

# COUNCIL OF EUROPE

## COMMITTEE OF MINISTERS

### **Recommendation Rec(2006)2 of the Committee of Ministers to member states on the European Prison Rules<sup>1</sup>**

*(Adopted by the Committee of Ministers on 11 January 2006  
at the 952nd meeting of the Ministers' Deputies)*

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

Having regard to the European Convention on Human Rights and the case law of the European Court of Human Rights;

Having regard also to the work carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and in particular the standards it has developed in its general reports;

Reiterating that no one shall be deprived of liberty save as a measure of last resort and in accordance with a procedure prescribed by law;

Stressing that the enforcement of custodial sentences and the treatment of prisoners necessitate taking account of the requirements of safety, security and discipline while also ensuring prison conditions which do not infringe human dignity and which offer meaningful occupational activities and treatment programmes to inmates, thus preparing them for their reintegration into society;

Considering it important that Council of Europe member states continue to update and observe common principles regarding their prison policy;

Considering, moreover, that the observance of such common principles will enhance international co-operation in this field;

Noting the significant social changes which have influenced important developments in the penal field in Europe in the course of the last two decades;

Endorsing once again the standards contained in the recommendations of the Committee of Ministers of the Council of Europe, which relate to specific aspects of penitentiary policy and practice and in particular No. R (89) 12 on education in prison, No. R (93) 6 concerning prison and criminological aspects of the control of transmissible diseases including AIDS and related health problems in prison, No. R (97) 12 on staff concerned with the implementation of sanctions and measures, No. R (98) 7 concerning the ethical and organisational aspects of health care in prison, No. R (99) 22 concerning prison overcrowding and prison population inflation, Rec (2003)22 on conditional release (parole), and Rec(2003)23 on the management by prison administrations of life sentence and other long-term prisoners;

Bearing in mind the United Nations Standard Minimum Rules for the Treatment of Prisoners;

Considering that Recommendation No. R (87) 3 of the Committee of Ministers on the European Prison Rules needs to be substantively revised and updated in order to reflect the developments which have occurred in penal policy, sentencing practice and the overall management of prisons in Europe,

Recommends that governments of member states:

- be guided in their legislation, policies and practice by the rules contained in the appendix to this recommendation, which replaces Recommendation No. R (87) 3 of the Committee of Ministers on the European Prison Rules;

- ensure that this recommendation and the accompanying commentary to its text are translated and disseminated as widely as possible and more specifically among judicial authorities, prison staff and individual prisoners.

*Appendix to Recommendation Rec(2006)2*

## **Part I**

### *Basic principles*

1. All persons deprived of their liberty shall be treated with respect for their human rights.
2. Persons deprived of their liberty retain all rights that are not lawfully taken away by the decision sentencing them or remanding them in custody.

3 Restrictions placed on persons deprived of their liberty shall be the minimum necessary and proportionate to the legitimate objective for which they are imposed.

4. Prison conditions that infringe prisoners' human rights are not justified by lack of resources.

5. Life in prison shall approximate as closely as possible the positive aspects of life in the community.

6. All detention shall be managed so as to facilitate the reintegration into free society of persons who have been deprived of their liberty.

7. Co-operation with outside social services and as far as possible the involvement of civil society in prison life shall be encouraged.

8. Prison staff carry out an important public service and their recruitment, training and conditions of work shall enable them to maintain high standards in their care of prisoners.

9 All prisons shall be subject to regular government inspection and independent monitoring.

### *Scope and application*

10.1 The European Prison Rules apply to persons who have been remanded in custody by a judicial authority or who have been deprived of their liberty following conviction.

10.2 In principle, persons who have been remanded in custody by a judicial authority and persons who are deprived of their liberty following conviction should only be detained in prisons, that is, in institutions reserved for detainees of these two categories.

10.3 The Rules also apply to persons:

a. who may be detained for any other reason in a prison; or

*b.* who have been remanded in custody by a judicial authority or deprived of their liberty following conviction and who may, for any reason, be detained elsewhere.

10.4 All persons who are detained in a prison or who are detained in the manner referred to in paragraph 10.3.*b* are regarded as prisoners for the purpose of these rules.

11.1 Children under the age of 18 years should not be detained in a prison for adults, but in an establishment specially designed for the purpose.

11.2 If children are nevertheless exceptionally held in such a prison there shall be special regulations that take account of their status and needs.

12.1 Persons who are suffering from mental illness and whose state of mental health is incompatible with detention in a prison should be detained in an establishment specially designed for the purpose.

12.2 If such persons are nevertheless exceptionally held in prison there shall be special regulations that take account of their status and needs.

13. These rules shall be applied impartially, without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

## **Part II**

### *Conditions of imprisonment*

#### *Admission*

14. No person shall be admitted to or held in a prison as a prisoner without a valid commitment order, in accordance with national law.

15.1 At admission the following details shall be recorded immediately concerning each prisoner:

- a.* information concerning the identity of the prisoner;
- b.* the reasons for commitment and the authority for it;

- c. the day and hour of admission;
- d. an inventory of the personal property of the prisoner that is to be held in safekeeping in accordance with Rule 31;
- e. any visible injuries and complaints about prior ill-treatment; and
- f. subject to the requirements of medical confidentiality, any information about the prisoner's health that is relevant to the physical and mental well-being of the prisoner or others.

15.2 At admission all prisoners shall be given information in accordance with Rule 30.

15.3 Immediately after admission notification of the detention of the prisoner shall be given in accordance with Rule 24.9.

16. As soon as possible after admission:

- a. information about the health of the prisoner on admission shall be supplemented by a medical examination in accordance with Rule 42;
- b. the appropriate level of security for the prisoner shall be determined in accordance with Rule 51;
- c. the threat to safety that the prisoner poses shall be determined in accordance with Rule 52;
- d. any available information about the social situation of the prisoner shall be evaluated in order to deal with the immediate personal and welfare needs of the prisoner; and
- e. in the case of sentenced prisoners the necessary steps shall be taken to implement programmes in accordance with Part VIII of these rules.

#### *Allocation and accommodation*

17.1 Prisoners shall be allocated, as far as possible, to prisons close to their homes or places of social rehabilitation.

17.2 Allocation shall also take into account the requirements of continuing criminal investigations, safety and security and the need to provide appropriate regimes for all prisoners.

17.3 As far as possible, prisoners shall be consulted about their initial allocation and any subsequent transfer from one prison to another.

18.1 The accommodation provided for prisoners, and in particular all sleeping accommodation, shall respect human dignity and, as far as possible, privacy, and meet the requirements of health and hygiene, due regard being paid to climatic conditions and especially to floor space, cubic content of air, lighting, heating and ventilation.

18.2 In all buildings where prisoners are required to live, work or congregate:

- a. the windows shall be large enough to enable the prisoners to read or work by natural light in normal conditions and shall allow the entrance of fresh air except where there is an adequate air conditioning system;
- b. artificial light shall satisfy recognised technical standards; and
- c. there shall be an alarm system that enables prisoners to contact the staff without delay.

18.3 Specific minimum requirements in respect of the matters referred to in paragraphs 1 and 2 shall be set in national law.

18.4 National law shall provide mechanisms for ensuring that these minimum requirements are not breached by the overcrowding of prisons.

18.5 Prisoners shall normally be accommodated during the night in individual cells except where it is preferable for them to share sleeping accommodation.

18.6 Accommodation shall only be shared if it is suitable for this purpose and shall be occupied by prisoners suitable to associate with each other.

18.7 As far as possible, prisoners shall be given a choice before being required to share sleeping accommodation.

18.8 In deciding to accommodate prisoners in particular prisons or in particular sections of a prison due account shall be taken of the need to detain:

- a. untried prisoners separately from sentenced prisoners;
- b. male prisoners separately from females; and
- c. young adult prisoners separately from older prisoners.

18.9 Exceptions can be made to the requirements for separate detention in terms of paragraph 8 in order to allow prisoners to participate jointly in organised activities, but these groups shall always be separated at night unless they consent to be

detained together and the prison authorities judge that it would be in the best interest of all the prisoners concerned.

18.10 Accommodation of all prisoners shall be in conditions with the least restrictive security arrangements compatible with the risk of their escaping or harming themselves or others.

### *Hygiene*

19.1 All parts of every prison shall be properly maintained and kept clean at all times.

19.2 When prisoners are admitted to prison the cells or other accommodation to which they are allocated shall be clean.

19.3 Prisoners shall have ready access to sanitary facilities that are hygienic and respect privacy.

19.4 Adequate facilities shall be provided so that every prisoner may have a bath or shower, at a temperature suitable to the climate, if possible daily but at least twice a week (or more frequently if necessary) in the interest of general hygiene.

19.5 Prisoners shall keep their persons, clothing and sleeping accommodation clean and tidy.

19.6 The prison authorities shall provide them with the means for doing so including toiletries and general cleaning implements and materials.

19.7 Special provision shall be made for the sanitary needs of women.

### *Clothing and bedding*

20.1 Prisoners who do not have adequate clothing of their own shall be provided with clothing suitable for the climate.

20.2 Such clothing shall not be degrading or humiliating.

20.3 All clothing shall be maintained in good condition and replaced when necessary.

20.4 Prisoners who obtain permission to go outside prison shall not be required to wear clothing that identifies them as prisoners.

21. Every prisoner shall be provided with a separate bed and separate and appropriate bedding, which shall be kept in good order and changed often enough to ensure its cleanliness.

### *Nutrition*

22.1 Prisoners shall be provided with a nutritious diet that takes into account their age, health, physical condition, religion, culture and the nature of their work.

22.2 The requirements of a nutritious diet, including its minimum energy and protein content, shall be prescribed in national law.

22.3 Food shall be prepared and served hygienically.

22.4 There shall be three meals a day with reasonable intervals between them.

22.5 Clean drinking water shall be available to prisoners at all times.

22.6 The medical practitioner or a qualified nurse shall order a change in diet for a particular prisoner when it is needed on medical grounds.

### *Legal advice*

23.1 All prisoners are entitled to legal advice, and the prison authorities shall provide them with reasonable facilities for gaining access to such advice.

23.2 Prisoners may consult on any legal matter with a legal adviser of their own choice and at their own expense.

23.3 Where there is a recognised scheme of free legal aid the authorities shall bring it to the attention of all prisoners.

23.4 Consultations and other communications including correspondence about legal matters between prisoners and their legal advisers shall be confidential.

23.5 A judicial authority may in exceptional circumstances authorise restrictions on such confidentiality to prevent serious crime or major breaches of prison safety and security.

23.6 Prisoners shall have access to, or be allowed to keep in their possession, documents relating to their legal proceedings.

#### *Contact with the outside world*

24.1 Prisoners shall be allowed to communicate as often as possible by letter, telephone or other forms of communication with their families, other persons and representatives of outside organisations and to receive visits from these persons.

24.2 Communication and visits may be subject to restrictions and monitoring necessary for the requirements of continuing criminal investigations, maintenance of good order, safety and security, prevention of criminal offences and protection of victims of crime, but such restrictions, including specific restrictions ordered by a judicial authority, shall nevertheless allow an acceptable minimum level of contact.

24.3 National law shall specify national and international bodies and officials with whom communication by prisoners shall not be restricted.

24.4 The arrangements for visits shall be such as to allow prisoners to maintain and develop family relationships in as normal a manner as possible.

24.5 Prison authorities shall assist prisoners in maintaining adequate contact with the outside world and provide them with the appropriate welfare support to do so.

24.6 Any information received of the death or serious illness of any near relative shall be promptly communicated to the prisoner.

24.7 Whenever circumstances allow, the prisoner should be authorised to leave prison either under escort or alone in order to visit a sick relative, attend a funeral or for other humanitarian reasons.

24.8 Prisoners shall be allowed to inform their families immediately of their imprisonment or transfer to another institution and of any serious illness or injury they may suffer.

24.9 Upon the admission of a prisoner to prison, the death or serious illness of, or serious injury to a prisoner, or the transfer of a prisoner to a hospital, the authorities shall, unless the prisoner has requested them not to do so, immediately inform the spouse or partner of the prisoner, or, if the prisoner is single, the nearest relative and any other person previously designated by the prisoner.

24.10 Prisoners shall be allowed to keep themselves informed regularly of public affairs by subscribing to and reading newspapers, periodicals and other publications and by listening to radio or television transmissions unless there is a specific prohibition for a specified period by a judicial authority in an individual case.

24.11 Prison authorities shall ensure that prisoners are able to participate in elections, referenda and in other aspects of public life, in so far as their right to do so is not restricted by national law.

24.12 Prisoners shall be allowed to communicate with the media unless there are compelling reasons to forbid this for the maintenance of safety and security, in the public interest or in order to protect the integrity of victims, other prisoners or staff.

### *Prison regime*

25.1 The regime provided for all prisoners shall offer a balanced programme of activities.

25.2 This regime shall allow all prisoners to spend as many hours a day outside their cells as are necessary for an adequate level of human and social interaction.

25.3 This regime shall also provide for the welfare needs of prisoners.

25.4 Particular attention shall be paid to the needs of prisoners who have experienced physical, mental or sexual abuse.

### *Work*

26.1 Prison work shall be approached as a positive element of the prison regime and shall never be used as a punishment.

26.2 Prison authorities shall strive to provide sufficient work of a useful nature.

26.3 As far as possible, the work provided shall be such as will maintain or increase prisoners' ability to earn a living after release.

26.4 In conformity with Rule 13 there shall be no discrimination on the basis of gender in the type of work provided.

26.5 Work that encompasses vocational training shall be provided for prisoners able to benefit from it and especially for young prisoners.

26.6 Prisoners may choose the type of employment in which they wish to participate, within the limits of what is available, proper vocational selection and the requirements of good order and discipline.

26.7 The organisation and methods of work in the institutions shall resemble as closely as possible those of similar work in the community in order to prepare prisoners for the conditions of normal occupational life.

26.8 Although the pursuit of financial profit from industries in the institutions can be valuable in raising standards and improving the quality and relevance of training, the interests of the prisoners should not be subordinated to that purpose.

26.9 Work for prisoners shall be provided by the prison authorities, either on their own or in co-operation with private contractors, inside or outside prison.

26.10 In all instances there shall be equitable remuneration of the work of prisoners.

26.11 Prisoners shall be allowed to spend at least a part of their earnings on approved articles for their own use and to allocate a part of their earnings to their families.

26.12 Prisoners may be encouraged to save part of their earnings, which shall be handed over to them on release or be used for other approved purposes.

26.13 Health and safety precautions for prisoners shall protect them adequately and shall not be less rigorous than those that apply to workers outside.

26.14 Provision shall be made to indemnify prisoners against industrial injury, including occupational disease, on terms not less favourable than those extended by national law to workers outside.

26.15 The maximum daily and weekly working hours of the prisoners shall be fixed in conformity with local rules or custom regulating the employment of free workers.

26.16 Prisoners shall have at least one rest day a week and sufficient time for education and other activities.

26.17 As far as possible, prisoners who work shall be included in national social security systems.

#### *Exercise and recreation*

27.1 Every prisoner shall be provided with the opportunity of at least one hour of exercise every day in the open air, if the weather permits.

27.2 When the weather is inclement alternative arrangements shall be made to allow prisoners to exercise.

27.3 Properly organised activities to promote physical fitness and provide for adequate exercise and recreational opportunities shall form an integral part of prison regimes.

27.4 Prison authorities shall facilitate such activities by providing appropriate installations and equipment.

27.5 Prison authorities shall make arrangements to organise special activities for those prisoners who need them.

27.6 Recreational opportunities, which include sport, games, cultural activities, hobbies and other leisure pursuits, shall be provided and, as far as possible, prisoners shall be allowed to organise them.

27.7 Prisoners shall be allowed to associate with each other during exercise and in order to take part in recreational activities.

### *Education*

28.1 Every prison shall seek to provide all prisoners with access to educational programmes which are as comprehensive as possible and which meet their individual needs while taking into account their aspirations.

28.2 Priority shall be given to prisoners with literacy and numeracy needs and those who lack basic or vocational education.

28.3 Particular attention shall be paid to the education of young prisoners and those with special needs.

28.4 Education shall have no less a status than work within the prison regime and prisoners shall not be disadvantaged financially or otherwise by taking part in education.

28.5 Every institution shall have a library for the use of all prisoners, adequately stocked with a wide range of both recreational and educational resources, books and other media.

28.6 Wherever possible, the prison library should be organised in co-operation with community library services.

28.7 As far as practicable, the education of prisoners shall:

- a. be integrated with the educational and vocational training system of the country so that after their release they may continue their education and vocational training without difficulty; and
- b. take place under the auspices of external educational institutions.

### *Freedom of thought, conscience and religion*

29.1 Prisoners' freedom of thought, conscience and religion shall be respected.

29.2 The prison regime shall be organised so far as is practicable to allow prisoners to practise their religion and follow their beliefs, to attend services or meetings led by approved representatives of such religion or beliefs, to receive visits in private from such representatives of their religion or beliefs and to have in their possession books or literature relating to their religion or beliefs.

29.3 Prisoners may not be compelled to practise a religion or belief, to attend religious services or meetings, to take part in religious practices or to accept a visit from a representative of any religion or belief.

### *Information*

30.1 At admission, and as often as necessary afterwards all prisoners shall be informed in writing and orally in a language they understand of the regulations governing prison discipline and of their rights and duties in prison.

30.2 Prisoners shall be allowed to keep in their possession a written version of the information they are given.

30.3 Prisoners shall be informed about any legal proceedings in which they are involved and, if they are sentenced, the time to be served and the possibilities of early release.

### *Prisoners' property*

31.1 All property that prisoners are not allowed to retain under the rules governing the prison shall be placed in safe custody on admission to the institution.

31.2 A prisoner whose property is taken into safe custody shall sign an inventory of the property.

31.3 Steps shall be taken to keep such property in good condition.

31.4 If it has been found necessary to destroy any such property, this shall be recorded and the prisoner informed.

31.5 Prisoners shall, subject to the requirements of hygiene, good order and security, be entitled to purchase or otherwise obtain goods, including food and drink

for their personal use at prices that are not abnormally higher than those in free society.

31.6 If a prisoner brings in any medicines, the medical practitioner shall decide what use shall be made of them.

31.7 Where prisoners are allowed to keep possession of their property the prison authorities shall take steps to assist in its safekeeping.

### *Transfer of prisoners*

32.1 While prisoners are being moved to or from a prison, or to other places such as court or hospital, they shall be exposed to public view as little as possible and proper safeguards shall be adopted to ensure their anonymity.

32.2 The transport of prisoners in conveyances with inadequate ventilation or light, or which would subject them in any way to unnecessary physical hardship or indignity, shall be prohibited.

32.3 The transport of prisoners shall be carried out at the expense and under the direction of the public authorities.

### *Release of prisoners*

33.1 All prisoners shall be released without delay when their commitment orders expire, or when a court or other authority orders their release.

33.2 The date and time of the release shall be recorded.

33.3 All prisoners shall have the benefit of arrangements designed to assist them in returning to free society after release.

33.4 On the release of a prisoner all articles and money belonging to the prisoner that were taken into safe custody shall be returned except in so far as there have been authorised withdrawals of money or the authorised sending of any such property out of the institution, or it has been found necessary to destroy any article on hygienic grounds.

33.5 The prisoner shall sign a receipt for the property returned.

33.6 When release is pre-arranged, the prisoner shall be offered a medical examination in accordance with Rule 42 as close as possible to the time of release.

33.7 Steps must be taken to ensure that on release prisoners are provided, as necessary, with appropriate documents and identification papers, and assisted in finding suitable accommodation and work.

33.8 Released prisoners shall also be provided with immediate means of subsistence, be suitably and adequately clothed with regard to the climate and season, and have sufficient means to reach their destination.

### *Women*

34.1 In addition to the specific provisions in these rules dealing with women prisoners, the authorities shall pay particular attention to the requirements of women such as their physical, vocational, social and psychological needs when making decisions that affect any aspect of their detention.

34.2 Particular efforts shall be made to give access to special services for women prisoners who have needs as referred to in Rule 25.4.

34.3 Prisoners shall be allowed to give birth outside prison, but where a child is born in prison the authorities shall provide all necessary support and facilities.

### *Detained children*

35.1 Where exceptionally children under the age of 18 years are detained in a prison for adults the authorities shall ensure that, in addition to the services available to all prisoners, prisoners who are children have access to the social, psychological and educational services, religious care and recreational programmes or equivalents to them that are available to children in the community.

35.2 Every prisoner who is a child and is subject to compulsory education shall have access to such education.

35.3 Additional assistance shall be provided to children who are released from prison.

35.4 Where children are detained in a prison they shall be kept in a part of the prison that is separate from that used by adults unless it is considered that this is against the best interests of the child.

#### *Infants*

36.1 Infants may stay in prison with a parent only when it is in the best interest of the infants concerned. They shall not be treated as prisoners.

36.2 Where such infants are allowed to stay in prison with a parent special provision shall be made for a nursery, staffed by qualified persons, where the infants shall be placed when the parent is involved in activities where the infant cannot be present.

36.3 Special accommodation shall be set aside to protect the welfare of such infants.

#### *Foreign nationals*

37.1 Prisoners who are foreign nationals shall be informed, without delay, of their right to request contact and be allowed reasonable facilities to communicate with the diplomatic or consular representative of their state.

37.2 Prisoners who are nationals of states without diplomatic or consular representation in the country, and refugees or stateless persons, shall be allowed similar facilities to communicate with the diplomatic representative of the state which takes charge of their interests or the national or international authority whose task it is to serve the interests of such persons.

37.3 In the interests of foreign nationals in prison who may have special needs, prison authorities shall co-operate fully with diplomatic or consular officials representing prisoners.

37.4 Specific information about legal assistance shall be provided to prisoners who are foreign nationals.

37.5 Prisoners who are foreign nationals shall be informed of the possibility of requesting that the execution of their sentence be transferred to another country.

#### *Ethnic or linguistic minorities*

38.1 Special arrangements shall be made to meet the needs of prisoners who belong to ethnic or linguistic minorities.

38.2 As far as practicable the cultural practices of different groups shall be allowed to continue in prison.

38.3 Linguistic needs shall be met by using competent interpreters and by providing written material in the range of languages used in a particular prison.

### **Part III**

#### *Health*

##### *Health care*

39. Prison authorities shall safeguard the health of all prisoners in their care.

##### *Organisation of prison health care*

40.1 Medical services in prison shall be organised in close relation with the general health administration of the community or nation.

40.2 Health policy in prisons shall be integrated into, and compatible with, national health policy.

40.3 Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.

40.4 Medical services in prison shall seek to detect and treat physical or mental illnesses or defects from which prisoners may suffer.

40.5 All necessary medical, surgical and psychiatric services including those available in the community shall be provided to the prisoner for that purpose.

##### *Medical and health care personnel*

41.1 Every prison shall have the services of at least one qualified general medical practitioner.

41.2 Arrangements shall be made to ensure at all times that a qualified medical practitioner is available without delay in cases of urgency.

41.3 Where prisons do not have a full-time medical practitioner, a part-time medical practitioner shall visit regularly.

41.4 Every prison shall have personnel suitably trained in health care.

41.5 The services of qualified dentists and opticians shall be available to every prisoner.

#### *Duties of the medical practitioner*

42.1 The medical practitioner or a qualified nurse reporting to such a medical practitioner shall see every prisoner as soon as possible after admission, and shall examine them unless this is obviously unnecessary.

42.2 The medical practitioner or a qualified nurse reporting to such a medical practitioner shall examine the prisoner if requested at release, and shall otherwise examine prisoners whenever necessary.

42.3 When examining a prisoner the medical practitioner or a qualified nurse reporting to such a medical practitioner shall pay particular attention to:

- a. observing the normal rules of medical confidentiality;
- b. diagnosing physical or mental illness and taking all measures necessary for its treatment and for the continuation of existing medical treatment;
- c. recording and reporting to the relevant authorities any sign or indication that prisoners may have been treated violently;
- d. dealing with withdrawal symptoms resulting from use of drugs, medication or alcohol;
- e. identifying any psychological or other stress brought on by the fact of deprivation of liberty;
- f. isolating prisoners suspected of infectious or contagious conditions for the period of infection and providing them with proper treatment;
- g. ensuring that prisoners carrying the HIV virus are not isolated for that reason alone;
- h. noting physical or mental defects that might impede resettlement after release;

- i.* determining the fitness of each prisoner to work and to exercise; and
- j.* making arrangements with community agencies for the continuation of any necessary medical and psychiatric treatment after release, if prisoners give their consent to such arrangements.

43.1 The medical practitioner shall have the care of the physical and mental health of the prisoners and shall see, under the conditions and with a frequency consistent with health care standards in the community, all sick prisoners, all who report illness or injury and any prisoner to whom attention is specially directed.

43.2 The medical practitioner or a qualified nurse reporting to such a medical practitioner shall pay particular attention to the health of prisoners held under conditions of solitary confinement, shall visit such prisoners daily, and shall provide them with prompt medical assistance and treatment at the request of such prisoners or the prison staff.

43.3 The medical practitioner shall report to the director whenever it is considered that a prisoner's physical or mental health is being put seriously at risk by continued imprisonment or by any condition of imprisonment, including conditions of solitary confinement.

44. The medical practitioner or other competent authority shall regularly inspect, collect information by other means if appropriate, and advise the director upon:

- a.* the quantity, quality, preparation and serving of food and water;
- b.* the hygiene and cleanliness of the institution and prisoners;
- c.* the sanitation, heating, lighting and ventilation of the institution; and
- d.* the suitability and cleanliness of the prisoners' clothing and bedding.

45.1 The director shall consider the reports and advice that the medical practitioner or other competent authority submits according to Rules 43 and 44 and, when in agreement with the recommendations made, shall take immediate steps to implement them.

45.2 If the recommendations of the medical practitioner are not within the director's competence or if the director does not agree with them, the director shall immediately submit the advice of the medical practitioner and a personal report to higher authority.

*Health care provision*

46.1 Sick prisoners who require specialist treatment shall be transferred to specialised institutions or to civil hospitals, when such treatment is not available in prison.

46.2 Where a prison service has its own hospital facilities, they shall be adequately staffed and equipped to provide the prisoners referred to them with appropriate care and treatment.

### *Mental health*

47.1 Specialised prisons or sections under medical control shall be available for the observation and treatment of prisoners suffering from mental disorder or abnormality who do not necessarily fall under the provisions of Rule 12.

47.2 The prison medical service shall provide for the psychiatric treatment of all prisoners who are in need of such treatment and pay special attention to suicide prevention.

### *Other matters*

48.1 Prisoners shall not be subjected to any experiments without their consent.

48.2 Experiments involving prisoners that may result in physical injury, mental distress or other damage to health shall be prohibited.

## **Part IV**

### *Good order*

#### *General approach to good order*

49. Good order in prison shall be maintained by taking into account the requirements of security, safety and discipline, while also providing prisoners with living conditions which respect human dignity and offering them a full programme of activities in accordance with Rule 25.

50. Subject to the needs of good order, safety and security, prisoners shall be allowed to discuss matters relating to the general conditions of imprisonment and shall be encouraged to communicate with the prison authorities about these matters.

### *Security*

51.1 The security measures applied to individual prisoners shall be the minimum necessary to achieve their secure custody.

51.2 The security which is provided by physical barriers and other technical means shall be complemented by the dynamic security provided by an alert staff who know the prisoners who are under their control.

51.3 As soon as possible after admission, prisoners shall be assessed to determine:

- a. the risk that they would present to the community if they were to escape;
- b. the risk that they will try to escape either on their own or with external assistance.

51.4 Each prisoner shall then be held in security conditions appropriate to these levels of risk.

51.5 The level of security necessary shall be reviewed at regular intervals throughout a person's imprisonment.

### *Safety*

52.1 As soon as possible after admission, prisoners shall be assessed to determine whether they pose a safety risk to other prisoners, prison staff or other persons working in or visiting prison or whether they are likely to harm themselves.

52.2 Procedures shall be in place to ensure the safety of prisoners, prison staff and all visitors and to reduce to a minimum the risk of violence and other events that might threaten safety.

52.3 Every possible effort shall be made to allow all prisoners to take a full part in daily activities in safety.

52.4 It shall be possible for prisoners to contact staff at all times, including during the night.

52.5 National health and safety laws shall be observed in prisons.

*Special high security or safety measures*

53.1 Special high security or safety measures shall only be applied in exceptional circumstances.

53.2 There shall be clear procedures to be followed when such measures are to be applied to any prisoner.

53.3 The nature of any such measures, their duration and the grounds on which they may be applied shall be determined by national law.

53.4 The application of the measures in each case shall be approved by the competent authority for a specified period of time.

53.5 Any decision to extend the approved period of time shall be subject to a new approval by the competent authority.

53.6 Such measures shall be applied to individuals and not to groups of prisoners.

53.7 Any prisoner subjected to such measures shall have a right of complaint in the terms set out in Rule 70.

*Searching and controls*

54.1 There shall be detailed procedures which staff have to follow when searching:

- a. all places where prisoners live, work and congregate;
- b. prisoners;
- c. visitors and their possessions; and
- d. staff.

54.2 The situations in which such searches are necessary and their nature shall be defined by national law.

54.3 Staff shall be trained to carry out these searches in such a way as to detect and prevent any attempt to escape or to hide contraband, while at the same time respecting the dignity of those being searched and their personal possessions.

54.4 Persons being searched shall not be humiliated by the searching process.

54.5 Persons shall only be searched by staff of the same gender.

54.6 There shall be no internal physical searches of prisoners' bodies by prison staff.

54.7 An intimate examination related to a search may be conducted by a medical practitioner only.

54.8 Prisoners shall be present when their personal property is being searched unless investigating techniques or the potential threat to staff prohibit this.

54.9 The obligation to protect security and safety shall be balanced against the privacy of visitors.

54.10 Procedures for controlling professional visitors, such as legal representatives, social workers and medical practitioners, etc., shall be the subject of consultation with their professional bodies to ensure a balance between security and safety, and the right of confidential professional access.

### *Criminal acts*

55. An alleged criminal act committed in a prison shall be investigated in the same way as it would be in free society and shall be dealt with in accordance with national law.

### *Discipline and punishment*

56.1 Disciplinary procedures shall be mechanisms of last resort.

56.2 Whenever possible, prison authorities shall use mechanisms of restoration and mediation to resolve disputes with and among prisoners.

57.1 Only conduct likely to constitute a threat to good order, safety or security may be defined as a disciplinary offence.

57.2 National law shall determine:

- a. the acts or omissions by prisoners that constitute disciplinary offences;
- b. the procedures to be followed at disciplinary hearings;
- c. the types and duration of punishment that may be imposed;
- d. the authority competent to impose such punishment; and
- e. access to and the authority of the appellate process.

58. Any allegation of infringement of the disciplinary rules by a prisoner shall be reported promptly to the competent authority, which shall investigate it without undue delay.

59. Prisoners charged with disciplinary offences shall:

- a. be informed promptly, in a language which they understand and in detail, of the nature of the accusations against them;
- b. have adequate time and facilities for the preparation of their defence;
- c. be allowed to defend themselves in person or through legal assistance when the interests of justice so require;
- d. be allowed to request the attendance of witnesses and to examine them or to have them examined on their behalf; and
- e. have the free assistance of an interpreter if they cannot understand or speak the language used at the hearing.

60.1 Any punishment imposed after conviction of a disciplinary offence shall be in accordance with national law.

60.2 The severity of any punishment shall be proportionate to the offence.

60.3 Collective punishments and corporal punishment, punishment by placing in a dark cell, and all other forms of inhuman or degrading punishment shall be prohibited.

60.4 Punishment shall not include a total prohibition on family contact.

60.5 Solitary confinement shall be imposed as a punishment only in exceptional cases and for a specified period of time, which shall be as short as possible.

60.6 Instruments of restraint shall never be applied as a punishment.

61. A prisoner who is found guilty of a disciplinary offence shall be able to appeal to a competent and independent higher authority.

62. No prisoner shall be employed or given authority in the prison in any disciplinary capacity.

### *Double jeopardy*

A prisoner shall never be punished twice for the same act or conduct.

### *Use of force*

64.1 Prison staff shall not use force against prisoners except in self-defence or in cases of attempted escape or active or passive physical resistance to a lawful order and always as a last resort.

64.2 The amount of force used shall be the minimum necessary and shall be imposed for the shortest necessary time.

65. There shall be detailed procedures about the use of force including stipulations about:

- a. the various types of force that may be used;
- b. the circumstances in which each type of force may be used;
- c. the members of staff who are entitled to use different types of force;
- d. the level of authority required before any force is used; and
- e. the reports that must be completed once force has been used.

66. Staff who deal directly with prisoners shall be trained in techniques that enable the minimal use of force in the restraint of prisoners who are aggressive.

67.1 Staff of other law enforcement agencies shall only be involved in dealing with prisoners inside prisons in exceptional circumstances.

67.2 There shall be a formal agreement between the prison authorities and any such other law enforcement agencies unless the relationship is already regulated by domestic law.

67.3 Such agreement shall stipulate:

- a. the circumstances in which members of other law enforcement agencies may enter a prison to deal with any conflict;
- b. the extent of the authority which such other law enforcement agencies shall have while they are in the prison and their relationship with the director of the prison;
- c. the various types of force that members of such agencies may use;
- d. the circumstances in which each type of force may be used;
- e. the level of authority required before any force is used; and
- f. the reports that must be completed once force has been used.

#### *Instruments of restraint*

68.1 The use of chains and irons shall be prohibited.

68.2 Handcuffs, restraint jackets and other body restraints shall not be used except:

- a. if necessary, as a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority unless that authority decides otherwise; or
- b. by order of the director, if other methods of control fail, in order to protect a prisoner from self-injury, injury to others or to prevent serious damage to property, provided that in such instances the director shall immediately inform the medical practitioner and report to the higher prison authority.

68.3 Instruments of restraint shall not be applied for any longer time than is strictly necessary.

68.4 The manner of use of instruments of restraint shall be specified in national law.

#### *Weapons*

69.1 Except in an operational emergency, prison staff shall not carry lethal weapons within the prison perimeter.

69.2 The open carrying of other weapons, including batons, by persons in contact with prisoners shall be prohibited within the prison perimeter unless they are required for safety and security in order to deal with a particular incident.

69.3 Staff shall not be provided with weapons unless they have been trained in their use.

### *Requests and complaints*

70.1 Prisoners, individually or as a group, shall have ample opportunity to make requests or complaints to the director of the prison or to any other competent authority.

70.2 If mediation seems appropriate this should be tried first.

70.3 If a request is denied or a complaint is rejected, reasons shall be provided to the prisoner and the prisoner shall have the right to appeal to an independent authority.

70.4 Prisoners shall not be punished because of having made a request or lodged a complaint.

70.5 The competent authority shall take into account any written complaints from relatives of a prisoner when they have reason to believe that a prisoner's rights have been violated.

70.6 No complaint by a legal representative or organisation concerned with the welfare of prisoners may be brought on behalf of a prisoner if the prisoner concerned does not consent to it being brought.

70.7 Prisoners are entitled to seek legal advice about complaints and appeals procedures and to legal assistance when the interests of justice require.

## **Part V**

### *Management and staff*

#### *Prison work as a public service*

71. Prisons shall be the responsibility of public authorities separate from military, police or criminal investigation services.

72.1 Prisons shall be managed within an ethical context which recognises the obligation to treat all prisoners with humanity and with respect for the inherent dignity of the human person.

72.2 Staff shall manifest a clear sense of purpose of the prison system. Management shall provide leadership on how the purpose shall best be achieved.

72.3 The duties of staff go beyond those required of mere guards and shall take account of the need to facilitate the reintegration of prisoners into society after their sentence has been completed through a programme of positive care and assistance.

72.4 Staff shall operate to high professional and personal standards.

73. Prison authorities shall give high priority to observance of the rules concerning staff.

74. Particular attention shall be paid to the management of the relationship between first line prison staff and the prisoners under their care.

75. Staff shall at all times conduct themselves and perform their duties in such a manner as to influence the prisoners by good example and to command their respect.

#### *Selection of prison staff*

76. Staff shall be carefully selected, properly trained, both at the outset and on a continuing basis, paid as professional workers and have a status that civil society can respect.

77. When selecting new staff the prison authorities shall place great emphasis on the need for integrity, humanity, professional capacity and personal suitability for the complex work that they will be required to do.

78. Professional prison staff shall normally be appointed on a permanent basis and have public service status with security of employment, subject only to good

conduct, efficiency, good physical and mental health and an adequate standard of education.

79.1 Salaries shall be adequate to attract and retain suitable staff.

79.2 Benefits and conditions of employment shall reflect the exacting nature of the work as part of a law enforcement agency.

80. Whenever it is necessary to employ part-time staff, these criteria shall apply to them as far as that is appropriate.

### *Training of prison staff*

81.1 Before entering into duty, staff shall be given a course of training in their general and specific duties and be required to pass theoretical and practical tests.

81.2 Management shall ensure that, throughout their career, all staff maintain and improve their knowledge and professional capacity by attending courses of in-service training and development to be organised at suitable intervals.

81.3 Staff who are to work with specific groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, etc., shall be given specific training for their specialised work.

81.4 The training of all staff shall include instruction in the international and regional human rights instruments and standards, especially the European Convention on Human Rights and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, as well as in the application of the European Prison Rules.

### *Prison management*

82. Personnel shall be selected and appointed on an equal basis, without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

83. The prison authorities shall introduce systems of organisation and management that:

- a. ensure that prisons are managed to consistently high standards that are in line with international and regional human rights instruments; and
- b. facilitate good communication between prisons and between the different categories of staff in individual prisons and proper co-ordination of all the departments, both inside and outside the prison, that provide services for prisoners, in particular with respect to the care and reintegration of prisoners.

84.1 Every prison shall have a director, who shall be adequately qualified for that post by character, administrative ability, suitable professional training and experience.

84.2 Directors shall be appointed on a full-time basis and shall devote their whole time to their official duties.

84.3 The prison authorities shall ensure that every prison is at all times in the full charge of the director, the deputy director or other authorised official.

84.4 If a director is responsible for more than one prison there shall always be in addition an official in charge of each of them.

85. Men and women shall be represented in a balanced manner on the prison staff.

86. There shall be arrangements for management to consult with staff as a body on general matters and, especially, on matters to do with their conditions of employment.

87.1 Arrangements shall be in place to encourage the best possible communication among management, other staff, outside agencies and prisoners.

87.2 The director, management and the majority of the other staff of the prison shall be able to speak the language of the greatest number of prisoners, or a language understood by the majority of them.

88. Where privately managed prisons exist, all the European Prison Rules shall apply.

*Specialist staff*

89.1 As far as possible, the staff shall include a sufficient number of specialists such as psychiatrists, psychologists, social and welfare workers, teachers and vocational, physical education and sports instructors.

89.2 Wherever possible, suitable part-time and voluntary workers shall be encouraged to contribute to activities with prisoners.

### *Public awareness*

90.1 The prison authorities shall continually inform the public about the purpose of the prison system and the work carried out by prison staff in order to encourage better public understanding of the role of the prison in society.

90.2 The prison authorities should encourage members of the public to volunteer to provide services in prison where appropriate.

### *Research and evaluation*

91. The prison authorities shall support a programme of research and evaluation about the purpose of the prison, its role in a democratic society and the extent to which it is fulfilling its purpose.

## **Part VI**

### *Inspection and monitoring*

#### *Governmental inspection*

92. Prisons shall be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law, and the provisions of these rules.

#### *Independent monitoring*

93.1 The conditions of detention and the treatment of prisoners shall be monitored by an independent body or bodies whose findings shall be made public.

93.2 Such independent monitoring body or bodies shall be encouraged to cooperate with those international agencies that are legally entitled to visit prisons.

## **Part VII**

### *Untried prisoners*

#### *Status as untried prisoners*

94.1 For the purposes of these rules, untried prisoners are prisoners who have been remanded in custody by a judicial authority prior to trial, conviction or sentence.

94.2 A state may elect to regard prisoners who have been convicted and sentenced as untried prisoners if their appeals have not been disposed of finally.

#### *Approach regarding untried prisoners*

95.1 The regime for untried prisoners may not be influenced by the possibility that they may be convicted of a criminal offence in the future.

95.2 The rules in this part provide additional safeguards for untried prisoners.

95.3 In dealing with untried prisoners prison authorities shall be guided by the rules that apply to all prisoners and allow untried prisoners to participate in various activities for which these rules provide.

#### *Accommodation*

96. As far as possible untried prisoners shall be given the option of accommodation in single cells, unless they may benefit from sharing accommodation with other untried prisoners or unless a court has made a specific order on how a specific untried prisoner should be accommodated.

#### *Clothing*

97.1 Untried prisoners shall be allowed to wear their own clothing if it is suitable for wearing in prison.

97.2 Untried prisoners who do not have suitable clothing of their own shall be provided with clothing that shall not be the same as any uniforms that may be worn by sentenced prisoners.

#### *Legal advice*

98.1 Untried prisoners shall be informed explicitly of their right to legal advice.

98.2 All necessary facilities shall be provided to assist untried prisoners to prepare their defence and to meet with their legal representatives.

#### *Contact with the outside world*

99. Unless there is a specific prohibition for a specified period by a judicial authority in an individual case, untried prisoners:

- a. shall receive visits and be allowed to communicate with family and other persons in the same way as convicted prisoners;
- b. may receive additional visits and have additional access to other forms of communication; and
- c. shall have access to books, newspapers and other news media.

#### *Work*

100.1 Untried prisoners shall be offered the opportunity to work but shall not be required to work.

100.2 If untried prisoners elect to work, all the provisions of Rule 26 shall apply to them, including those relating to remuneration.

#### *Access to the regime for sentenced prisoners*

101. If an untried prisoner requests to be allowed to follow the regime for sentenced prisoners, the prison authorities shall as far as possible accede to this request.

### **Part VIII**

### *Objective of the regime for sentenced prisoners*

102.1 In addition to the rules that apply to all prisoners, the regime for sentenced prisoners shall be designed to enable them to lead a responsible and crime-free life.

102.2 Imprisonment is by the deprivation of liberty a punishment in itself and therefore the regime for sentenced prisoners shall not aggravate the suffering inherent in imprisonment.

### *Implementation of the regime for sentenced prisoners*

103.1 The regime for sentenced prisoners shall commence as soon as someone has been admitted to prison with the status of a sentenced prisoner, unless it has commenced before.

103.2 As soon as possible after such admission, reports shall be drawn up for sentenced prisoners about their personal situations, the proposed sentence plans for each of them and the strategy for preparation for their release.

103.3 Sentenced prisoners shall be encouraged to participate in drawing up their individual sentence plans.

103.4 Such plans shall as far as is practicable include:

- a.* work;
- b.* education;
- c.* other activities; and
- d.* preparation for release.

103.5 Social work, medical and psychological care may also be included in the regimes for sentenced prisoners.

103.6 There shall be a system of prison leave as an integral part of the overall regime for sentenced prisoners.

103.7 Prisoners who consent to do so may be involved in a programme of restorative justice and in making reparation for their offences.

103.8 Particular attention shall be paid to providing appropriate sentence plans and regimes for life sentenced and other long-term prisoners.

#### *Organisational aspects of imprisoning sentenced prisoners*

104.1 As far as possible, and subject to the requirements of Rule 17, separate prisons or separate sections of a prison shall be used to facilitate the management of different regimes for specific categories of prisoners.

104.2 There shall be procedures for establishing and regularly reviewing individual sentence plans for prisoners after the consideration of appropriate reports, full consultations among the relevant staff and with the prisoners concerned who shall be involved as far as is practicable.

104.3 Such reports shall always include reports by the staff in direct charge of the prisoner concerned.

#### *Work by sentenced prisoners*

105.1 A systematic programme of work shall seek to contribute to meeting the objective of the regime for sentenced prisoners.

105.2 Sentenced prisoners who have not reached the normal retirement age may be required to work, subject to their physical and mental fitness as determined by the medical practitioner.

105.3 If sentenced prisoners are required to work, the conditions of such work shall conform to the standards and controls which apply in the outside community.

105.4 When sentenced prisoners take part in education or other programmes during working hours as part of their planned regime they shall be remunerated as if they had been working.

105.5 In the case of sentenced prisoners part of their remuneration or savings from this may be used for reparative purposes if ordered by a court or if the prisoner concerned consents.

#### *Education of sentenced prisoners*

106.1 A systematic programme of education, including skills training, with the objective of improving prisoners' overall level of education as well as their prospects of leading a responsible and crime-free life, shall be a key part of regimes for sentenced prisoners.

106.2 All sentenced prisoners shall be encouraged to take part in educational and training programmes.

106.3 Educational programmes for sentenced prisoners shall be tailored to the projected length of their stay in prison.

### *Release of sentenced prisoners*

107.1 Sentenced prisoners shall be assisted in good time prior to release by procedures and special programmes enabling them to make the transition from life in prison to a law-abiding life in the community.

107.2 In the case of those prisoners with longer sentences in particular, steps shall be taken to ensure a gradual return to life in free society.

107.3 This aim may be achieved by a pre-release programme in prison or by partial or conditional release under supervision combined with effective social support.

107.4 Prison authorities shall work closely with services and agencies that supervise and assist released prisoners to enable all sentenced prisoners to re-establish themselves in the community, in particular with regard to family life and employment.

107.5 Representatives of such social services or agencies shall be afforded all necessary access to the prison and to prisoners to allow them to assist with preparations for release and the planning of after-care programmes.

## **Part IX**

### *Updating the Rules*

108. The European Prison Rules shall be updated regularly.

Note <sup>4</sup>When this recommendation was adopted, and in application of Article 10.2c of the Rules of Procedure for the meetings of the Ministers' Deputies, the Representative of Denmark reserved the right to comply or not with Rule 43, paragraph 2, of

the appendix to the recommendation because it is of the opinion that the requirement that prisoners held under solitary confinement be visited by medical staff on a daily basis raises serious ethical concerns regarding the possible role of such staff in effectively pronouncing prisoners fit for further solitary confinement.