

SUMMARY

Report to the federal Parliament: Measures to reduce prison overcrowding



In its report to the federal Parliament, the Court of Audit examines seven measures that are meant to help reducing prison overcrowding. Up to now, the impact of these measures has not been sufficient. Overcrowded prisons remain an ongoing problem that will not be solved entirely by the Masterplan on prison infrastructure. The Court points to the difficulties related to these measures. Its recommendations aim at an integrated and systematic approach of prison overcrowding, a better foundation and evaluation of the policy, the legislation's implementation and the creation of the necessary conditions to this end as well as a better harmonization with other public services and the judicial power. However, these recommendations can only be successful within the context of a broader review of criminal law and criminal procedure.

Prison overcrowding causes inhuman living conditions for detainees and poor work environment for the prison staff. Besides, it undermines the prison policy implementation. Successive governments have taken various measures to solve the problem, which have often had a significant budgetary impact. Yet, there has been no structural decline of overcrowding, which mainly affects prisons where indicted persons are detained. The Court has therefore audited seven of the measures that were recommended as a (partial) solution to the problem: less preventive detention, more community service sentences and electronic monitoring, transferring detainees of foreign origin to their home country,

inclusion of mentally ill prisoners in the mental health care system, reforming provisional release and conditional release as well as expanding prison capacity (the so-called "Masterplan"). Since 2007, the Masterplan has been a priority of the policy on prison overcrowding.

The Court admits that the prison population's size and composition depend on socio-economic factors, on the way the judicial power carries out its missions and on the policy

implemented in areas on which the minister of Justice has little or no influence (social care or migration policies, etc.).

The Court's audit shows nevertheless that the policy measures' planning and implementation within the department of Justice could be improved and that the difficulties in this regard partly explain why the measures examined have not led to the intended result yet.

The measures are not sufficiently founded or elaborated. Experts are generally consulted when drawing up new regulations, but most of the time, there are no actual preliminary assessments of the real implications, the possible side-effects and the practical conditions (administrative aspects, procedures, financial means, impact on the related legislation, etc.). Due to a lack of resources to draw up statistics, quantitative data are still not used consistently. Another great difficulty is that there are no standard criteria allowing to calculate prison capacity.

The limited impact of some measures on prison overcrowding was predictable (e.g. foreign detainees transferring, electronic monitoring and community service sentences). As for the Masterplan, the Court has determined that after its completion, even if the prison population stabilizes, there will still be a shortage of over 900 places.

The intentions stated in the general policy notes are seldom translated into measurable objectives. Objectives and policy instruments are not integrated in a multiannual perspective. Objectives often vary in the course of time, hence a vague and ambiguous policy.

The last ten years have been dedicated to working out a legal foundation for the prison administration reform. However, some important items of this legislation have been postponed or the relevant implementation decrees are still missing.

Steering the measures and the global policy is very complicated. This task requires a constructive consultation between the stakeholders within and outside the department of Justice, which is generally lacking. The most difficult consultation is that with judges. Although the necessary consultation structures exist for the Masterplan, the steering of this plan as a whole is not sufficiently coordinated.

The Court's audit shows that, despite the imperfect political framework, the administrations involved implement most of the measures in accordance with the guidelines and procedures. However, for some measures, the available financial and human resources are not sufficient to ensure that the necessary services are provided in due time or satisfactorily (functioning of law centres, creation of databases, statistical processing of data, etc.). It may also occur that these measures lose part of their efficiency due to a regulation that is either too strict or incomplete (e.g. foreign detainees transferring). The

Directorate General of Penal Institutions (*Direction générale des établissements pénitentiaires*) of the Department of Justice intends to draw up in the short term a standardized and computerized detention plan. Yet, prison overcrowding is such that more often than not, the efforts are focused on finding (emergency) short-term solutions, which gives rise to a case-by-case approach.

Finally, the Court noted that the administration has only a vague idea of the implementation of the measures against prison overcrowding. Nor does it have any information on their impact. There is no follow-up of the effects of any of the measures on prison overcrowding. The existing monitoring and evaluation instruments hardly cover the operational aspects. There is no global, up-to-date overview of the Masterplan's progress. Given the available information, the Court cannot assess its full impact on the budget.

The Court made a number of recommendations to the minister of Justice and the administrations involved, which can contribute to a more efficient policy on prison overcrowding. These recommendations mainly aim at an integrated and systematic approach of the problem, a better foundation and evaluation of the policy, the legislation's implementation and the creation of the necessary conditions to this end and, finally, a better harmonization with other public services and the judicial power. These recommendations can only be successful within the context of a broader review of criminal law and criminal procedure

Information for the press

The audit report on the *Measures to reduce prison overcrowding* has been sent to the federal Parliament. The full version, the conclusion and the press release can be found on the Court's website: www.courtofaudit.be.