

# EU and CoE interventions on prison overcrowding: a critical analysis

Research Seminar – PrisonCivilAct Programme

## ONLINE

13 December 2023

16.00-18.00 CET

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**Webinar in English & French languages  
with simultaneous translation in English,  
French and Russian**

Over the past twenty-five years, the institutions of the Council of Europe (CoE) have played a central role in defining and defending the rights of detainees. In this respect, prison overcrowding has received particular attention, due to its “structural” nature in many countries, its detrimental impact on other aspects of detention, but also due to the massive litigation to which it has given rise before the European Court of Human Rights (ECtHR) and the fact that contemporary debates on prisons focus on material conditions of detention.

Prison overcrowding has been the subject of extensive case law by the ECtHR, including through the pilot-judgment procedure. It has also prompted the adoption of recommendations by the Committee of Ministers, a White Paper by the European Committee on Crime Problems and was the subject of a dedicated chapter in a recent report by the European Committee for the Prevention of Torture (CPT).<sup>1</sup> The issue is therefore a very relevant way of revealing the effects of interactions between European and national legal orders in the field of prisons.

1) Council of Europe, Committee of Ministers, [Recommendation Rec\(99\)22 concerning prison overcrowding and prison population inflation](#), 1999 ; European Committee on Crime Problems, [White Paper on Prison Overcrowding](#), 2016; CPT, [31<sup>st</sup> General Report of the CPT](#), 2022.

Despite the many initiatives to which it has given rise, prison overcrowding remains a reality today in a quarter of CoE member states.<sup>2</sup> The persistence of the problem suggests that the CoE’s interventions and the reforms subsequently adopted by the States have not altered its underlying causes, apart from the use of pre-trial detention.

What conclusions can be drawn from this observation? Should we identify its sources in a fragmented understanding of the causes of prison overcrowding or in a political balance of power unfavourable to the CoE? In this context, what are the prospects for action by civil society, both upstream, in the establishment of European standards, and downstream, in the supervision of the execution of ECtHR judgments?

And what does the growing commitment of the European Union (EU) to this issue augur? The acknowledged negative impact of detention conditions on judicial cooperation in criminal matters between Member States has led the European Commission, seven years after a seminal ruling by the Court of Justice (CJEU), to outline common standards.<sup>3</sup> What is the particularity, and the added value, of the EU’s interventions, compared with the corpus developed and the methods used by the CoE? What synergy can be envisaged between the two organisations on prison issues?

This seminar aims to present the results of a research carried out by the European Prison Litigation Network (EPLN) and its partners, covering nine countries that have been the subject of a pilot or quasi-pilot judgment by the ECtHR (Belgium, Bulgaria, France, Greece, Hungary, Italy, Poland, Portugal and Romania). It will provide an analysis of the interventions of the Council of Europe and European Union bodies in the penitentiary field, as well as their impact on national penitentiary and penal policies.

2) As of 31 January 2022, prison systems were overcrowded or operating at maximum capacity in 12 Member States: M. Aebi et al., [Prisons and Prisoners in Europe 2022: Key Findings of the SPACE I survey](#), 2023, p. 15.

3) European Commission, [Recommendation on the procedural rights of suspects and accused persons subject to pre-trial detention and on material detention conditions](#), C(2022) 8987 final, 2022. See also CJEU, Aranyosi and Căldăraru, C-404/15 and C659/15, 2016.

## PROGRAMME

### Opening:

**Damien SCALIA**  
Université libre de  
Bruxelles

### Speakers:

**Julien FISCHMEISTER**  
Université libre de  
Bruxelles /  
Université Grenoble  
Alpes

**Overview of the  
Council of Europe's  
approach to prison  
overcrowding**

**Annie KENSEY**  
CESDIP

**Critical analysis of  
Council of Europe's  
recommendations in  
the light of trends in  
prison demographics**

**Leandro MANCANO**  
University of Edinburgh

**Overview of the  
European Union's  
approach to prison  
issues**

**Zsófia MOLDOVA**  
Hungarian Helsinki  
Committee

**The cases of Hungary and Poland**

**Marcin WOLNY**  
Helsinki Foundation  
for Human Rights

### Closing remarks:

**Marie-Sophie  
DEVRESSE**  
Université catholique  
de Louvain

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