisoners upon release are addressed, such as homelessness, unemployment, workforce discrimination and regaining custody of children, thereby reducing the risk of re-offending. If social services have previously been involved with a prisoner, they shall be informed that the prisoner is being released and asked to assist in her social reintegration.

B. Explanatory memorandum by Mrs Minodora CLIVETI, rapporteur¹

Introduction

1. It is a fact that the number of women in prison in Europe is constantly increasing. The number of women prisoners in custody increased in at least 16 European countries in the 10 year period from 1994 to 2003. In Finland the number of women prisoners increased from 122 in 1994 to 205 in 2003 (a 68% increase), in The Netherlands numbers grew from 385 to 1025 (a 166% increase) and in Cyprus numbers grew from 20 to 102 (a 410% increase)². More crimes carry a penal sentence despite the low level of violent crimes committed by women³. More children are being separated from their mothers or are growing up in prison⁴

2. The gender gap is probably one of the most remarkable aspects of crime. Generally speaking, crime has been a male preserve, so that, looking back over the history of women in prison, we find the same disparities. Women were often imprisoned in unsuitable facilities where emphasis was laid chiefly on their role as housewives, and were given only limited access to educational opportunities. The stereotypes regarding women's role in society have therefore guided the way in which women were treated in prison.

3. Despite this increase, however, women are still only a minority of the prison population, with the result that there are very few prisons for women. For this reason, they are often imprisoned in places far from their homes, which makes it very difficult to maintain family ties. Furthermore, because prison regimes have been specially designed for men, in most cases one finds a glaring lack of programmes and provisions suited to the female prison population.

4. According to the current rules on the treatment of prisoners, men and women should as far as possible be held in separate establishments, and if the prison is designed to house both men and women, the premises allocated to women must be entirely separate.

5. There have been some in-depth academic studies of some aspects of the problems faced by women in prison, notable the MIP project.⁵ This has conducted analyses of the social background and penal characteristics of women in prison and concludes that a high proportion of women prisoners in all countries have experienced multiple forms of social exclusion already prior to their imprisonment. The study postulates that "being gender responsive in the criminal justice system requires an acknowledgement of the realities of women's lives, including the pathways they travel to criminal offending and relationships that shape their lives."⁶

6. A fairly accurate picture of women prisoners in most European countries is that in comparison with their male counterparts, they have a much lower educational level, have been victims of sexual abuse and domestic violence and were unemployed before their imprisonment. This is borne out both by the Quaker Council for European Affairs (QCEA) study on women in prison⁷ and by the MIP project.

7. Prisons are designed with men in mind. This is a result of the fact that the majority of the prison population is made up of men. Because of this, and because of the evidence of disadvantage in the social and educational background of women prisoners, prisons, prison regimes and prison rehabilitation and education programmes often do not address the specific needs of women.

¹ The rapporteur wishes to thank Ms Liz Scurfield from the Quaker Council for European Affairs who has helped in the preparation of this memorandum.

² Data collected by the Quaker Council of European Affairs in a European-wide survey on the status of women in prison (Report published in 2007).

³ 'The use of custody for women by Magistrates' Courts in England and Wales rose from 4% in 1994 to 11% in 2002. In Crown Courts it rose from less than 30% in 1994 to just over 43% in 2002' (Statistics on women and the criminal justice system, a Home Office publication under section 95 of the Criminal Justice Act 1991 (2003 version)). 'Today women receive more severe sentences for less severe offences' (Women's offending reduction programme action plan – UK Home Office, 2004). '9 out of 10 women are jailed for non-violent offences' (<http://www.smartjustice.org/>)

⁴ In England and Wales 'Around 2/3 of women prisoners have dependent children. More than 17,700 children are separated from their mothers each year through imprisonment and only five per cent of children remain in the family home after their mother is sentenced.' (<http://www.smartjustice.org/>)

⁵ 'Women integration in prison', MIP project, 2005, available at http://mip.surt.org/en/final_results.html

⁶ "International Study on Women's Imprisonment - Current situation, demand analysis and 'best practice'", Frieder Dünkel, Claudia Kestermann & Juliane Zolondek, Univ. Greifswald (DE), 2005, p.22

⁷ QCEA, Women in Prison, p.19

8. Also because of the low proportion of women prisoners among the total prison population, the types of prison in which women are held are often not suitable; women can be held in mixed facilities where they encounter male prisoners, women can be imprisoned in prisons with too high a security classification and regime in relation to their offending, and women can be imprisoned far away from their homes because of lack of suitable facilities nearer to their homes, thus weakening family ties.

9. Vulnerable and economically disadvantaged women are increasingly likely to be detained pre-trial, due to their inability to afford bail or the services of a lawyer. In many countries the proportion of women held in pre-trial detention is equivalent to, or larger than that of convicted female prisoners.⁸ It should be noted that the conditions for remand prisoners are very often worse than for persons who have been tried and sentenced.⁹ This can include lack of access to education and work, being locked up in their cells for up to 23 hours out of 24, less access to health provision, and less access to visits.

I. Problems faced by women in prison

i. The situation of single mothers

10. Even if it is short, a prison sentence has disastrous effects on women because it seriously disrupts family life. Most women in prison are mothers and usually in sole charge of the children. The prison sentence the mother serves affects the children and other members of the family disproportionately, especially where the mother was or is the sole carer.

The issues policy makers need to consider are:

- Whether it is appropriate at any age for children to be in prison with their mothers¹⁰, at what age this becomes inappropriate, what provision for the children in prison needs to be made, and what social and educational support they require both while in prison and afterwards.
- What arrangements need to be made to ensure that children outside prison retain contact with their mothers, are cared for appropriately but without the risk of the mother losing parental control.
- What arrangements need to be made for children to visit their mothers in prison to maintain family ties?

11. Mothers need to be able to maintain their role as parents; this must include full parental control and access to information about the welfare of the children. In order to preserve normal family ties (with all members of the family but particularly with children), any information received of the death or serious illness of any near relative must be promptly communicated to the prisoner. Prisoners should be kept fully informed and be fully involved in decision making surrounding their child's education, health, medical treatment and general well-being. At present the difficulty of communication between the prison and the outside world means women prisoners may not be informed of their child's welfare.¹¹

12. The impact of parental imprisonment on children can stretch far beyond the time of imprisonment and immediate post-imprisonment period. Research has repeatedly highlighted the fact that many prisoners have criminal parents: a UK study following boys over 40 years found that those who were affected by parental imprisonment as children were more likely than other boys to display antisocial behaviour in later life. This same study, through its long-term focus, found that "parental imprisonment is not just an indicator of parental criminality, but confers specific risk on children"¹² (i.e. having a parent imprisoned makes children more likely to engage in antisocial behaviour in later life).

13. Children separated from parents for other reasons did not exhibit antisocial tendencies to the same extent. The imprisonment of a parent was found to be a strong predictor of future criminal behaviour in the children, regardless of the length of sentence imposed.¹³ Other studies have found a "dose-response

⁸ Draft Handbook on Women in Prison, 15 February 2008, UNODC p.5

⁹ See QCEA, Women in Prison, p.9

¹⁰ Practice on this varies widely. QCEA research indicates that the most common age limit for children to reside in prison with their mother is three.

¹¹ Gender Critique of the European Prison Rules, QCEA, 2006 p.16

¹² Joseph Murray and David P. Farrington (2005) "Parental imprisonment: effects on boys' antisocial behaviour and delinquency through the life-course" in *Journal of Child Psychology and Psychiatry* Vol. 46, No. 12, pp. 6-7

¹³ Joseph Murray (2005) "The effects of imprisonment on families and children of prisoners" in A. Liebling & S. Maruna (eds.) *The effects of imprisonment*, p.449

relationship between the number of times parents were incarcerated and the number of times offspring offended in adulthood",¹⁴ which heightens further the importance of preventing repeat offending on the part of the parents.

14. Children with imprisoned parents are also more likely to drop out of school and to become delinquent than the population at large. Children in institutional care (many there as a result of their parents being imprisoned) are more likely to enter the criminal justice system themselves: a quarter of the adult prison population in England & Wales was in care at some point during childhood.¹⁵ However, early and targeted intervention with children of imprisoned parents can reduce or mitigate some of these later problems.¹⁶

15. The small number of women's prisons can place some women a significant distance away from home, which can make it particularly difficult to maintain family bonds¹⁷. Not all female prisons have Mother and Baby Units (MBUs), so a mother may find herself detained even further from home, at the time when family support and advice is most needed. Prisoners may even ask to serve their sentence in a higher security prison in order to be nearer their families.

16. Sentencing may result in the limitation of certain rights but it should not impact on the rights of the offender's children. These rights are often not considered when dealing with offenders. In 2004, the UN Committee for the Rights of the Child recognised the children of mothers in prison as among the most vulnerable and it regularly questions governments on the treatment of children of imprisoned parents.¹⁸

17. Around the world, babies and small children are living in prison with their mothers. Allowing babies but not older children to reside in prison is based on the premise that to separate a mother and baby causes emotional problems for the baby, but to keep a young child in the limited confines of a prison hampers their educational development and thus they should be removed from the prison at a certain age. However, there is a lack of agreement on the age at which this should happen.

ii. The situation of pregnant women

18. The prison environment is not the most suitable environment for a pregnant woman, who requires care and special attention. Poor conditions in prison can cause complications both for the future mother's health and for the foetus. An inadequate or unbalanced diet, a shortage of vitamins and a lack of regular care, proper medication and appropriate medical assistance increase the risk of complications.

19. Pregnant prisoners need proper exercise and to be issued with appropriate clothing. Many prisoners will need support and to be educated about pregnancy. Such provisions are often unavailable or sorely inadequate.

20. One factor which can seriously compromise the standard of antenatal care is staff shortages. In the UK, for example, there is an ongoing lack of prison officer escorts to accompany prisoners to ultrasound scans and other external appointments. These appointments often have to be cancelled and rescheduled which takes some time. This is not only stressful for the woman involved, but can also jeopardise her ability to make decisions about the future of her pregnancy.¹⁹

¹⁴ Joseph Murray et al. (2007) "Crime in adult offspring of prisoners: A Cross-National Comparison of Two Longitudinal Samples" in *Criminal Justice and Behaviour* Vol. 34, No. 1, p.144

¹⁵ Home Office Strategic Plan, 2005 quoted in Centrepoint (2006) A place to call home: care leavers' experience of finding suitable accommodation, p.3

¹⁶ The information on the impact of parental imprisonment on their children comes from: 'The impact of parental imprisonment on children, Quaker United Nations Office (QUNO), 2007

¹⁷ Women, Integration and Prison: An analysis of the processes of socio-labour integration of women prisoners in Europe, French National Report, prepared by FAIRE team, January 2005, p.3: <http://mip.surt.org>

¹⁸ Consideration of the Reports submitted by the State Parties under Article 44 of the Convention of the Rights of the Child, Concluding observations: Thailand, CRC/C/THA/CO/2, paragraph 48.

¹⁹ North J., 'Getting it Right? Services for pregnant women, new mothers, and babies in prison', The Maternity Alliance, UK, 2006

iii. Birth, breastfeeding and postnatal health

21. International standards state that prisoners should give birth in an ordinary hospital outside of the prison.²⁰ This is important to ensure that the mother and child have access to the best possible medical care and equipment.

22. In addition, 'measures of physical restraint should never be used on women in labour, during transport to hospital or during delivery unless there are compelling reasons for believing that they are dangerous or likely to abscond at that time. In cases where a woman poses a significant and realistic threat to the safety of others, all other methods of ensuring security shall be attempted before physical restraints are used.'²¹ 'Nevertheless, from time to time, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) encounters examples of pregnant women being shackled or otherwise restrained to beds or other items of furniture during gynaecological examinations and/or delivery. Such an approach is completely unacceptable, and could certainly be qualified as inhuman and degrading treatment. Other means of meeting security needs can and should be found.'²²

23. Breastfeeding women also have particular health and nutrition needs. New mothers require health checks to ensure that their body is recovering from birth healthily and, for example, to ensure that they do not have any infection that they might transmit to the child through breastfeeding. Often women in prison are discouraged from breastfeeding, as it is perceived to interfere with prison routines. Once born, the child requires immunisation and regular health checks.²³

iv. The specific situation of female foreign nationals in prison and female minors

24. There is evidence that female foreign nationals (immigrants, refugees, asylum seekers or stateless persons) are particularly exposed and may suffer multiple disadvantages compared to other prisoners.

25. Foreign nationals who are non-resident in the country in which they are imprisoned face particular challenges. If their first language is not that of the country where they are imprisoned, their understanding of their legal situation and their communication with a lawyer are likely to be impaired. Legal procedures may be slowed by the need for translation/interpretation, especially if the prisoner's first language is not a widely spoken one. Even when foreign nationals do speak the relevant language they may be unfamiliar with the criminal justice system of the country where they are imprisoned. Their comprehension of prison rules and the behaviour expected of them may differ from that of their peers and thus, they may have trouble negotiating the benefits and sanctions of the prison system, as well as the legal system. Isolation, incomprehension and lack of knowledge may create barriers for accessing work, training and education. They are likely to experience severe isolation.

26. Whilst the problems of family contact may be less severe for resident foreign nationals, there are concerns relating to deportation on completion of the sentence for resident foreign nationals. If they are deported, the impact on their families may be greater at the completion of their sentences. The problems all mothers face in prison are exacerbated for foreign national women. Arranging alternative care for children is more difficult over long distances with limited communication.

27. Both prisons and the criminal justice system need to take into account possible delays in any issue where communication is important and should allow extra time. Foreign national prisoners should also be given extra support in contacting their lawyer, consulates and families. The possibility and consequences of serving their sentence in their own country need to be fully explained to them. Some prisons try to put foreign nationals of the same nationality together for mutual support and to help with interpretation. Prisons can help by making an effort to secure interpretation and translation and putting foreign nationals in touch with those who might be able to support them such as NGOs, support groups and individuals of the same nationality. Prisons could also help by making information about prison rules available in the appropriate foreign languages and by discussing rules, culture and expectations with prisoners who might have difficulty understanding them.

²⁰ 1957 UN Standard Minimum Rules for the Treatment of Prisoners, Rule 23(1); 2006 European Prison Rules, Recommendation Rec(2006)2, Rule 34.3.

²¹ Human rights and vulnerable prisoners, Penal Reform International cited in 'Women in prison: A commentary on the Standard Minimum Rules for the Treatment of Prisoners', Bastick M, the Quaker United Nations Office Geneva. <http://www.quano.org/>

²² 10th General Report on the CPT's Activities (1999) including a section on 'Women deprived of their liberty', para. 27, <http://www.cpt.coe.int/en/docsannual.htm>

²³ Bastick M., 'Women in prison – A commentary on the Standard Minimum Rules for the Treatment of Prisoners', Discussion Draft, Quaker United Nations Office, July 2005, p.44

28. Where female minors are concerned, care must be taken to prevent them coming into contact with adult female prisoners by endeavouring, as far as possible, to replace prison sentences with alternative sentences or to house them in separate, independent buildings.

29. International standards state that adults and juveniles should be imprisoned separately. 'Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication. The penitentiary system shall comprise treatment of prisoners, the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.'²⁴

30. Yet, the number of female juveniles in prison within the women prison population is low. This means that, in reality, juveniles and adult female prisoners are sometimes accommodated in the same sections. This may result in juveniles being in regular contact with women who have a long history of crime. On the other hand while this situation is not ideal, it may sometimes be the only way that individual juveniles can avoid isolation and have access to educational opportunities.

II. Conditions of detention

i. Access to care

31. Under existing European rules, all prisoners are entitled to the same level of public health, including care for mental health. The 2006 European Prison Rules state that 'prisoners shall have access to the health services in the country without discrimination on the grounds of their legal situation' and 'health policy in prisons shall be integrated into and compatible with national health policy'.²⁵

32. Yet, one of the major problems is that of prison overcrowding. A large number of Council of Europe member states have occupancy rates of over 100%. According to Amnesty International, a large number of complaints have been lodged for withholding of medical care, ill-treatment and sexual harassment.

33. Overcrowded prisons are more conducive to the spread of hepatitis and HIV/AIDS, as well as tuberculosis. Many countries have reported high rates of HIV in penal institutions. In the countries of Central and Eastern Europe and the former Soviet Union, high rates of HIV infection and injection drug use among prisoners are a growing concern. For example, in Latvia, it has been estimated that prisoners comprise a third of the country's HIV positive population. In Western Europe particularly high rates of HIV in prisons have been reported in Portugal and Spain.²⁶

34. As most prison data is not gender disaggregated, there is a lack of information available on the numbers of women in European prisons with HIV/AIDS. However, a large proportion of women in prison have been victims of sexual abuse, which may have exposed them to a heightened risk of HIV infection. In addition, women arrested for prostitution or for drug-related offences are at high risk of already being infected with HIV when they enter the prison system.²⁷

35. The prison population can be considered as a high risk group in terms of drug use: drug users are over-represented in prison, and a significant percentage of female prisoners have been sentenced as a result of drug offences (the largest part for drug possession) showing that drugs are a significant and increasing problem in the life of delinquent women.²⁸

36. These women often have a long-standing addiction which will not be addressed during their term of imprisonment. Because of alcohol or drug use and their lifestyle, female prisoners are more vulnerable to a large number of physical health problems than men and, more specifically, are likely to suffer psychological problems. It is important for this reason that they should have access to suitable health services tailored to

²⁴ International Covenant on Civil and Political Rights, Article 10(2) b

²⁵ 2006 European Prison Rules, Recommendation Rec(2006)2, Rules 40.3 and 40.2

²⁶ 'HIV/AIDS and HCV in prisons – from evidence to action', presentation given by Ralf Jürgens at the conference on 'International prisoner health', 2006

²⁷ Bastick M., 'Women in prison – A commentary on the Standard Minimum Rules for the Treatment of Prisoners', Discussion Draft, Quaker United Nations Office, July 2005, p. 51

²⁸ Training curriculum for women's prisons - health aspects, Claudia Kestermann, in "International Study on Women's Imprisonment - Current situation, demand analysis and "best practice", http://www.uni-greifswald.de/~ls3/Dokumente/Reader_womeninprison.pdf

their needs. However, according to a recent study, only a few European countries have developed drug treatment programmes for prisoners.²⁹

37. In many countries, women in prison suffer mental health problems (including depression, phobias, anxiety, neuroses, self-harm and suicide) at alarmingly high rates. Research indicates that women prisoners suffer mental health problems to a much higher degree than both the male prison population and the general population. Again, the reasons for the very high incidence of mental illness amongst women prisoners may be related to the higher proportion of women imprisoned for drug-related crimes, and higher rates of past sexual, physical and mental abuse. Mental health may further be damaged by anxiety over the safety of their children who remain on the outside.³⁰ As a minority group, the health needs of women prisoners are often unmet. This needs to be urgently rectified, both from a human rights point of view, and, as in the case of communicable diseases, to protect public health and safety.

38. As a result, women prisoners are much more likely to self-harm (including attempted suicide) than their male counterparts. Hence, mental health services in prison need to cater to gender specific needs. Women's mental health is likely to deteriorate in prisons which are overcrowded, where differentiation of prisoners based on a proper assessment is not made and prisoner programmes are either non-existent or inadequate to address the specific needs of women.

ii. Prison staff

39. According to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the presence of male and female staff may have a beneficial effect by stimulating a degree of normality in places of detention.

40. However, there is an obvious risk of violence when male staff hold positions that bring them into contact with female prisoners, especially in view of the hierarchical nature of prisons and the unequal power relationship between warders and female inmates.

41. Indeed, it has been found in a number of prisons that the presence of male prison officers in the residential wings creates a situation where sexual misconduct is more widespread if female prisoners are under the supervision of male officers.

42. The imbalance between the situation of prisoners and warders and the closed environment of prisons provide fertile ground for abuses such as harassment, exploitation, prostitution and rape of female prisoners. A large number of women have suffered past sexual abuse and/or trauma and have mental and psychological problems. It is essential therefore that staff should have rigorous attitudes and that the prison authorities should put in place stringent disciplinary procedures.

43. The 2006 European Prison Rules recommend that prisoners should only be searched by staff of the same gender³¹ and the Standard Minimum Rules for the Treatment of Prisoners asserts that women prisoners shall be attended and supervised only by women officers.³² It is interesting to note that some Council of Europe member states such as Cyprus, Georgia, Greece, Latvia, Luxembourg and Portugal employ no male staff in prisons for women.

III. The effects of the imprisonment of mothers on children and their family life, and help with resettlement

i. The effects of imprisonment on family life

44. Most women in prison are mothers. In the United Kingdom, for example, 66% of female prisoners are mothers and 55% have at least one child aged 16; over a third of them have one or more children under the age of 5 and 35% are single mothers.

²⁹ 'Problematic drug users in prison', MacDonald M, presentation at 'Criminal Justice and Drugs, Reducing Drug Use – Combating Crime, Lessons from Other Countries on Dealing with Drug Related Offences', July 2005: <http://www.uce.ac.uk/crq/presentations/2>

³⁰ Bastick M., 'Women in prison – A commentary on the Standard Minimum Rules for the Treatment of Prisoners', Discussion Draft, Quaker United Nations Office, July 2005, pp 56-57

³¹ European Prison Rules, Recommendation Rec(2006)2, Rule 54.5

³² 1957 UN Standard Minimum Rules for the Treatment of Prisoners, Rule 53(3)

45. In most cases, the imprisonment of a woman can lead to the violation not only of her rights, but also of those of her children. When a mother is incarcerated, her baby and/or young children may either go to prison with her or be separated from their mother. Both options have consequences for the children.

46. It is absolutely essential that women should be able to maintain their ties and contacts with their children. In this connection, there are very few prisons which possess facilities suitable for family visits or which encourage relations between mothers and children. This separation is likely to have serious consequences in the long term. Therefore, a visitors' centre should be provided for the comfortable reception of visitors; including a play area for children supervised by a qualified child-minder. The maintenance of family ties through visits is to be encouraged.

47. Yet, visiting facilities are often not designed with children in mind and have no play facilities leading to stressful visits for families, prisoners and guards. Search procedures intended for adults may be frightening for children. Smooth visits improve good order and safety in the prison.

48. Special efforts should therefore be made to allow the children of prisoners to visit the prison. Searches and security procedures involving children should be carried out in a non-threatening manner. Any new measures or policies proposed shall be analysed for their effects on children visiting the prison and take into account the rights of the child. Staff should receive training to deal with visiting children.

49. The overnight visits of family members should be made available for both male and female prisoners where possible. Overnight visits are a chance for a family to bond together and may be particularly effective for children staying overnight with their mothers in prison. Such visits can comply with security by using a separate apartment. Women prisoners should be entitled to 'conjugal' visits. Same-sex couples shall not be discriminated against. The health and safety of prisoners should be ensured by the provision of free condoms.

50. All prisoners shall have control over who is allowed to visit them, regardless of the age of the prisoner. Prisoners who have been subject to domestic violence shall be given special support in negotiating contact with the outside world.

51. There are high rates of abuse and violence in prisoners' histories. Family ties should not give an automatic admittance to visit a prisoner. This rule should ensure the safety of juvenile girls who are particularly at risk from abuse.³³

ii. Education, training and employment

52. Female prisoners have the same needs for purposeful activity as male prisoners, but their situation is different. Women prisoners generally serve shorter sentences so it is harder for individual women to complete educational courses (especially higher level distance learning courses) and to get work. With fewer women in a women's prison than men in a men's prison, companies are less interested in outsourcing. It also means that training providers are less interested in serving women's prisons.

53. Whilst policies may encourage education and training in prison to the highest level, it may be very difficult for prisons to put this into practice. Moreover, mothers caring for babies in prison may not have crèche facilities available so that mothers are effectively barred from participating in most prison activities.

54. Many programmes provided for women are in traditionally feminine areas of work such as sewing and hairdressing, thus reinforcing gender stereotypes and women's disadvantaged place within the labour market. However anecdotal evidence from France and Denmark suggest that women prisoners might respond better to offers of traditionally feminine work/training.

iii. Help with resettlement

55. One of the major problems arising is that of the situation of women upon their release from prison. Even short prison sentences (or periods of pre-trial detention) can break up family units: if imprisonment causes detainees to lose their homes (because they cannot keep paying rent or mortgage payments), jobs, or places on mental health, drug or substance abuse programmes, their children may be taken into care because of the parent's perceived inability to take care of them. Parents without custody of their children can find it harder to access benefits or social support: in many countries those with children are given priority

³³ Gender Critique of the European Prison Rules, QCEA, 2006 p.16

when allocating public housing, which can lead to a vicious circle where parents cannot regain custody of their children because they lack a home, yet cannot secure housing because they are not caring for children at the time.

56. Even parents who have worked or undergone training while in prison may have difficulties following release. Employers may be unwilling to hire someone with a criminal record or history of imprisonment, even if they were acquitted of any criminal activity,³⁴ while a lack of independent finance can prevent ex-prisoners from setting up their own businesses.

57. Due to the many difficulties associated with release from prison, it is something which should be prepared for by all involved: prisoners, children and authorities. Following release, support from agencies and organisations can help the ex-prisoner re-adjust to life on the outside.

58. Women serving a sentence, whether short or long, should be eligible for programmes to help them cope with the problems with which they will be faced. For this purpose, the public authorities should take measures to create reception centres for women released from prison and their children, especially as the conviction often affects the chances of finding accommodation. Women very often suffer discrimination when looking for decent accommodation.

59. Obviously, having a family to go back to is important in preventing re-offending: "Families are an important influence on many aspects of prisoners' lives ... Family contact is associated with lower rates of self-harm while inside prison ... Families are one of the most important factors affecting prisoners' rehabilitation after release".³⁵ One study of released prisoners found that only half of those who had no contact with family members during imprisonment had completed a year of parole without being re-arrested, compared to 70% of those who had at least three visitors while in prison.³⁶

iv. Alternative sentences

60. A large number of imprisoned women do not need to be in prison at all. Most are charged with minor and non-violent offences and do not pose a risk to the public. Many are imprisoned due to their poverty and inability to pay fines. A large proportion is in need of treatment for mental disabilities or substance addiction, rather than isolation from society. Many are victims themselves but are imprisoned due to discriminatory legislation and practices. Community sanctions and measures would almost certainly serve the social reintegration requirements of these women better than imprisonment.

61. Yet, it is evident that the use made of the possible alternatives to custodial sentences is far more limited than it needs to be; there is significant potential for change in the approach of policy makers and justice systems.

62. It is absolutely essential that women should whenever possible be offered alternatives to imprisonment, which would enable them in the first instance to keep their children with them and not have custody taken away from them, to keep their home and be able to continue working.

³⁴ Joseph Murray (2007) "The cycle of punishment: Social exclusion of prisoners and their children" in *Criminology and Criminal Justice* Vol. 7, No. 1, p.57

³⁵ Joseph Murray (2005) "The effects of imprisonment on families and children of prisoners" in A. Liebling & S. Maruna (eds.) *The effects of imprisonment*, p.442

³⁶ Karen Laing and Peter McCarthy (2004) *Risk, Protection and Resilience in the Family Life of Children and Young People with a Parent in Prison: A literature review*, p.15

Reporting committee: Social, Health and Family Affairs Committee

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Members of the committee: **Mrs Christine McCafferty** (Chairperson), Mr Denis Jacquat (1st Vice-Chairperson), **Mrs Minodora Cliveti** (2nd Vice-Chairperson), **Mrs Darinka Stantcheva** (3rd Vice-Chairperson), Mr Konstantinos Aivaliotis, Mr Farkhad Akhmedov, Mr Vicenç Alay Ferrer, Mrs Sirpa Askoseljavaara, Mr Jorodd Asphjell, **Mr Lokman Ayva**, Mr Zigmantas Balčytis, Mr Miguel Barceló Pérez, Mr Andris Berziņš, Mr Jaime Blanco García, Mr Roland Blum, Mrs Olena Bondarenko, Mrs Monika Brüning, Mrs Bożenna Bukiewicz, Mrs Karmela Caparin, Mr Igor Chernyshenko, Mr Imre Czinege, Mrs Helen D'Amato, Mr Karl Donabauer, Mrs Daniela Filipiová, Mr Ilja Filipović, Mr André Flahaut, Mr Paul Flynn, Mrs Pernille Frahm, Mrs Doris Frommelt, Mr Renato Galeazzi, Mr Henk van Gerven, Mrs Sophia Giannaka, Mr Stepan Glăvan, **Mr Marcel Glesener**, **Mrs Svetlana Goryacheva**, Mr Luc Goutry, Mrs Claude Greff, Mr Michael Hancock, **Mrs Olha Herasym'yuk**, Mr Vahe Hovhannisyán, Mr Ali Huseynov, Mr Fazail Ibrahimli, Mrs Evguenia Jivkova, Mrs Marietta Karamanli, Mr Andrés Kelemen, Mr Peter Kelly, Baroness Knight of Collingtree, Mr Haluk Koç, Mr Andrija Mandić, Mr Michal Marcinkiewics, **Mr Bernard Marquet**, Mr Ruzhdi Matoshi, **Mrs Liliane Maury Pasquier**, Mr Donato Mosella, Mr Felix Müri, Mrs Maia Nadiradzé, Mrs Carina Ohlsson, Mr Peter Omtzigt, Mrs Lajla Pernaska, Mrs Marietta de Pourbaix-Lundin, Mr Cezar Florin Preda (alternate: **Mr Laurențiu Mironescu**), Mrs Adoración Quesada Bravo, Mrs Vjericca Radeta, Mr Walter Riester, Mr Andrea Rigoni, **Mr Ricardo Rodrigues**, **Mrs Maria de Belém Roseira**, Mr Alessandro Rossi, Mrs Marlene Rupprecht, Mr Indrek Saar, Mr Fidias Sarikas, Mr Andreas Schieder, Mr Ellert B. Schram, Mr Gianpaolo Silvestri, Mrs Anna Sobecka, Mrs Michaela Šojdrová, Mr Oleg Tulea, Mr Alexander Ulrich, Mr Mustafa Ünal, Mr Milan Urbáni, Mrs Nataša Vučković, Mr Dimitry Vyatkin, Mr Victor Yanukovych, Mrs Barbara Žgajner-Tavš, Mr Vladimir Zhidkikh

N.B.: The names of the members who took part in the meeting are printed in **bold**

Secretariat of the committee: Mr Géza Mezei, Mrs Christine Meunier, Mr Laurent Pfaadt