

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

Recommendation Rec(2003)23 of the Committee of Ministers to member states on the management by prison administrations of life sentence and other long-term prisoners

*(Adopted by the Committee of Ministers on 9 October 2003
at the 855th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that it is in the Council of Europe member states' interest to establish common principles regarding the enforcement of custodial sentences in order to strengthen international co-operation in this field;

Considering that the enforcement of custodial sentences requires striking a balance between the objectives of ensuring security, good order and discipline in penal institutions, on the one hand, and providing prisoners with decent living conditions, active regimes and constructive preparations for release, on the other;

Considering that prisoners should be managed in ways that are adapted to individual circumstances and consistent with principles of justice, equity and fairness;

Referring to the resolution on the implementation of long-term sentences adopted in October 2001 by the European Ministers of Justice during their 24th Conference held in Moscow;

Considering that the abolition of the death penalty in member states has resulted in an increase in the use of life sentences;

Concerned about the increase, in many countries, in the number and length of long-term sentences, which contribute to prison overcrowding and may impair the effective and humane management of prisoners;

Bearing in mind that implementation of the principles contained in Recommendation No. R (99) 22 concerning prison overcrowding and prison population inflation, as well as the provision to prison administrations of adequate resources and staff, would reduce to an important extent the management problems related to long-term imprisonment and allow for safer and better conditions of detention;

Considering that legislation and practice concerning the management of life sentence and other long-term prisoners should comply with the requirements embodied in the European Convention on Human Rights and the case-law of the organs entrusted with its application;

Bearing in mind the relevance of the principles contained in previous recommendations and in particular:

- Recommendation No. R (82) 16 on prison leave;
- Recommendation No. R (82) 17 concerning custody and treatment of dangerous prisoners;
- Recommendation No. R (84) 12 concerning foreign prisoners;
- Recommendation No. R (87) 3 on the European Prison Rules;
- Recommendation No. R (87) 20 on social reactions to juvenile delinquency;
- Recommendation No. R (89) 12 on education in prison;

- Recommendation No. R (92) 16 on the European rules on community sanctions and measures;
- Recommendation No. R (97) 12 on staff concerned with the implementation of sanctions and measures;
- Recommendation No. R (98) 7 concerning the ethical and organisational aspects of health care in prison;
- Recommendation No. R (99) 22 concerning prison overcrowding and prison population inflation;
- Recommendation Rec(2000)22 on improving the implementation of the European Rules on community sanctions and measures;
- Recommendation Rec(2003)22 on conditional release,

Recommends that governments of member states:

- be guided in their legislation, policies and practice on the management of life sentence and other long-term prisoners by the principles contained in the appendix to this recommendation;
- ensure that this recommendation and the accompanying report are disseminated as widely as possible.

Appendix to Recommendation Rec(2003)23

Definition of life sentence and long-term prisoners

1. For the purposes of this recommendation, a life sentence prisoner is one serving a sentence of life imprisonment. A long-term prisoner is one serving a prison sentence or sentences totalling five years or more.

General objectives

2. The aims of the management of life sentence and other long-term prisoners should be:
- to ensure that prisons are safe and secure places for these prisoners and for all those who work with or visit them;
 - to counteract the damaging effects of life and long-term imprisonment;
 - to increase and improve the possibilities for these prisoners to be successfully resettled in society and to lead a law-abiding life following their release.

General principles for the management of life sentence and other long-term prisoners

3. Consideration should be given to the diversity of personal characteristics to be found among life sentence and long-term prisoners and account taken of them to make individual plans for the implementation of the sentence (individualisation principle).
4. Prison life should be arranged so as to approximate as closely as possible to the realities of life in the community (normalisation principle).
5. Prisoners should be given opportunities to exercise personal responsibility in daily prison life (responsibility principle).
6. A clear distinction should be made between any risks posed by life sentence and other long-term prisoners to the external community, to themselves, to other prisoners and to those working in or visiting the prison (security and safety principle).
7. Consideration should be given to not segregating life sentence and other long-term prisoners on the sole ground of their sentence (non-segregation principle).
8. Individual planning for the management of the prisoner's life or long-term sentence should aim at securing progressive movement through the prison system (progression principle).

Sentence planning

9. In order to achieve the general objectives and comply with the principles mentioned above, comprehensive sentence plans should be developed for each individual prisoner. These plans should be prepared and developed as far as possible with the active participation of the prisoner and, particularly towards the end of a detention period, in close co-operation with post-release supervision and other relevant authorities.
10. Sentence plans should include a risk and needs assessment of each prisoner and be used to provide a systematic approach to:
- the initial allocation of the prisoner;
 - progressive movement through the prison system from more to less restrictive conditions with, ideally, a final phase spent under open conditions, preferably in the community;
 - participation in work, education, training and other activities that provide for a purposeful use of time spent in prison and increase the chances of a successful resettlement after release;
 - interventions and participation in programmes designed to address risks and needs so as to reduce disruptive behaviour in prison and re-offending after release;
 - participation in leisure and other activities to prevent or counteract the damaging effects of long terms of imprisonment;
 - conditions and supervision measures conducive to a law-abiding life and adjustment in the community after conditional release.
11. Sentence planning should start as early as possible following entry into prison, be reviewed at regular intervals and modified as necessary.

Risk and needs assessments

12. A careful appraisal should be made by the prison administration to determine whether individual prisoners pose risks to themselves and others. The range of risks assessed should include harm to self, to other prisoners, to persons working in or visiting the prison, or to the community, and the likelihood of escape, or of committing another serious offence on prison leave or release.
13. Needs assessments should seek to identify the personal needs and characteristics associated with the prisoner's offence(s) and harmful behaviour ("criminogenic needs"). To the greatest extent possible, criminogenic needs should be addressed so as to reduce offences and harmful behaviour by prisoners both during detention and after release.
14. The initial risk and needs assessment should be conducted by appropriately trained staff and preferably take place in an assessment centre.
15. a. Use should be made of modern risk and needs assessment instruments as guides to decisions on the implementation of life and long-term sentences.
- b. Since risk and needs assessment instruments always contain a margin of error, they should never be the sole method used to inform decision-making but should be supplemented by other forms of assessment.
- c. All risk and needs assessment instruments should be evaluated so that their strengths and weaknesses become known.

16. Since neither dangerousness nor criminogenic needs are intrinsically stable characteristics, risk and needs assessments should be repeated at intervals by appropriately trained staff to meet the requirements of sentence planning or when otherwise necessary.

17. Risk and needs assessments should always be related to the management of risks and needs. These assessments should therefore inform the choice of appropriate interventions or modifications of those already in place.

Security and safety in prison

18. a. The maintenance of control in prison should be based on the use of dynamic security, that is the development by staff of positive relationships with prisoners based on firmness and fairness, in combination with an understanding of their personal situation and any risk posed by individual prisoners.

b. Where technical devices, such as alarms and closed circuit television are used, these should always be an adjunct to dynamic security methods.

c. Within the limits necessary for security, the routine carrying of weapons, including firearms and truncheons, by persons in contact with prisoners should be prohibited within the prison perimeter.

19. a. Prison regimes should be organised so as to allow for flexible reactions to changing security and safety requirements.

b. Allocation to particular prisons or wings of prisons should be based on comprehensive risk and needs assessments and the importance of placing prisoners in environments that, by taking account of their needs, are likely to reduce any risk posed.

c. Particular risks and exceptional circumstances, including requests by prisoners themselves, may necessitate some form of segregation of individual prisoners. Intensive efforts should be made to avoid segregation or, if it must be used, to reduce the period of its use.

20. a. Maximum security units should be used only as a last resort and allocation to such units should be regularly reviewed.

b. Within maximum security units, regimes should distinguish between the handling of prisoners who pose an exceptional risk of escape or danger should they succeed, and the handling of those posing risks to other prisoners and/or to those working in or visiting the prison.

c. With due regard to prisoner behaviour and security requirements, regimes in maximum security units should aim to have a relaxed atmosphere, allow association between prisoners, freedom of movement within the unit and offer a range of activities.

d. The management of dangerous prisoners should be guided by the principles embodied in Recommendation No. R (82) 17 concerning custody and treatment of dangerous prisoners.

Counteracting the damaging effects of life and other long-term sentences

21. In order to prevent and counteract the damaging effects of life and long-term sentences, prison administrations should seek:

- to ensure that opportunities are provided at the start of the sentence, and later as necessary, to explain to prisoners the prison rules and routine and their duties and rights;

- to provide prisoners with opportunities to make personal choices in as many of the affairs of daily prison life as possible;
- to offer adequate material conditions and opportunities for physical, intellectual and emotional stimulation;
- to develop a pleasant and user-friendly design of prison premises, furniture and decoration.

22. Special efforts should be made to prevent the breakdown of family ties. To this end:

- prisoners should be allocated, to the greatest extent possible, to prisons situated in proximity to their families or close relatives;
- letters, telephone calls and visits should be allowed with the maximum possible frequency and privacy. If such provision endangers safety or security, or if justified by risk assessment, these contacts may be accompanied by reasonable security measures, such as monitoring of correspondence and searches before and after visits.

23. a. Other contacts with the external world such as access to newspapers, radio and television and external visitors should also be fostered.

b. Particular efforts should be made to allow for the granting of various forms of prison leave, if necessary under escort, taking into account the principles set out in Recommendation No. R (82) 16 on prison leave.

24. Prisoners should have access to appropriate counselling, help and support in order:

- to come to terms with their offences, the harm done to victims and any associated guilt feelings;
- to reduce the risk of suicide, particularly directly after conviction;
- to counteract damaging effects of long-term detention, such as institutionalisation, passivity, lowered self-esteem and depression.

Special categories of life sentence and other long-term prisoners

25. Prison authorities should be mindful of the possibilities of repatriation for foreign prisoners as afforded by the European Convention on the Transfer of Sentenced Persons or bilateral arrangements with the relevant country. Foreign prisoners should be informed of these possibilities. Where repatriation is not possible, prison management and practice should be guided by the principles of Recommendation No. R (84) 12 concerning foreign prisoners.

26. Efforts should be made to protect vulnerable prisoners from threats and maltreatment by other prisoners. If protective segregation from other prisoners is necessary, complete isolation should be avoided and a safe and supportive environment provided.

27. Action should be taken to allow for an early and specialist diagnosis of prisoners who are, or who become, mentally disturbed and to provide them with adequate treatment. The guidance given in Recommendation No. R (98) 7 concerning the ethical and organisational aspects of health care in prison should be followed.

28. Elderly prisoners should be assisted to maintain good standards of physical and mental health. To this end, the prison administration should provide:

- access to appropriate diagnostic and remedial services;
- opportunities for work, exercise and other activities that are suited to the individual prisoner's physical and mental capacities;
- dietetically appropriate meals, taking into account special dietary needs.

29. a. In order to allow terminally ill prisoners to die with dignity, consideration should be given to releasing them so that they may be cared for and die outside prison. In each case, the prison administration should make every effort to provide these prisoners and their families with appropriate support and care.

b. Appropriate help should also be given to assist these prisoners with any desired practical arrangements, for example, the making of a will, burial arrangements, etc.

30. *a.* Since women prisoners usually constitute a small minority of those serving long or life sentences, their individual sentence planning should be carefully considered so as to meet their specific needs.

b. Particular efforts for women prisoners should be made to:

- avoid social isolation by merging them as far as possible with the general population of women prisoners;
- give access to special services for women prisoners who have been subject to physical, mental and sexual abuse.

c. Mothers serving life or other long sentences should not be denied the opportunity of having their young children with them solely because of their sentence. Where young children remain with their mother, the prison administration should provide appropriate conditions.

31. Special management care and attention should be given to the particular problems posed by prisoners who are likely to spend their natural life in prison. In particular, their sentence planning should be sufficiently dynamic and allow them to benefit from participation in meaningful activities and adequate programmes including interventions and psychosocial services designed to help them cope with their sentence.

32. *a.* Juvenile prisoners with long sentences of imprisonment should only be held in institutions or units designed for their special needs.

b. Regimes and sentence planning for these juveniles should be guided by the relevant principles set out in the United Nations Convention on the Rights of the Child and in Recommendation No. R (87) 20 on social reactions to juvenile delinquency, and pay particular attention to:

- the provision of adequate education and schooling;
- the need to maintain close contacts with their parents and family;
- the provision of adequate support and guidance in their emotional development;
- the availability of appropriate sport and leisure activities;
- the careful planning of the transition of a juvenile to an adult regime taking due account of the juvenile's personal development.

Managing reintegration into society for life sentence and other long-term prisoners

33. In order to enable life sentence and other long-term prisoners to overcome the particular problem of moving from lengthy incarceration to a law-abiding life in the community, their release should be prepared well in advance and take particular account of the following:

- the need for specific pre-release and post-release plans which address relevant risks and needs;
- due consideration of the possibility of achieving release and the continuation post-release of any programmes, interventions or treatment undertaken by prisoners during detention;
- the need to achieve close collaboration between the prison administration and post-release supervising authorities, social and medical services.

34. The granting and implementation of conditional release for life sentence and other long-term prisoners should be guided by the principles set out in Recommendation Rec(2003)22 on conditional release.

Recalled prisoners

35. If, following revocation of conditional release, a life sentence or long-term prisoner is returned to prison, the principles enumerated in the foregoing should continue to be followed. In particular, a further assessment of risk and criminogenic needs should be undertaken and used for choosing a suitable allocation and further interventions, with the aim of preparing the prisoner for early reconsideration for release and resettlement in the community.

Staff

36. In general, the recruitment, selection, training, conditions of work and mobility, as well as the professional conduct of staff dealing with life sentence and other long-term prisoners, should be guided by the principles contained in Recommendation No. R (97) 12 on staff concerned with the implementation of sanctions and measures.

37. a. Since staff working with life sentence and long-term prisoners need to deal with the specific difficulties posed by these prisoners, they should be given the special training necessary for their duties.

b. Staff should, in particular, be trained to have a full understanding of dynamic security so that they can use this approach to security in the performance of their duties.

c. Senior, specialist and supervisory staff should, in addition, be trained to supervise and support the basic grade staff in the use of dynamic security.

38. Given the increased risk of manipulation of staff by prisoners serving long sentences, mobility and rotation of staff should be encouraged.

39. Regular meetings and discussions should be arranged between the different staff categories in order to achieve and maintain a proper balance between a sympathetic understanding of prisoner problems and firmness of control.

Research

40. Research on the effects of life and long sentences should be undertaken with special reference to the part played by factors that inhibit deleterious effects and promote a constructive adaptation to prison life.

41. Evaluative research should be conducted and published on the effectiveness of programmes designed to improve post-release adjustment in the community.