

The *meaning* of the sentence

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Prison *"de-socialises people, takes responsibility away from them and creates multiple breaks or exacerbates already existing ones"*.

Four years after making this observation, the EESC felt it was necessary to look at the subject again, from a different angle: a debate on what society, victims and defendants expect from sentencing cannot be avoided. In this new opinion, the EESC draws on an in-depth analysis of sentencing patterns and questions the way penal policies have been conducted to date. Lastly, it identifies priorities in the design and application of sentences to give them meaning.

Prison should no longer be the automatic sentence

The EESC has put forward 19 recommendations to *"give the justice system the means to act quickly and better while allowing it to take the time, depending on the situation, to assess whether the sentence is the most appropriate, better understood and more effective in reducing recidivism and promoting reintegration"*.

THE RAPPORTEURS

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Alain Dru, a retired head of the Judicial Protection of Youth education department, is continuing his commitment to the CGT group at the EESC. A member of the Social Affairs and Health Committee, the Overseas France Delegation and the Temporary Committee on the End of Life, he is the co-rapporteur of the *Improving the Care Pathway in Psychiatry opinion* (2021) and the *Hospitals in the Service of the Right to Health opinion* (2020).



Giving meaning to the sentence for the offender, the victim and society means assuming that every prisoner will be released one day.

The EESC's 2019 opinion* concluded that " *prison is above all a school for recidivism*". In 2023, the EESC noted a deterioration in the situation of prisoners, with prison overcrowding breaking records every quarter.

This opinion is based on many figures and studies and interviews with stakeholders: lawyers, magistrates, prison integration and probation advisors, associations involved in rehabilitation, and victims. Two field trips were organised: a day at the Bobigny criminal court to attend immediate appearance hearings and a visit to the Nanterre prison.

* EESC, 26 November 2019, *The reintegration of prisoners: everyone's business* (rapporteur: Antoine Dulin)

Figures for an informed debate and a paradigm shift

→ Measuring incarceration

Measuring incarceration



Imprisonment is the act whereby the prison administration takes charge of a person who is placed in pre-trial detention or receives a custodial sentence. Convicts may be placed in detention (serving their sentence in a prison) or "unaccommodated" (serving their sentence on work release or at home under electronic surveillance). A "convict-defendant" is a person who has been convicted in one or more cases and is a defendant in one or more other cases.

→ Prison overcrowding



Building new prisons will not reduce overcrowding.

Perpetrators and convictions

Criminal justice	Perpetrators
Perpetrators in cases tried	1,970,776
Perpetrators in prosecutable cases	1,325,258
Perpetrators prosecuted or who have successfully completed an alternative sentence or a penal combination	1,181,080
Criminal response rate	89.1%
Convictions	Total
Crimes	2,173
Offences	542,880
Fifth class offences	8,550

Key figures for 2021

Source: Key criminal justice figures in 2021

In 2021, public prosecutors handled cases involving nearly two million criminal offenders.

Nearly 1.2 million offenders received a sentence, i.e. more than 89% of those liable to prosecution.

The cost of prison and alternatives



Incarceration costs much more than alternatives

The *meaning* of the sentence

The EESC sets out a precondition for all of its 19 recommendations: an end must be put to "penal overkill", the economic and social effects of penal policies must be regularly assessed, and justice budgets must be redirected towards running the courts and informing judges about the situation of defendants.

The EESC has identified three priorities:

- Victims, convicted persons and society must understand the sentence. Criminal justice and some of its principles (the presumption of innocence, lack of criminal responsibility in cases of mental illness, the statute of limitations, etc.) are not well known and lead to misunderstandings. Victims need better support, as far upstream as possible and at every stage.

The choices and decisions made throughout the criminal justice process must be explained better.

- The dignity of the sentence, in particular by limiting recourse to pre-trial detention, creating an autonomous probation sentence (disconnected from prison), and organising prison regulation.

Penalties continue to focus on prison without taking into account the disgraceful conditions of detention or its unproductive and dehumanising nature.

- Individualisation of sentences: giving the judiciary the means to decide on the most effective sentence to combat repeat offending and enable rehabilitation by giving judges access to concrete, precise and more complete information on the situation of defendants.

Giving meaning to the sentence also requires having the time and resources to impose an appropriate punishment.

- 1 The procedure and scope of the immediate appearance procedure should be more closely supervised and not used as a solution to the lack of resources and time.
- 2 Define an overall strategy for reducing pre-trial detention by making some offences punishable by fines; limiting its duration, in line with European Court of Human Rights case law; and giving more detailed reasons for its use, indicating why other solutions would not be more effective.
- 3 Implement prison regulation by adopting an agreement providing, once a certain occupancy threshold has been reached, for the identification of release solutions involving judicial, prison, integration and rehabilitation officials, within the jurisdiction of each criminal court and as part of a process coordinated by the appeal courts. Such regulation implies that any new prison entry above a certain prison occupancy threshold requires the identification of solutions to free up a place in detention.