

Press release

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The Síndic aims to reinforce alternative punishment to ease prison overcrowding and facilitate rehabilitation

Catalan Ombudsman Rafael Ribó has recommended the application of punishments alternative to prison sentences. According to Ribó, prison sentences should be reserved for serious felonies.

Ribó, accompanied by the Director for Public Safety and Social Relations, Ignasi Garcia Clavel, made this petition during the presentation to Parliament of his special report entitled, "Comparative Study of the European and Catalan Penitentiary Systems".

The information gathered reveals that criminal law, which is a competency of the Spanish government, could go much further in the application of alternative punishments, as many European states already offer possibilities other than fines and community service, such as mediation, compensation, victim-offender conciliation, and conditional liberty or probation.

According to the Ombudsman, the promotion of alternative measures is predicated on a more generous allocation of human and material resources, but also requires the involvement of all the administrations that must offer openings, either in their services or in private collaborating organizations, for placement of the persons serving their sentences.

The generalization of alternative measures, the effectiveness of which has already been proven in other countries, would help ease overcrowding of penitentiary centres, and according to official studies, bears a price tag ten times lower than the daily cost of keeping a person in prison, which is 68 €.

Overcrowding of prisons and criminal law

In recent years, Catalonia and Spain have reached the highest imprisonment rates in their history, 126 and 143 inmates per every 100,000 inhabitants, respectively (2006). This rate continues to grow in Catalonia and the rest of Spain. Thus, in June, 2007 the rate in Catalonia rose to 132, while reaching 146 in the rest of Spain.

The high existing population has also led the penitentiaries of Spain and Catalonia to suffer extraordinary occupancy levels, with 113 and 114 inmates per 100-prisoner capacity. In other words, the centres are overcrowded beyond their capacities.

The enormous Spanish prisoner population is not due to any significant rise in crime, but rather to a general toughening of the judiciary-criminal law system, which has led to longer sentences being served by inmates.

As a general rule, the maximum prison sentence applicable according to the 1995 Penal Code is 20 actual years, with no possibility of reduction. This is higher than the maximums established in other European penal codes. Prison

sentences of up to 20 years for the commission of a single crime differs significantly from the maximum sentences applicable in Germany (15 years, maximum) or Sweden (10 years) and is more comparable to provisions of the criminal law systems of Portugal (20 years) or France (30) despite the fact that judges in these states have wider sentencing margins.

The lack of an alternative punishment system aggravates the situation. According to data from 1999, Of all the punishments handed down by the Spanish courts, 64% are prison sentences, as compared to fines (14.2%) or other alternative punishments (21.4%), whereas in Germany the imprisonment is only for 6.5% of the cases, and in Italy, 39.7%.

Ironically, Spain's crime rate is moderate-to-low when viewed within the European framework. Spain could afford to have a more reasonable penal code, not based on or continuously reformed in light of the alarmism arising from episodes of severe crime. As for Catalonia, it has one of the lowest victimization rates in Europe.

In light of this reality, the Catalan Ombudsman is aware that the problems presented by the Catalan penitentiary system can not only be resolved through new penitentiary structures, but will require far-reaching legislative reforms on the state government level. These would have to offer clear and effective alternatives to imprisonment, and equip the centres with the human resources necessary to meet the constitutional objectives, vis-à-vis inmates as well as society.

Proposals and suggestions on other areas of penitentiary affairs

Penitentiary work

Penitentiaries must be places for the occupational training of inmates, with a view to preparing them for life after prison. Job training inside the centres must be reinforced, following a preliminary analysis of job market needs, to facilitate the incorporation of former prisoners into the working world once they are released. Work should be a fundamental part of penitentiary treatment.

Rehabilitation and treatment

Rehabilitation staff is still insufficient for the existing inmate population. Therefore, barring a radical change in criminal legal affairs, the coming years should see a greater effort being devoted to equipping facilities with rehabilitation staff resources, such as psychologists, criminologists, educationalists, educators, teachers, social workers and training and occupational activity instructors.

A more severe problem than the lack of rehabilitation resources is the orientation of these staff members toward what amount to administrative tasks, derived from the requirements of the legal-penal system itself. Accordingly, a major effort needs to be made to reorient the activities of these professionals toward active rehabilitation tasks, and not so much toward drafting reports.

Likewise, the working hours and workloads of civil servants at penitentiary centres should be revised for optimization of the human resources at every centre.

Parole

Inmates should be eligible for parole when they have served 2/3 of their sentence, or even sooner in exceptional cases when half of the sentence has been served, subject to conditions legally established.

Furthermore, it is necessary to eliminate the conditions set by the Administration that establish supplementary periods to extend the time until parole eligibility, and which are not established in the penal code.

Audiovisual recording and storage systems to provide information in suspected abuse cases

The rise in the number of complaints from inmates regarding alleged abuse underscores the need for the penitentiary Administration to equip itself, albeit respecting areas of privacy, with the technical resources necessary for permanent audiovisual surveillance and storage systems to be installed in all penitentiary centres, in addition to traffic areas.

Therefore, the surveillance cameras will also have to be installed in search areas, inmate wards, punishment wards, closed regime and mental health areas. Thus, the Administration will be able to supervise and control the activities in which the fundamental rights of inmates can be easily violated. Likewise, these systems can effectively contribute to making the activities of civil servants working in the centres more transparent, as the legality of their activities could be supported with such media.

Crimes related with drug trafficking and consumption

Statistical data show that 80% of all crime in Spain is drug-related. Solutions must be sought that are not solely based on prison as the means to solving the problem. Administrations can provide resources, not only in the penitentiary realm, that could be effective alternatives for the treatment of drug addiction and addict rehabilitation.

The principle of proportionality should be considered in the application of punishment for types of criminal drug trafficking, considering different conduct modes: large-scale trafficker, those who deal to satisfy their own addiction, etc. Currently, only a distinction among controlled substances is made, whether or not they cause serious health damage.

Along such lines, efforts should be made to suspend punishments in lieu of treatment programs in specialized centres outside the penitentiary system.