Reducing Prison Population

ADVANCED TOOLS OF JUSTICE IN EUROPE

CUSTODY IS NOT THE ONLY ANSWER

**ALTERNATIVES TO DETENTION IN EUROPE:
PROMISING PRACTICES AND TOOLS.**

A TRAINING PACKAGE.

FOREWORD

 'Alternatives to detention in Europe: promising practices and tools: a training package' is the result of a 2-year work programme called, 'Reducing Prison Population: advanced tools of justice in Europe' JUST/2013/JPEN/AG/4489. This programme was launched in March 2014 and coordinated by the Italian "Community of Pope John XXIII" Association, and developed in 7 European countries (Italy, Bulgaria, France, Germany Latvia, Romania, Scotland: United Kingdom) with the financial support of the European Commission-Directorate General for Justice. The aim was to improve knowledge and to exchange *'innovative measures of practices alternative to imprisonment, both in pre and post trial phase'*. One specific objective was to construct a Training Package for *'operators and professionals working in services that provided alternatives to detention'*.

In order to promote alternatives to detention across European Countries, the project investigated the use of, and applied specific evidence-based criteria, to examine the effectiveness of alternatives to imprisonment. Workstreams 1 and 2 of 'Reducing the prison population: advanced tools of justice in Europe', showed that good and promising practices existed within European Member States. Based upon this evidence, it was decided that a training package should focused upon pre and post-trial phases, should incorporate the good and promising practices, be available to all practitioners (such as police officers, prosecutors, judges, probation specialists, representatives from non-governmental organisations and individuals working in criminal justice and penal reform) together with policy makers and finally, to be used, in addition, as an operational and/or reference tool.

This training package, therefore, embodies and presents a diverse group of innovative and promising alternatives to detention developed by the partner countries. Additional information about 'Reducing Prison Population: advanced tools of justice in Europe', may be found at:
www.reducingprison.eu

INTRODUCTION

Statistical evidence from Europe shows, that since the 1990s there has been an ever-increasing number of people in prison across Member States. For instance, in 2012, the European median prison population rate was 125.6 detainees/ 100,000 population1; by 2013, the median prison population rate had risen to 133.5 detainees/ 100,000 population[1]. Therefore, in Europe the prison population rate remains high and prison density, the ratio between the total capacity of the prison facilities and the total prison population, involves clear overcrowding. This has occurred despite over a decade of re-structuring community sentences as alternatives to short-term imprisonment in a number of countries, and, regardless of the widely accepted view that prison should be the final recourse. It has been suggested that custodial measures have compromised the mutual trust within criminal justice system and have been cited, as a factor associated with breaching human rights across Europe[2].

The need for alternatives to imprisonment is, thus, apparent since they contribute to reducing imprisonment, may assist in decreasing the prison population, may aid in diminishing overcrowding[3] as well as ensuring that the management of prisons enables European States to meet the basic human rights obligations for all their peoples[4]. In order to achieve the above goals there is a need for a training package that focuses on European-wide knowledge, identifcation and implementation of the best practices, with regard to, non-custodial measures as alternatives to detention in every phase of the criminal justice system.

BOX 1
Facts and figures of the countries involved in the "Reducing prison population: advanced tools of justice" project

The data from the SPACE I (**S**tatistiques **P**énales **A**nnuelles du **C**onseil de l'**E**urope)[5] and SPACE II[6] Reports provide an overview of custodial and non-custodial activities across the Member States of the Council of Europe.
These Reports provide annual figures concerning, prison population, conditions of detention (SPACE I), non-custodial sanctions and measures (SPACE II).
They are presented here to show the custodial and non-custodial activities of the countries that participated in the work programme.

The data from the SPACE I Report shows that in 4 (Italy; France; Romania and Scotland) of the 7 participating countries the prison density in 2013 was greater than 100, indicative of prison overcrowding (Fig. 1).

Fig. 1   Particpating Countries with prison population overcrowding (>100 prisoners/100 places)

UK: Scotland	Romania	France	Italy
105,4	116,3	117,2	148,4

1 Maculan A, Ronco D, Vianello F. Prison in Europe: overview and trends, Antigone Edizioni, Rome 2013.

2 In the "Torreggiani and others v. Italy" (pilot) judgment, the European Court of Human Rights (ECtHR) found that overcrowding in prisons can be considered, in some circumstances, as inhuman and degrading treatment in violation of Art.3 of the European Convention on Human Rights (ECHR). It therefore called on the Italian authorities to put in place, by the end of May 2014, a remedy, or a combination of remedies, capable of affording adequate and sufficient redress in such cases.

3 Prison: the facts, Prison Reform Trust. 2013. Available at: www.prisonreformtrust.org.uk/Portals/0/Documents/Prisonthefacts.pdf - Last access: 14/12/2015

4 United Nations Office of Drugs and Crime, Handbook of basic principles and promising practices on alternatives to imprisonment, New York, 2007, p.4. Available at: www.unodc.org/documents/justice-and-prison-reform/crimeprevention/Handbook_of_basic_principles_and_promising_practices_on_Alternatives_to_Imprisonment.pdf - Last access: 19/01/2015

5 Aebi, M.F. & Delgrande, N., SPACE I – Council of Europe Annual Penal Statistics: Prison populations. Survey 2013. Strasbourg: Council of Europe, 2015. Available at: wp.unil.ch/space/files/2015/02/SPACE-I-2013-English.pdf - Last access: 19/01/2016

6 Aebi, M.F. & Chopin, J., SPACE II – Council of Europe Annual Penal Statistics: Persons serving non-custodial sanctions and measures. Survey 2013. Strasbourg: Council of Europe, 2015. Available at: wp.unil.ch/space/files/2011/02/Council-of-Europe_SPACE-II-2013-E_Final_150205.pdf - Last access: 19/01/2016

The SPACE II Report describes the number of people serving non-custodial or semi-custodial sanctions or measures supervised by probation agencies (or equivalent institutions). The majority of alternatives to imprisonment are community sanctions or measures supervised by probation organisations (CSMs).

Number of people serving CSMs including being under probation on 31st December 2013.

Bulgaria 10.558 · France 187.056 · Germany 156.358 · Italy 33.151 · Latvia 17.383 · Romania 18.718 · UK: Scotland 17.147
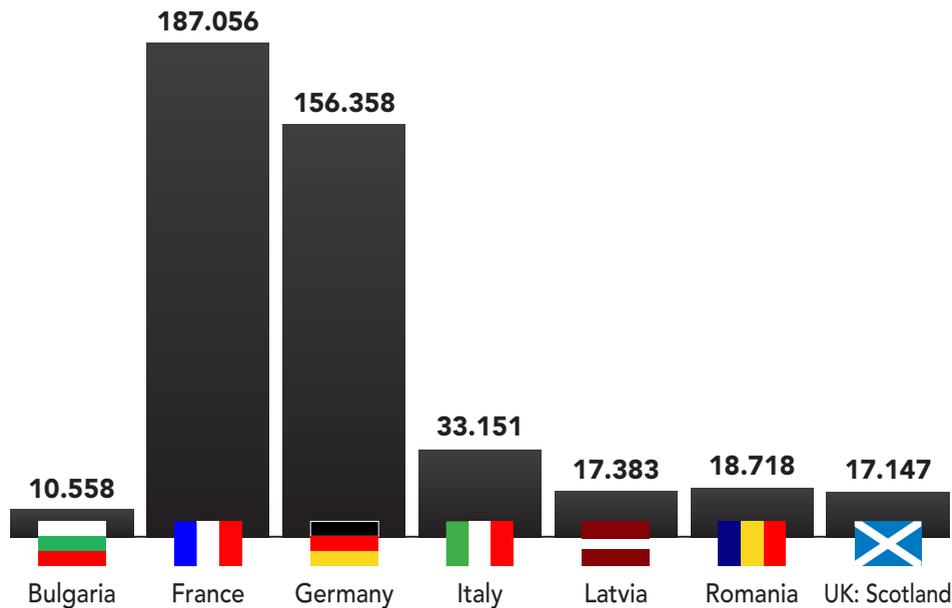
Figure 2 shows that in Germany and France the number of people serving CSMs or probation was greater than 150,000. This suggests that Germany and France use CSMs more often than Italy, Romania, Latvia, Scotland and Bulgaria. In these latter countries the data implies that CSMs are less frequently applied. This observation is supported by the data related to number of people serving CSMs in comparison with the data reported on the number of prisoners per 100,000 population (Fig. 3). For example, Latvia has a lower number of people serving CSMs but the highest prison population rate (Fig. 2 and 3).

Countries with more than 100 prisoners per 100,000 population (highest prison population rates)

Italy 108,6 · France 119,5 · UK: Scotland 148,8 · Romania 165,4 · Latvia 257,2 · Bulgaria 121,3
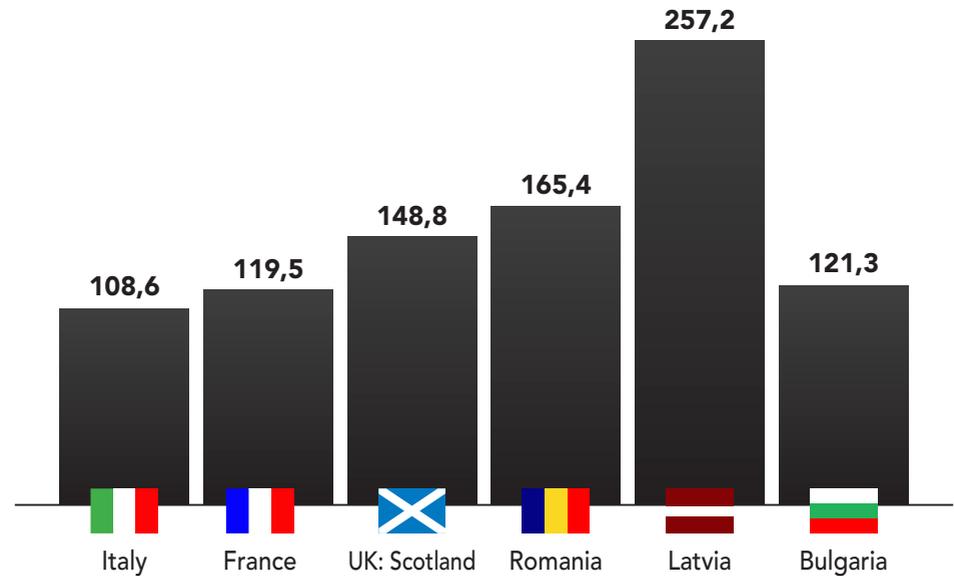
In Figure 4 Latvia is reported to have 858.9 people per 100,000 population under supervision or care of probationary services; the total number of people on CSMs and probation being 17,383 (Fig. 2).

Total number of persons under supervision or care of probationary agencies per 100,000 population

Bulgaria 144,9 · France 285,2 · Germany 194,2 · Italy 55,5 · Latvia 858,9 · Romania 93,5 · UK: Scotland 321,8
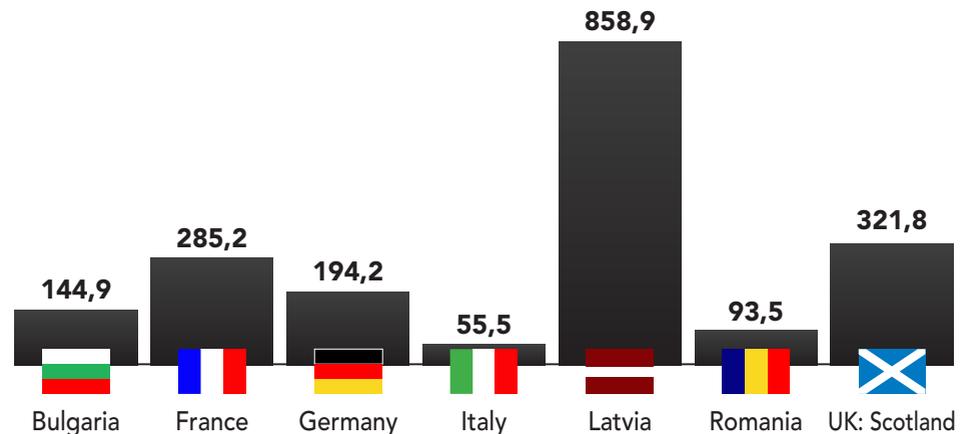
Why this Training Package?

Aim and objectives

The overall aim of this training package is to provide accessible evidence and policy-based information to be used to reduce prison populations and prevent re-offending.

The objectives are:

1. To provide practical and accessibile information on alternatives to imprisonment within a clear policy framework.
2. To gain a better understanding of promising and good practices of alternatives to imprisonment in the pre and post-trial phases.
3. To share European promising and good practices of alternatives to imprisonment in the pre and post-trial phases.
4. To provide practical and accessible alternatives to imprisonment specifically for people who experience mental health problems, substance misuse and for those who are foreigner nationals and are mothers with children.
5. To disseminate European good and promising practices on alternatives to imprisonment in the pre and post-trial phases for practitioners and policy makers.

Target group of the training package

The Training Package may also be used as a reference document as well as part of an overall training intervention. It is for:

- All practitioners working with people with convinctions, such as: police officers, prosecutors, judges, probation specialists.
- Representatives from civil society organizations working with prisoners.
- Other individuals interested or active in the field of criminal justice and prison reform and that may be confronted with questions in any of the areas the Training Package sets out to cover.

PART 1
Evidence for a coherent approach to alternatives to imprisonment

The aim of this first section is to provide the policy and research based evidence for the need for alternatives to imprisonment. It will examine EU conventions and recommendations in relation to alternatives to imprisonment, general strategies to reduce the prison population, the key evidence based principles for effective, or promising, community based interventions and the importance of coherent social and criminal justice policies.

1.1.
European Legislation: a policy framework

Over a number of years, the European Union has introduced a range of conventions in the aim of placing limitations on the use of imprisonment and promoting the welfare of detained persons in Member States. This includes the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)[7], the European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders (1964)[8] and the European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (1987)[9].

These conventions have been reinforced by Council of Europe recommendations, such as Recommendation (92)16 on community sanctions and measures and Recommendation (99)22 on prison overcrowding, Recommendation (2000)22 on improving the implementation of the European Rules on community sanctions and measures[10]; Recommendation (2010)1 on the Council of Europe Probation Rule[11]. They are not legally enforceable but clearly outline the Council of Europe vision on the use of imprisonment and prison conditions. They have also been referred to in European Court case law and are monitored by the Committee for the Prevention of Torture (CPT), which has published Standards for the Treatment of Prisoners and is authorised to visit places of detention in all Member States.

The issues that these conventions and recommendations seek to address apply to varying degrees in different jurisdictions and there is an opportunity to share and extend good or promising practice across all Member States. They are also supported by a number of non-governmental organisations involved in penal reform, such as the Association for the Prevention of Torture, the International Centre for Prison Studies, Amnesty International, the Confederation of European Probation, Penal Reform International and the Howard League for Penal Reform. The most influential groups examining prison overcrowding and alternative to imprisonment are [i] the Association for the Prevention of Torture[12], the International Centre for Prison Studies[13], [ii] Amnesty International[14], [iii] the Confederation of European Probation[15], [iv] Penal Reform International[16], Antigone[17] and [v] the Howard League for Penal Reform[18].

1.2.
What Works to Reduce Reoffending?

The evidence on the comparative effectiveness of prison and community sentences is mixed and should always be treated with caution. Research can be methodologically flawed, in that it might optimistically suggest there is a causal link between an intervention and behavioural change when this might be attributable to another factor. Conversely, it might suggest that an intervention has been ineffective in reducing re-offending, when it has had a marked impact on the frequency and/or seriousness of offending and associated risk factors. It might suggest that some interventions are applicable to the general population, when they have only been shown to be effective with specific groups or offences.

However, no studies[19] have shown to date that short-term prison sentences are likely to be more effective at reducing re-offending or offer better value for money than community based interventions, for most people who offend. Whilst imprisonment prevents offending in the community and can even be seen to be necessary for people who present a risk of harm to others which cannot be managed otherwise, it only does on a temporary basis, it disrupts existing social ties and opportunites to strengthen or develop them further, there is a higher likelihood of offending following release and it is much more expensive. In contrast, when rigorously implemented in accordance with some key principles, community sentences are more likely to be effective. The key principles involved in effective community sentences are shown in Table 1.

7 Council of Europe: European Convention on Human Rights 1950. Availiable at: www.echr.coe.int/Documents/Convention_ENG.pdf - Last access: 02/12/2015

8 Council of Europe: European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders. Available at: www.ejtn.eu/PageFiles/7682/A_1_5_Conditionally_Sentenced_Released_Offenders.pdf - Last access: 02/12/2015

9 Council of Europe: European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment 1987. Available at: www.cpt.coe.int/en/documents/eng-convention.pdf - Last access: 02/12/2015

10 Council of Europe: Rec(2000)22E on improving the implementation of the European rules on community sanctions and measures. 29 November 2000. Availiable at: wcd.coe.int/ViewDoc.jsp?id=388373&Site=CM - Last access: 28/01/2016

11 Council of Europe: Recommendation CM/Rec(2010)1 of the Committee of Ministers to member states on the Council of Europe Probation Rules. Availiable at: wcd.coe.int/ViewDoc.jsp?id=1575813 - Last access: 28/01/2016

12 www.apt.ch

13 www.prisonstudies.org

14 www.amnesty.org/en/

15 www.cep-probation.org

16 www.penalreform.org

17 www.associazioneantigone.it

18 www.howardleague.org

19 Sapouna M, Bisset C, Conlong A-M, Matthews B. 2015. What Works to Reduce Reoffending: A Summary of the Evidence. Justice Analytical Services Scottish Government. Available at: www.gov.scot/Resource/0047/00476574.pdf - Last access: 02/12/2015

Tab. 1

The key principles involved in effective community sentences

Key Principles	Explanation
Risk	Interventions should be informed by the nature and level of the risk of re-offending. Where risks are higher and/or involve potential harm to self or others, supervision and/or monitoring should be increased accordingly.
Need	Interventions should target relevant criminogenic needs. In particular, attitudes towards crime, problem solving skills, self-efficacy, pro-social networks and substance misuse, alongside assistance to overcome practical barriers.
Responsivity	Interventions should be suitably individualised to reflect different levels of intelligence, communication styles and emotionality. They therefore require staff with advanced levels of interpersonal sensitivity and awareness.
Relationship	Interventions must involve a respectful, participatory and flexible working relationship between the supervisor and supervisee. The supervisor must be empathic in that they are seen to understand the needs of the supervisee.
Community	Interventions are more likely to be effective when delivered in accordance with each of the principles in the community, where supervisees can retain and/or promote important social ties and apply, reflect on and develop skills in the real world.
Integrity	Interventions must be delivered within these parameters and must involve a clear, transparent and bespoke supervision plan. The plan must include small, measurable, achievable, realistic and time-limited (SMART) goals.

1.3.
Complexities

Within these parameters, given the complexity, unpredictability and changeability of human behaviour, no intervention can be guaranteed to be effective, either in terms of reducing re-offending or having a positive impact on risks and needs, all of the time, with everyone. The same conditions and assumptions are, therefore, valid for people serving sentences in prison. However, some interventions have been shown to more effective with more people more of the time and can maximise opportunities for behavioural change. Others have been shown to be less effective with some groups and/or when applied in isolation. For others, more research is required.

Tab. 2

A brief summary of the research evidence on some interventions.

Intervention	Effective	Less effective
Education, training and employment	Remaining in education is especially important for young people, with a high correlation between school exclusions, offending and re-offending Employment can generate income and social ties, which can promote the development of a pro-social identity and encourage desistence	Education can help people obtain qualifications to become more employable and is therefore helpful but it is unlikely to reduce re-offending on its own Some people are already in employment but offend regardless. Other risk factors, such as alcohol use or the perceived benefits of crime, may be more relevant
Cognitive behavioural work	Can help to change negative thinking patterns and associated behaviours, especially when delivered with practical support	Some people, such as people who are currently resistant to change or have a learning disability, may require a more directive or instructional approach
Motivational or strengths based work	Interventions which match levels of motivation are more likely to reduce re-offending. Building strengths and goals might help promote motivation	More research is required into the effects of a strengths based approach, including the extent to which it helps address underlying risk factors and barriers to change

Substance misuse treatment	Drug treatment programmes have a generally positive impact on reducing re-offending and offer good value for money	It should also be noted that alcohol related crime often involves violence, with other underlying features
Pro-social friends/peer group/family	Strong social bonds can help trigger or maintain desistence, whilst failed or anti-social relationships can trigger re-offending or make people feel trapped	Some people may have only experienced anti-social peers, unsupportive families and/or dysfunctional personal relationships. Alternative opportunities may be limited
Mental health treatment/support	Offenders frequently have mental health problems, which may act as barriers to the development of social skills or triggers for substance misuse	Depression, phobias and anxiety have not been found to be directly related to re-offending. Typically, this is more associated with personality disorders
Controls, such as Electronic Monitoring	Can assist with alternatives to custody as the front-door stage by providing monitoring and/or restricting access to specified places and/or people Can assist with the early release of prisoners, who are not more likely to re-offend than others not released early but who meet the same criteria.	Controls and sanctions in general can help but are likely to be more effective when they are combined with individualised support and enforced consistently Controls and sanctions in general can help but are likely to be more effective when they are combined with individualised support and enforced consistently
Unpaid work in the community	Tasks which contribute towards others wellbeing and involve contact with the beneficiaries of the work are more likely to be effective	Basic menial work, or work which does not reflect the person's strengths and interests, will involve community reparation but is likely to promote behavioural change

It should be emphasised that although problems with education, employment, alcohol or mental health may not have a direct impact on re-offending, they can act as barriers to the factors which do have a direct impact. There are important crime reduction, welfare and human rights principles on why both criminogenic and non-criminogenic risks and needs should be addressed, in terms of community safety, promoting active participation in society and improving public health.

1.4.
Assessments

It follows from this that robust assessments, informed by a thorough understanding of the effective practice principles, must form an essential starting point of effective interventions with people who offend. A number of 'actuarial' and 'dynamic' assessment tools, which focus on the general risk of re-offending and also the risk of committing specific offences, are available to assist this. The former focuses on static, or unchangeable, risk factors, such as age, gender and the number of previous convictions, to give an initial indication of the risk. The latter focuses on factors, which are susceptible to change, such as attitudes towards offending, motivation to change, substance misuse and employment.

In addition to risk factors, an assessment should also consider strengths and protective factors, such as the person's level of insight, motivation, peer/family support, involvement in or capacity to be involved in education, training or employment and housing. Collectively, the inter-relationship and balance of these factors must inform a view on the pattern, nature, seriousness and likelihood of offending. This, in turn, should lead to defensible interventions, which have been informed by a thorough analysis of all the available evidence. Public protection issues, the extent to which any identified risk of harm can be managed in the community and the requirement for any restrictions and/or monitoring, must also be considered.

More advanced assessments are likely to consider the priority areas for intervention and the circumstances in which a person is more likely to offend. This will facilitate the development of focused interventions which include reference to high risk situations, or triggers. The intervention may therefore include relapse prevention strategies, scenario planning and contingency planning. For instance, avoiding certain friends or not drinking alcohol with them and replacing this with other activities. Given the resources involved in carrying out such assessments and preparing and implementing such plans, they are more likely to be used for people who present a risk of harm but the general principles are applicable to all. It should be noted that assessments can never absolutely predict behaviour

and may sometimes be limited by the lack of availability of some information. It also follows that, given the multiplicity of issues likely to be identified in assessments of different people, a range of resources are required from various statutory and third sector agencies. People who offend must have timely access to these resources and they should be delivered in a way which successively aims to maximise or maintain their motivation, engagement, capacity to change, the measures they have taken to change, their experience of positive outcomes, self-efficacy and identity as a non-offender. In this context, both social and health care and criminal justice agencies must work collaboratively together to ensure consistent approaches which help to promote their shared aims.

1.5.
Limitations in Approaches towards Re-offending and Imprisonment

In jurisdictions where alternatives to imprisonment have been singularly adopted, without wider social and criminal justice policy changes being implemented at the same time and without proper consideration of both the intended and unintended consequences of re-designing community based disposals and/or general sentencing powers, they have failed to reduce the use of custody. Indeed, during a decade of significant developments in the availability and content of community sentences in a number of EU countries, including restrictions on the use of very short-term custody in some, the use of custody has increased or only fluctuated in most. It appears likely that this is a combined result of a number of factors, such as:

- The absence of evidence based crime prevention strategies which aim to address the underlying social and environmental causes of offending; to deter offending by ensuring the perceived benefits are outweighed by the costs; and to reduce situational opportunities to offend[20]. In particular, following the development of early onset risk factors, some groups become progressively responsible for a disproportionate amount of often acquisitive, substance misuse related crime.
- The continued prosecution of individuals within the criminal justice system without evidence based interventions at all stages and with gradual reductions in alternative life chances as they re-offend and become more entrenched in the system. These individuals are again more likely to continue to be from those groups which are responsible for a disproportionate amount of often acquisitive, substance misuse related crime, which then make up the majority of prison populations.
- The introduction of tougher penal policies, including harsher sentencing laws and community based enforcement requirements. This can involve automatic prison sentences and/or mandatory lengths of prison sentences for certain types and/or

frequency of offences, such as knife crime and persistent house breaking. It can also lead to more breaches for failure to comply with a community based option, resulting in more returning to the Court for re-sentencing, including custody.

The presumption against very short-term prison sentences alongside a legal caveat that such sentences can still be imposed where no other method of dealing with the person is considered appropriate, allowing them to continue to be used. Or instead of imposing a very short-term prison sentence, inflating the sentence and imposing imprisonment for longer periods instead. This phenomenon of 'sentence creep' has been found to have occurred in some countries where legislation has sought to reduce the use of custody.[21]

- The possibility of net widening at the bail/sentencing, or front door, stage of the system with more onerous measures in the form of alternatives to custody imposed on people who would not previously have received a prison sentence. If these individuals then fail to comply and are similarly breached under strict enforcement rules as a result, they might also then be sent to prison, adding to overall prison numbers.
- The possibility of net widening at the prison release, or back door, stage of the system with similarly more onerous and punitive measures, whereby early release involves compliance with strict conditions in the community. Where the individual fails and/or is unable to comply with these conditions, they would also be breached, with a greater likelihood that more people will be recalled to prison more often as a result.
- The introduction of policies which are based on a flawed notion that prison works or aim, for instance, to be simultaneously 'tough on crime and tough on the causes of crime'. Irrespective of the availability of alternatives to imprisonment, such rhetoric can generate a more punitive, or at least risk averse, sentencing culture which undermines attempts to reduce the use of custody, particularly when opportunities for more punitive approaches remain or are newly introduced at the same time.

These limitations highlight the importance of generating an understanding of the causes of crime and political dialogue on effective preventative and targeted approaches; of consistently introducing coherent, evidence based social and criminal justice policies; of promoting an awareness of the temporary, limited effectiveness of short-term imprisonment; and of accepting the progressively limited, albeit still significant, opportunities for the criminal justice system alone to reduce re-offending and custody. To be really effective, this requires a fully joined up approach.

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20 Scottish Government, What Works to Reduce Crime, 2015. Available at: www.gov.scot/Publications/2014/10/2518 - Last access: 14/12/2015

21 Tata C. The Struggle for Sentencing Reform, in A Ashworth and J Roberts (eds) Sentencing Guidelines, Oxford University Press, 2013.

1.6.
Frequently Asked Questions and Evidence-based Answers

1.6.1.
What are the key principles underlying alternatives to imprisonment at the European level?

The literature on reducing imprisonment and preventing prison overcrowding refers to a number of possible approaches, which can broadly be defined as 'front and back door strategies'. A front door strategy aims to limit the number of people sent to prison and corresponds to the Council of Europe Committee of Ministers statement that the 'deprivation of liberty should be regarded as a sanction or measure of last resort and should therefore be provided for only where the seriousness of the offence would make any other sanction or measure clearly inadequate'[22]. Examples of this approach would include:

- Decriminalising certain offences.
- Intervening earlier to divert people away from the criminal justice system.
- Changing prosecution policies.
- Placing restrictions on sentencing powers.
- Using community based alternatives to prison.

A back door strategy aims to reduce the prison population and associated overcrowding by reducing the length of time served in custody. Upon liberation, some ongoing monitoring and supervision may be provided in the community but people may also be released without continued requirements, when they can access voluntary support. Examples include Parole, Electronic Monitoring, House Arrest, semi-liberty, prison leave for educational reasons, half-way houses, voluntary resettlement programmes and other types of gradual transition back into society.

1.6.2.
What is the evidence that alternatives to imprisonment are effective?

Prison is said to have four main functions, which have been considered to be the aims of imprisonment. These functions are:

- To protect society.
- To punish offenders.

- To act as a deterrent.
- To rehabilitate.

Most of the above functions of imprisonment may be achieved using more constructive means. If the primary objective is to reduce re-offending, there is no evidence that imprisonment does that more effectively than community-based alternatives. Studies on the comparative impact of different forms of penalty on recidivism suggest that imprisonment increases the difficulties that offenders experience as they attempt to adjust to life on liberation. Evidence from the United Nations suggests that the experience of imprisonment contributes rather than diminishing re- offending[23].

1.6.3.
Are there specific groups that should be targeted?

Non-custodial measures tend not to be targeted at specific groups but are used across a wide range of offences and tailored to the specific needs of offenders. Research from 'Reducing Prison Population: advanced tools of justice in Europe' has shown that the range and number of available alternatives to imprisonment at national level was dependent upon:

- The legislative and judiciary system.
- The person within the criminal justice system who makes the decision.
- The appeal procedure and possibility of appealing.
- The political debate regarding alternative to imprisonment within the country.[24]
- Therefore, when considering alternatives to imprisonment it is important to analyse, in addition, the national situation - such as, the role of civil society within the Member State, the State's involvement in the implementation of alternatives to imprisonment and the synergy between State and non-governmental organisations (NGOs).

1.6.4.
Are alternatives to imprisonment easier options than detention?

Community programmes can be more challenging and demanding then a prison sentence. The equation punishment-prison is a commonly held belief.

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22 Recommendation no.R(99) 22 of the Committee of Ministers to Member States concerning prison overcrowding and prison population inflation. Adopted by the Committee of Ministers on 30 September 1999.

23 United Nations Office of Drugs and Crime, Handbook of basic principles and promising practices on alternatives to imprisonment, New York, 2007. Available at: www.unodc.org/documents/justice-and-prison-reform/crimeprevention/Handbook_of_basic_principles_and_promising_practices_on_Alternatives_to_Imprisonment.pdf - Last access: 19/01/2016

24 Reducing prison population: advanced tools of justice in Europe, Comparative concluding remarks on the in-depht interviews to the country experts. Available at: www.reducingprison.eu/downloads/files/final_research_conclusions_3.pdf - Last access: 20/01/2016

Public opinion, for instance, may believe that prison is the most appropriate way to serve a criminal sentence; it may feel that prison is safer for society; consider that time in prison will reduce the crime rate even although reoffending rates may remain high[25]. Many of these sentiments are fuelled by the rhetoric found in newspaper articles, media and social media. The need for society to accept that prison may not affect recidivism and in some instances community sanctions or probationary measures may not reduce reoffending but may have an impact upon incidence and/or seriousness of reoffending and associated risk factors, may assist in dismantling stereotypical views and misapprehensions concerning alternatives to imprisonment.

1.6.5.
Who are the stakeholders involved?

The stakeholders include not only the suspected (pre-trial) and convicted (post-trial) people but also are those working in the legal, criminal justice and institutional organisations and NGOs.

1. Those within the legal, criminal and institutional organisations include:

- The police, who investigate and/or are in charge of supervision.
- Prosecutor or procurator, who deal with criminal prosecution and how may propose alternatives to detention to the court.
- Judges or the Court who make the decision as to whether or not to grant alternatives to imprisonment.
- The probation services who monitor the individual's adherence with the CSMs orders and probationary measures, as levied by the Court.
- Social services, psychologists, volunteers, educators who collaborate and work in conjunction with the prisons, Courts, State facilities and private institutions.

2. The external stakeholders include:

- Civil society organisations, such as NGOs, that manage services in relation to alternatives to detention and are in the position to influence policy.
- Community groups, citizens and researchers whose work may inform policy.

1.66.
Why promote alternatives to imprisonment?

The overarching reason to promote alternatives to imprisonment is that this approach has the potential to enable the person with convictions to change, to become socially included and to become an active member of society - for the benefit of society.

Additional reasons for alternatives to imprisonment include:

1. To promote:

- Human dignity and human rights.
- Self-reliance and reintegration into society.
- Empowerment to enable the development of personal skills and resources.
- The maintenance of social and community contacts to allow the individual to keep family, work and social contacts and her home.
- Self-efficacy by enabling the individual to provide for the family and contribute to the household income.
- The ability to use all opportunities to be motivation and to be included in society.
- Opportunities to make amends to society through community service programmes.

2. To reduce:

- Social costs of imprisonment.
- The potential negative impact of imprisonment.
- Prison density.
- Financial costs: Evidence from the Netherlands has shown that the financial costs of CSMs is between 5% to 8% of the total costs of imprisonment.[26]
- Recidivism: Even with an absence of rigorously collected data there is, nonetheless, increasing evidence to point to the effectiveness of non-custodial measures in reducing reoffending, reducing the frequency and/or seriousness of offending and associated risk factors. In Italy, for example, people on CSMs, probation etc. (19%) are at least three times of lower risk of reoffending compared with those who are imprisoned (69%).[27]

25 Reducing prison population: advanced tools of justice in Europe, Comparative concluding remarks on the in-depht interviews to the country experts. Available at: www.reducingprison.eu/downloads/files/final_research_conclusions_3.pdf - Last access: 20/01/2016

26 De Vos H., Gilbert E. Reducing prison population: Overview of the legal and policy framework on alternatives to imprisonment at the European level. KU Leuven, 2014. Available at: ej.uz/wbnh - Last access: 13/10/2015

27 Italian department of penitentiary administration, 2012.

1.67.
What elements are needed ensure that alternatives to imprisonment work and are effective?

Element	Explanation
A rehabilitation path	The findings of this research programme showed that people in prison or people with convictions are able to gain through rehabilitation and educational programmes, which assist them gain life and employment skills, enable them to be reintergrated and included the community and society.
Individual, responsive and flexible approach	The field research conducted in this project, has demonstrated that that the sentence must be tailored to the characteristics, needs and risks associated with the accused and/or convicted person.[28] The choice of an appropriate alternative to imprisonment should be individualised to reflect various levels of intelligence, communication styles and emotionality; made to promote potential positive effects it may have upon the individual. To achieve this it is necessary to know the person, her personality and her motivation to participate. The approach must, therefore, be flexible to meet needs and based on monitoring, reviewing and, if necessary, changing the order. The requirement for staff with advanced levels of interpersonal sensitivity and awareness is essential.
Trained and qualified personnel	It is essential that the individual and his supervisor[29] trust each other. A working relationship between the supervisor and offender should be based on active listening, empathy and understanding of the offender's needs.
Community involvement	Community, respresented by civil society organisations, provide important resources through highly motivated volunteers and professionals who provide alternative sentencing options; spending time with them and together develop solutions to their needs. All these options extend the reach and the efforts of the criminal justice system.

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28 Reducing prison population: advanced tools of justice in Europe, Workstream 2: In-depht analysis of good practices by country. Available at: www.reducingprison.eu/downloads/files/Case_studies_reports.pdf - Last access: 19/01/2016

29 The supervisor is the person in charge of monitoring the path of ATD.

1.68.
What are the obstacles to implementing alternatives to imprisonment?

1. Alternatives to imprisonment may be difficult to implement, due to barriers, such reduce political willingness, the need for appropriate legislation within a Member State to permit the CSMs to be used; the potential for a disconnect between practice and policy.

2. At a regional level obstacles to implementation may be due to financial and/or logistical concerns; resistances at national and regional levels to allocate adequate funding to implement alternatives to imprisonment.

3. At a local level, lack of financial, time and human resources within institutions, organisations and social support systems.

4. Reduced public awareness about the effectiveness of alternatives to imprisonment due to the lack of rigorous impact evaluations. Communities may feel that offenders need to be shamed and so have negative opinions of alternatives to imprisonment. Communities may feel because the convicted person is still in the community they are at greater risk. However, research has shown that while the public often appears to be highly punitive when asked about suitable punishment for offenders, attitudes become more positive when given more detailed information.[30]

5. As mentioned previously (Section 1.64) newspapers, the media and social media can contribute to the adverse image of the alternatives to imprisonment. Nevertheless, the media has an important role to inform the public and assist in changing the social norm (attitudes) with regard to alternatives to imprisonment[30]. It is necessary that the media are carefully briefed about the overall effectivenesss of alternatives to imprisonment so that they are able to understand the complex nature of the problem.[31]

6. Fears that alternatives to imprisonment system will result in a privatisation of the prison system.

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30 UN Office of Drugs and Crime (2007), Handbook of basic principles and promising practices on alternatives to imprisonment. New York, 2007. Available at: www.unodc.org/documents/justice-and-prison-reform/crimeprevention/Handbook_of_basic_principles_and_promising_practices_on_Alternatives_to_Imprisonment.pdf - Last access: 19/01/2016

31 United Nations Office of Drugs and Crime, Handbook of basic principles and promising practices on alternatives to imprisonment, New York, 2007, p.78. Available at: www.unodc.org/documents/justice-and-prison-reform/crimeprevention/Handbook_of_basic_principles_and_promising_practices_on_Alternatives_to_Imprisonment.pdf - Last access: 19/01/2016

PART 2
Lessons from good and promising European practices

In accordance with the research on what works, the selection of the good and promising practices on alternatives to imprisonment was based on a range of criteria agreed by the partnership[32] which were as follows:

- Community-based.

- Proportionate to the crime committed.

- Informed by the level of risk.

- Tailored to the needs of the individual.

- Involved an open, interactive and respectful approach with the individuals involved.

- Included monitoring and reviewing of the participant.

- Flexible to the progress of the participant through the development of programme.

- Promoted behaviour change by including elements of social skills to enable rehabilitation.

- Grounded in evidence of success.

2.1.
Examples of promising and good practices of alternatives to imprisonment in the pre and post-trial phases

The selected interventions also include a multi-agency, holistic approach; the involvement of families and/or significant others to promote rehabilitation; and either screening out people who presented a high risk of harm or mechanisms to enforce requirements and potentially return the individual to custody should any risk of harm emerge and become unmanageable in the community. Examples were selected from different stages of the criminal justice system, including diversion from prosecution, alternatives to remands and custodial sentences and resettlement from prison into the community[33].

2.1.1.
Early intervention - Persistent Offender Project[34], UK: Scotland

The Police Service of Scotland together with Addiction Services developed an early intervention (diversion) to prioritise people with substance misuse. The aim being to 'establish joint partnership working to improve health and social well-being for offenders with drug and alcohol problems and their communities.'[35] The content of the service would ensure support for drug and alcohol rehabilitation, assistance with housing and tenancy difficulties as well as training and education as required.

- The participants were identified by police from lists of potential candidates. These included: those over 16 year of age; persistant offenders; crime used to fund addiction and that they resided in areas of high social deprivation.

- The participant was contacted at home and informed of the aims of the programme. Assessments of motivation and engagement were made. A futher follow-up appointment was made to engage proactively with the potential participant, 7 days after the inital contact.

- The programme consisted of an agreed care plan with specific roles for the trained addiction and homeless teams. It provided a multi-agency focus approach involving all necessary practitioners. The care plan was flexible and tailored to the needs of the participant.

- The care plan was monitored and reviewed on a 6 weekly basis to include assessments of risk and engagement.

- The continuing evaluation of the programme shows an overall fall in convictions, reported crime and the time spent in prison.

Details of the programme can be found at:
www.glasgow.gov.uk/CHttpHandler.ashx?id=9640&p=0
www.glasgow.gov.uk/CHttpHandler.ashx?id=3297&p=0

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32 Practices from Bulgaria, France, Latvia and Romania are not included in this Training Package because the research in these countries showed only juridical tools and not concrete practices.
33 This practice is not included in the Case studies report because it has been suggested by an external expert in a later stage.

34 This practice is not included in the Case studies report because it has been suggested by an external expert in a later stage.
35 Smith VM. Persistane Offender Project: Pilot Project Evaluation November 2006-March 2008. Available at: www.glasgow.gov.uk/CHttpHandler.ashx?id=9640&p=0 - Last access: 14/12/2015

2.1.2.
Diversion - Community Triage, NHS Greater Glasgow and Clyde Crisis Out of Hours CPN Service36, UK: Scotland

The Police Service of Scotland together with National Health Services (NHS) Greater Glasgow and Clyde developed a Community Triage (CT) as an early intervention (diversion) to prioritise people presenting with mental health[37].
The CT aimed to show that 'more timely intervention by Mental Health professionals [community psychiatric nurses: CPNs] when required', would reduce the necessity for confinement either in a police station or hospital.

- The Police and NHS Service provided accessible and appropriate interventions to: 'reducing the number of detentions to . . . custody; improve outcomes for those who are detained and also those who are dealt with in the community; improve partnership working between Police and Health services, improve pathways to effective Mental Health Services including follow up for those difficult to engage with, following initial contact with the police and reduce costs to police, health and criminal justice system'[21].

- The CT was targeted to people 'where there was no immediate danger or threat to life'[21] The out of hours service operated between 2000-0900hrs on week-end and public holidays.

- Police officers who felt that the person was distressed or were showing signs of mental ill-health completed a series of 6 questions about the event: 1. where was the person found?: 2. was a telephone consultation conducted?: 3. was there a face-to-face mental health assessment conducted?: 4. what was the outcome? [i] fit and well, no further action: [ii] detained and taken to a place of safety: [iii] a mental health officer called to organise to take the person to a place of safety?: 5.was the person arrested for an offence: 6. How long did it take?

- The evaluation showed that of the 234 episodes attended all individuals were assessed. Two hundred and thirty were fit and well and needed no further intervention. CPNs assessed seven other cases. Of the remaining six people, four were taken inot police custody with the remaining 2 'were dealt with at the locus of their offence and reported to the Procurator Fiscal'[21] This represented only 2.6% of the total.

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36 This practice is not included in the Case studies report because it has been suggested by an external expert in a later stage.
37 Community Triage - NHS Greater Glasgow and Clyde Crisis Out of Hours CPN (Community Psychiatric Nurse) Service 2015. Available at: www.scotland.police.uk/whats-happening/news/2015/september/mental-health-pilot-project-results-outstanding - Last access: 13/12/2015

2.1.3.
Post-trial CEC programme, Italy

The Comunità Educante con I Carcerati (CEC) programme, implemented by the Associazione Comunità Papa Giovanni XXIII, is offender and offence focused, including the reasons why the individual committed his crime and his motivation to change. The CEC is tailored to the severity of the crime, the level of risk and the specific psychosocial and educational needs of the individual. It is open to all regardless of culture, nationality or religion. The role of trained volunteers working with external agencies is an essential tenet of the CEC programme. The volunteers are trained in motivation, counselling, promotion of self-care and evaluation of the participant's progress and motivation. They work collaboratively with psychological services, business enterprises and external agencies to promote and enable offender rehabilitation. The programme is divided into three phases, which are flexible in accordance with the severity of the crime committed and levels of risk. If progress through the phases is successful, then in line with Italian current law, this permits a reduction in the length of imprisonment. If the participants are non-adherent, they will be back-tracked to earlier phases, or, based on the level of severity of risk, returned to prison. It consists of 3 phases:

Phase 1: Participants admitted to CEC are required to signed a contract in which they have stated their acceptance to be part of the CEC project, that they understand the aims and their responsibilities during the programme. In this first phase the main activity is work therapy with educational elements. The participants are required to undertake unpaid work/labour, which symbolises reparation for the effect of the crime upon their victims. During Phase 1 the participants have group and individual therapy session with psychological services to allow them to reflect and deepen their understanding and the need to acquire values associated with human rights and lawfulness. The participants focus and reflect on their experiences and, with the help of volunteers, start the process to move forward, to make a new start by working through their anger and frustrations to permit and evaluation of their abilities to control their violence. Contacts with the external environment, including family visits, are minimal to allow the participant to reflect on past experiences and to promote behaviour change.

Phase 2: This phase is about promoting work not only as a creative and therapeutic intervention, but also to enable employment, through the tailoring of appropriate training and occupational activities. Participants are invited to have internships with external cooperatives and companies, they have increased number of family visits and are given time to meet and interact with the victims(s) of their crimes to reflect upon past misdemeanours. During this phase their specific volunteer or key worker continually supports them.

Phase 3: In this final phase there is access to the job market, contacts with family are normalised. This phase characterised by the trusting relationship between volunteer and participant. The volunteer's support at this time is critical and is provided in the form of fewer but more intensive educational interventions.

For more information:
www.apg23.org/en/prisons/

The German network "Haftvermeidung durch soziale Integration" (HSI) was established in 2002 by ten different cooperation partners. In the guiding principles it is written, that the HIS is a network, which consists of voluntary ex-offender services. They are involved in the social and professional integration of ex-prisoners or people, who have a higher risk of imprisonment. The network wants to encourage people, show them their strengths and work with them together to define realistic goals that can be reached. The HIS ensures quality through professional standards, on-going auditing and evaluation14. Funding for the network is available from the European Social Fund (ESF), the Ministry of Justice Brandenburg and other German municipalities.

- The aim is to 'support career incentives for social integration of prisoners, ex-prisoners, offenders and fines convicts who perform community service to avoid . . . imprisonment, as well as career-oriented training courses for young and adolescent multiple offenders'[38].

- HIS is about networking, community capacity building and is a partnership intervention. It works with a series of government and non-government organisations, vocational training and ex-offender services to promote the social and professional integration of ex-offenders, who have been assessed as having a higher risk of future imprisonment.

- The network has a specific communication-plan, which may be accessed on the HIS homepage[39]. This contains a list of the network partners and specific contact persons.

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38 Haftvermeidung durch soziale Integration, 2015. Available at: www.masgf.brandenburg.de/cms/detail.php/detail.php?gsid=bb1.c.185338.de - Last access 13/12/2015

39 Haftvermeidung durch soziale Integration, 2015. Available at: www.ilb.de/de/arbeitsfoerderung/aktive_arbeit_programme/haftvermeidung_durch_soziale_integration/index.html - Last access: 13/12/2015

- The network is structured into three project areas:

1. Anlauf- und Beratungsstellen (Contact and advice centres); The aim is to support the resocialization of prisoners within and without prisons. One activity is consulting of the relatives of people with convictions. It aims to [1] improve the relatives' problems caused by imprisonment;[2] provide emotional relief for the relatives and [3] preserve, re-establish or establish of a stable relationship with the detainees, to minimize the consequences of the separation.

2. Arbeit statt Strafe (working instead of punishment).

3. Ambulante, soziale und berufsorientierende Angebote (ambulant, social and career-oriented services).

- Within the various project areas and working in partnership with 'prisoners, ex-prisoners, offenders and fines convicts and young and adolescent multiple offenders' HIS enables them to know their strengths, identify realistic goals and develop an action plan for their future lives.
The specific areas of the programme within the network include:

  • Development of personality.
  • Improvement of employability.
  • Integration in the educational and labour market.
  • Prevention of recidivism.

RiparAzioni, implemented by Libra Onlus Association, Italy, aims to disseminate knowledge on restorative justice to increase awareness and promote pathways towards responsibility and restorative actions. This programme encourages the use of intervention models to repair of the harmful consequences of crime. It helps people to elaborate and reflect upon the precipitating factors and the crime committed so that they may recognize their responsibility and the need for reparation (repaired and repairing the community). The programme is opened to all those serving community sentences, under court orders, home detention or on probation, from Mantova and Cremona.
It consists of 3 parts:

Part 1: The course on legal education

Meeting 1: the topics covered included, a reflection on the theories of punishment and on the different models of justice. The participants were invited to think about issues such as rules, violations and reactions to violations, to express themselves narrating their experiences, to discuss about the status of the relevant victims.

Meeting 2: The second meeting examined the concept of legality and an open discussion about the necessity of respecting the rules.

Meeting 3: The third and final meeting focused on the concept of responsibility as 'capability to respond'. This meeting placed emphasis not only on legal responsibilities, but also on societal responsibilities that are fundamental to social cohesion and inclusion.

Part 2: follow-up

This part consisted of eight weekly group meetings. Each of these meetings lasted two hours and involved participants and probation officers. Using multimedia materials the facilitator (criminologist/lawyer) was able to stimulate a discussion and encourage the participants to debate around the themes that they had been previously identified on several occasions. In an effort to understand the position of the victim, one of the tools used was to listen to the interviews of some victims of crime which dealt with specific issues: [1] the story of the crime and its consequences, [2] the idea about the people who have committed crimes and [3] the knowledge of restorative justice.
In the conclusive and last meeting, the participants were invited to express their views on their followed path and to highlight the relevant positive and negative aspects of their experiences. The practitioners used this time to explain and discuss some possible restoring actions, leaving participants with the choice on when, whether, or how to engage in this type of restorative justice initiative. The presented possibilities, permitted by the Italian law, included, voluntary work, unpaid work and/or collective utility work.
This final discussion gave way to a realisation that work was a valid measure of restitution, as well as an opportunity for the creation of new links and relationships.

For more information:
www.associazionelibra.com/en/project/riparazioni-2

2.1.6.
Specific programme for specific crimes - the Caledonian System for Domestic Violence

'The Caledonian System was developed for the Scottish Accreditation Panel for Offender Programmes & the Equality Unit of the Scottish Government.'[40]
It is for adult males over 16 years old who are in a heterosexual relationship and who have been convicted of domestic abuse. The Scottish Government funds criminal justice services, which implements CS in various local authority areas. The CS is an integrated systemic approach that addresses domestic abuse behaviour in men and which also safeguards women and children through parallel services. The expected results are a reduction in domestic abuse and improvement of lives of the men, their partners, children and families. Family or partner involvement is dependent and tailored to individual cases.

The aims of the programme are to:
1. increase safety of women and children via addressing abusive behaviour in men.
2. reduce offending.
3. manage risk.
4. promote change in men by providing safe and respectful learning context.
5. assist men in changing their attitudes responsible for violence.
6. increase men's accountability for their abuse.
7. develop a 'good life' plan which does not rely on abusing partners and children.
8. increase men's knowledge, skills and understanding necessary not abuse partners.
9. promote better lives for women and children who are affected by domestic abuse.

Stage 1: Pre-group activities: 14 sessions. The offender starts with the pre-group activities, which are carried out with their case manager, who is responsible for the implementation and enforcement of the order. In this stage, preliminary work necessary for moving onto Stage 2 is carried out. During this stage an analysis of his abusive behaviour is completed, his criminogenic needs are identified and a personal plan is formulated.

Stage 2: Group work programme: 26 sessions: Group work consists of 6 modules. Each module has 4-5 sessions (each 3 hours long) delivered over a 3-5 week period in a group format. Offenders can join in for the first available module and do not need to wait until the next start of the programme. The

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40 The Caledonian System: an integrated approach to address men's domestic abuse and to improve the lives of women, children and men 2013. Available at: www.gov.scot/Topics/People/Equality/violence-women/CaledonianSystem - Last access: 13/12/2015

exception to that is 'sexual respect' module, which is run on 2-to-1 basis and men normally do not start with this module as it can make offenders anxious and resistant to change.

Stage 3: Maintenance sessions: Once the offender has completed the Caledonian System modules he enters into the maintenance phase. The maintenance phase continues until the end of the court order and involves work with the offender's case manager. It is during this time that any outstanding issues identified during the group work can be further addressed. In addition, offenders are monitoring and reviewing their progress according to the risks and needs identified in the early stages of the Caledonian System programme and in accordance with their personal plan. During maintenance offenders are encouraged to translate the learning and skills obtained in the group to their relationships and to life in general.

For more information:
www.gov.scot/Topics/People/Equality/violence-women/CaledonianSystem

2.1.7.
Post-trial: network programme between criminal justice and CSOs: ACERO Project

ACERO[41], has been implemented in Italy in the Emilia Romagna Region. The programme is a result of the cooperative networking between the public administration (Department of Penitentiary Administration and Emilia Romagna Region-Departments of Social Policies and Labour) and CSOs in Emilia Romagna. The involvement of the penitentiary and regional administrations has encouraged the participation and cooperation of representatives from penal institutions, from the Probation and Community Services, provincial and city representatives, where prisons are located. The implementation of ACERO has enabled the most disadvantaged to improve their autonomy. The involvement of the CSO network has enabled the creation of supportive and lasting relationships with the participants to maintain their autonomy.

- Designed for prisoners who may be migrants, homeless and without family links who cannot participate in alternative to imprisonment programmes unless they are accepted by a host community. ACERO provides accommodation facilities to provide continuous support to enable social reintegration.

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41 **ACERO** comes from the fusion of two words acceptance (in Italian, **AC**cogli**E**nza) and work (in Italian, lavo**RO**)

- The aim is to strengthen competencies and abilities to improve and reinforce participants' levels of autonomy and reduce/limit the risk of reoffending.

- ACERO programme is structured into two 'actions':

Action 1: identification of host communities, called Collective Rehabilitative Houses (e.g. hostels, shelters).
The Collective Rehabilitative Houses are a valuable tool to undertake social rehabilitation and must have the following requirements:

1. ensure the constant presence of volunteers.
2. weekly group meetings among participants and volunteers.
3. planning individual interviews; construction of a personal project (tailored to need).
4. consulting external experts (psychologists, educators, therapists and migrant's rights).
5. presence of workers or volunteers with a badge released according to the Italian Criminal Justice System.

Action 2: training working paths.
The training working paths are implemented as vocational training. It is supported by tutorial activities that promote the reintegration into the employment sector.

For more information:
sociale.regione.emilia-romagna.it/news/2014/carcere-primo-bilancio-del-progetto-acero

PART 3
Special categories of people with convictions

For special categories of offenders, these groups may be kept out of prison by providing specific assistance and/or specific institutions more adjusted to their specific problems.[42]. The Prison Reform Trust, UK, suggests the need for 'Liaison and diversion is a process whereby people of all ages with mental health problems, learning disabilities, substance misuse problems or other vulnerabilities are identified and assessed as early as possible as they pass through the criminal justice system. Following screening and assessment, individuals are given access to appropriate services including, but not limited to, mental health and learning disability services, social care, and substance misuse treatment'[43].

3.1. Mental health problems

Several studies have found that many prisoners who are in need of assistance or psychiatric attention are not recognized as such. For instance, Schoemaker and Van Zessen (1997)[44] found that medical staff in prisons tended to underestimate the need for hospital transfer in prisoners with serious mental illness. However, in Bulgaria patients with serious mental illnesses are treated differently where specialised trained staff assess their needs[45]. Hence, those assessed as posing no physical threat to staff or patients are placed in general psychiatric wards whereas those posing a threat are placed in specialised prison wards.

However, there was very little evidence found within the remit of 'Reducing prison population: advanced tools of justice in Europe', that participating countries opted for special treatment of psychiatric patients who had been involved in the commissioning of crime. A programme from Scotland used 'diversion' as an early intervention to prioritise people presenting with mental health, however, no other specific programmes fulfilled the inclusion criteria for good and promising progammes as alternatives to imprisonment for people with mental health were found.

3.2. Substance misuse

Substance misuse (drug misuse), and the need to finance the drug habit, is considered to be a widespread motive for committing offences. Substance

misuse is also one of the main obstacles encountered when attempting social reintegration. If people with substance misuse are entered into rehabilitation programmes, and do not receive the support necessary from health care professionals, family, friends and NGOs, then there is an increased risk of re-offend. Most countries involved in this research project do provide special treatment for persons with drug and alcohol dependencies (see, for example, Section 2.1.1). Special services are sometimes provided in the pre-trial phase or the post-trial phase, and sometimes involve community workers as in Latvia where people with substance misuse are provided with the environmental and social support to ensure their rehabilitation and re-socialisation[46].

3.3. Foreigner nationals

There are more than 100,000 foreign national prisoners in European countries. Their numbers vary greatly from country to country, but the average percentage of foreigners in the total European prison population is over 20%. The question of non-EU' criminality and over-representation in the crime statistics is too complicated to tackle properly here. The most common and significant problem faced by foreign nationals in general, is the lack of knowledge of the national language. Perhaps most striking of all is the absence of serious discussions in Europe concerning inmates with a foreign nationality who are serving prison time. Foreign prisoners should in principle be eligible for alternatives to imprisonment according to the same principles as nationals. There is no doubt, that national convicted people are more often granted alternatives measures than foreigner nationals. Experts attribute this disparity to [1] a lack of positive reference points, that is having a family, a job and permanent residence; [2] language and culture diversity and [3] fears of deportation from the State.

3.4. Mothers with children

The majority of women in prison are mothers with children under 18 years of age. Imprisonment impacts not just on women but also upon their children who may experience a variety of suitable and unsuitable care arrangements while their mothers are in prison. If the mother is imprisoned some distance from home the children may be unable to visit. There is growing international recognition that the child is not guilty of the mother's offence, the child is not the prisoner (even if living with mother in prison), and that the child's rights under the Convention on the Rights of the Child must be maintained. Consequently the rights, welfare and best interests of the child have to be considered in the criminal justice process and in the granting of alternatives to detention.

42 De Vos H., Gilbert E. Reducing prison population: Overview of the legal and policy framework on alternatives to imprisonment at the European level, KU Leuven, 2014. Available at: www.reducingprison.eu/downloads/files/ReducingprisonpopulationEuropeanframework_FIN_101014.pdf - Last access: 20/01/2016

43 Relative Justice: the experiences and views of family members of people with particular needs in contact with criminal justice and liaison and diversion services. Available at: www.prisonreformtrust.org.uk/Portals/0/Documents/relative%20justice.pdf - Last access: 14/12/2015

44 Schoemaker, C., & Van Zessen, G,. Psychische stoornissen bij gedetineerden: een verkennend onder- zoek in Penitentiair Complex Scheveningen Mental disorders among detainees: An explorative study in the penitentiary complex Scheveningen. Utrecht: Trimbos-instituut, 1997.

45 Parmentier S., Comparative conclusions of the literature analysis (to be published in the website).

46 Ibidem.

PART 4
Recommendation

Recommendation 1:
Crime prevention programmes

Crime cannot be viewed as a social problem in isolation from deeper social and economic issues. Determining what factors are associated with different types of crime can lead to the development of a set of strategies and programmes to change those factors, and prevent or reduce the incidence of those crimes. Over the past decade, a number of studies of the costs and benefits of crime prevention programmes have been conducted. They have shown, for example, that early intervention programmes to provide support to children and families at risk, or working with young people to encourage them to stay in school and complete their education, lead to considerable reductions in long-term criminal, social and economic costs that exceed the sums invested in those programmes[47]. Therefore we recommend that:

- Preventive programmes be put in place to provide early interventions, targeted at children, young people and families at risk of offending.

Recommendation 2:
People with Special Needs

There are groups of people - those with mental health or learning disabilities - that are vulnerable and who need additional assistance, care and protection. However, many experience increased suffering due to inadequate facilities and lack of specialist care. Therefore we recommend as alternatives to imprisonment for people with special needs [48].[49] That there should be the use of:

- liaison and diversion as early interventions.
- exploration of the reasons for offending and reoffending.
- partnership working with local authorities to examine eligible criteria for support services.
- community sentences.

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47 United Nations Office on Drugs and Crime, Handbook on the Crime Prevention Guidelines: making them work, New York, 2010. Available at: www.unodc.org/pdf/criminal_justice/Handbook_on_Crime_Prevention_Guidelines_-_Making_them_work.pdf - Last access: 20/01/2015

48 Talbot J. No One Knows: Prisoners' Voices. Experiences of the criminal justice system by prisoners with learning disabilitiesand difficulties 2008. Available at: www.prisonreformtrust.org.uk/Portals/0/Documents/No%20One%20Knows%20report-2.pdf - Last access: 11/12/2015

49 Scottish Government. Supporting Offenders with Learning Disability (SOLD) 2015. Available at: soldnetwork.org.uk/criminal-justice-pathway/early-intervention-diversion-and-community-sentences/ - Last access: 09/12/2015

Recommendation 3:
Focusing on the rehabilitation and adopting a multidisciplinary approach

It is important that a multidisciplinary approach forms the basis of programmes for people in prison to enable them to address the difficulties experienced in their lives and ensure their social inclusion with their communities and societies. Therefore we recommend that:

- A holistic and client-centred approach is adopted.
- The wishes, anxieties, concerns and problems experienced by the individual are recognised and appropriate management delivered.
- A personalized and structured path of rehabilitation is developed and negotiated between the individual and their key worker to improve self-esteem, self-efficacy, learning capacity and social capital.

Recommendation 4:
Providing networks for education, training and work experience

Education, training and work experience are important parts of building a future for society and the individual. This is particularly so for people with convictions. They should be encouraged to take an active role in their education, training programmes and the organisation of their routine day-to-day lives.
The construction of programmes incorporating these elements, allows the individual to gain responsibility for their own actions and address their difficulties in relating to society. Therefore we recommend that:

- Alternatives to imprisonment must include educational, training and work elements.
- Programme elements should provide the means for improved self-esteem, autonomy and focus on social inclusion and rehabilitation.
- Provide the individual with the means by which (s)he may repay society in the form of a community payback.
- Programmes should include strong networking with companies and work organisations to ensure paid employment at the end of sentence.

Recommendation 5:
Involving family, friends and civil society

Good relationships with families and friends are essential, particularly during the rehabilitation phase and when rejoining the community and wider society. Therefore we recommend that:

- Whenever possible, programmes should work within a multidisciplinary

team with the aim to reconcile the individual with their family.

- To provide a time for the individual and their family to discuss past events, to ensure family cohesion and long-term support.
- Involve the local community and civil society, so that trained and motivated volunteers in their relationships with former offenders can assist in providing support to enable social inclusion.

Recommendation 6:
Networking between criminal justice and civil society organisations

It is important to encourage integrated approaches between the criminal justice system and the non-profit organisations. In general, it is possible to make a division between non-profit civil society organisations, which are active in policy and decision-making processes and those non-profit civil society organisations, which are more involved in providing direct and practical support to offenders. Therefore we recommend that there should be:

- Active participation in conferences, public statements, petitions, or other network activities to increase public awareness of alternatives to imprisonment.
- Active participation, integrated approaches and networking between criminal justice, non-profit organisations to increase public acceptance of alternatives to imprisonment.
- Active participation and networking to allow the further development and improvement of current alternative to imprisonment programmes.
- Active participation and networking to increase the understanding and recognition of the importance of alternatives to imprisonment to achieve the goals highlighted in this training guide.

PART 5
Conclusions

In addition to internationally accepted human rights principles, there are evidence-based reasons for reducing the use of custody in order to reduce the financial and social costs of imprisonment and re-offending. Community-based sentences are not just much less expensive. When rigorously implemented in accordance with some key principles, they are more effective in reducing crime for similar people who offend. They allow risk factors and related needs to be addressed in a real world environment and promote the maintenance or development of important social ties, such as family and employment. They also offer opportunities for people who have committed crimes to make amends through reparation, such as unpaid work.

The impact of alternatives to custody on both the use of custody and crime rates is also likely to be greater when introduced in conjunction with a range of coherent and complimentary social and criminal justice policies. The evidence suggests this is likely to require a focus on the underlying social and environmental causes of crime, deterrence and situational crime prevention. Equally, by diverting people who have offended from the criminal justice system through the provision of alternative measures and graduated, proportionate interventions if they re-offend. It should not involve the simultaneous introduction of progressively harsher policies and/or rhetoric, which promotes increasingly punitive sentencing.

Prison overcrowding has overwhelmingly negative consequences for all involved in the prison sector – the prison staff, prison managers, and the people in prison themselves. A balanced criminal justice approach, respecting everyone's interests, can be promoted by introducing restorative justice principles, for example, by creating and offering appropriate forums in every phase of the process (from pre-trial to post-sentence) where participation and communication between all stakeholders is possible. Member States' criminal justice systems, therefore, need to increase public awareness by enabling public debate about the rehabilitative purpose of the criminal justice system and ensure that society realises that their main priority is rehabilitation.

Reducing custody and re-offending therefore requires an approach, which extends beyond the criminal justice system and involves an integrated approach across all public, private and third sector agencies with local communities. It requires all stakeholders to work together in the development of both preventantive and targeted strategies, which aim to improve family and individual life. Only when the presently disparate remits of penal policy, policing, housing, health, leisure, welfare, protection and employability are brought together can we maximise their impact on re-offending, imprisonment and the financial and social costs. In doing so, it is also likely that we will have an impact on wider public health and social welfare issues.

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GLOSSARY

1. Alternatives to pre-trial detention
Verbal sanctions, conditional discharge, status penalties, economic sanctions and monetary penalties, confiscation or an expropriation order, restitution to the victim or a compensation order, suspended or deferred sentence, probation and judicial supervision, community service order, referral to an attendance center, house arrest, any other mode of non-institutional treatment, some combination of the measures listed above (the Tokyo Rules).

2. Alternatives to post-trial detention
Fully or partially suspended custodial sentence with or without probation, conditional pardon or conditional discharge (with probation), community service, electronic monitoring, home arrest, semi-liberty (including weekend imprisonment and imprisonment on separate days), treatment (outside prison), conditional release/parole with probation, furlough and halfway houses, work or education release, various other forms of parole, remission, pardon, mixed orders and others (the Tokyo Rules).

3. Community participation
All those forms of help, paid or unpaid, carried out full-time, part-time or intermittently, which are maid available to the implementing authority (body or bodies empowered to decide on, and with primary responsibility for, the practical implementation of a community sanction or a measure) by public or private organizations and by individuals drawn from the community (Council of Europe, Rec (1992)16).
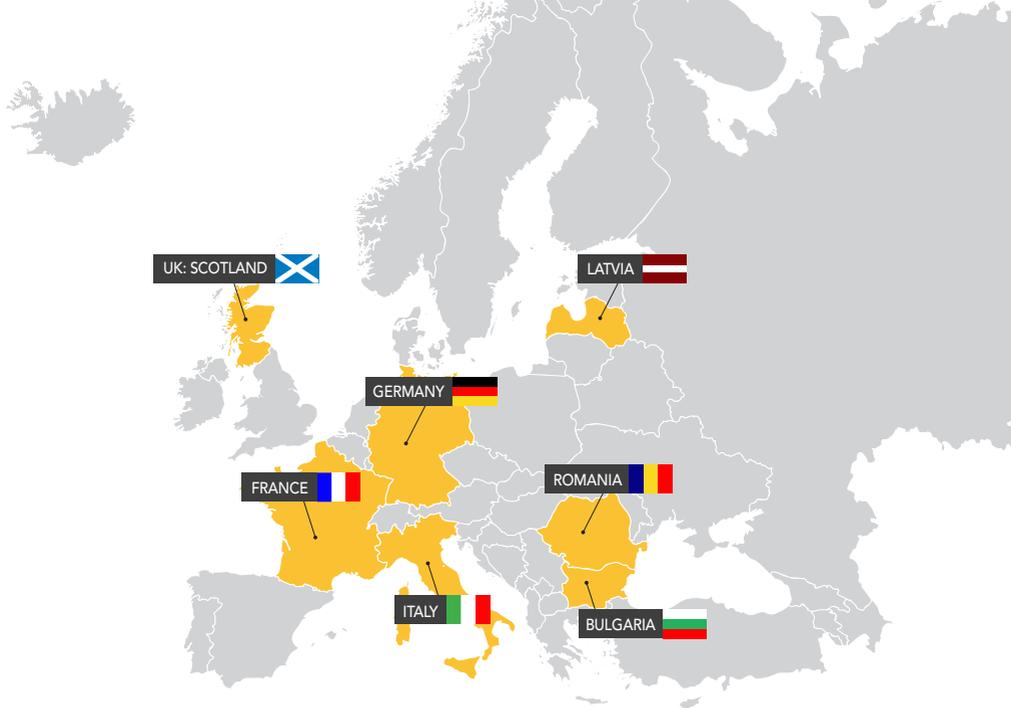
4. Prison density
The prison density is the ratio between the number of inmates and the number of places available in penal institutions. The indicator of prison density (generally used for the assessment of prison overcrowding) is calculated on the basis of the number of inmates and the available capacity for all categories of inmates included in the total prison population.

5. Community sanctions and measures
Sanctions and measures which maintain the offender in the community and involve some restriction of his liberty through the imposition of conditions and/or obligations, and which are implemented by bodies designated in law for that purpose. The term designates any sanction imposed by a court or a judge, and any measure taken before or instead of a decision on a sanction as well as ways of enforcing a sentence of imprisonment outside a prison establishment (Council of Europe, Rec (1992)16).

6. People in prison/Offender
All persons subject to prosecution, trial or the execution of a sentence, at all stages of the administration of criminal justice, irrespective of whether they are suspected, accused or sentenced (the Tokyo Rules). Consequently, the term "offender" is used in a generic sense, without detracting from the presumption of innocence.

UK: SCOTLAND

LATVIA

GERMANY

FRANCE

ROMANIA

ITALY

BULGARIA