PLACEMENT AND TREATMENT OF MENTALLY ILL OFFENDERS

LEGISLATION AND PRACTICE IN EU-MEMBER STATES

Hans Joachim Salize & Harald Dressing

Central Institute of Mental Health Mannheim, Germany
Studies on Law and Coercion in European Psychiatry

• Civil Detention: Involuntary Placement and Treatment of Mentally Ill – Legislation and Practice in European Union Member States (1999-2002)

• Forensic Care: Placement and Treatment of Mentally Ill Offenders – Legislation and Practice in European Union Member States (2002-2004)

• Mental Health in Prison: Treatment of Mentally Ill or Disordered Persons in European Prison Systems EUPRIS (2005-2007)
Study conducted from: December 2002 - October 2004
Study included: 15 Member States (before extension in 2004)

Austria
Belgium
Denmark
Finland
France
Germany
Greece
Ireland
Italy
Luxembourg
Netherlands
Portugal
Spain
Sweden
United Kingdom
Study Aims

• Provide a standardized description of legal frameworks, procedures, routine practice, service provision, epidemiology

• Describe similarities or differences in Member States

• To draw conclusions for potential harmonization on an European level
## Legal Tradition

### Roman Law

- Austria
- Belgium
- Denmark
- Finland
- France
- Germany
- Greece
- Italy
- Luxembourg
- The Netherlands
- Portugal
- Spain
- Sweden

### Common Law

- Ireland
- United Kingdom
Basic Concept: Criminal Responsibility

- 9 graded concept
  - Finland
  - France
  - Germany
  - Greece
  - Italy
  - Luxembourg
  - Netherlands
  - Portugal
  - Spain

- 3 dichotomic concept
  - Austria
  - Belgium
  - Denmark

- 3 concept not applied
  - Engl. & Wales
  - Ireland
  - Sweden
Correlation of Mental Disorder and Crime

Assessment of correlation required

Austria
Finland
France
Germany
Greece
Italy
Netherlands
Portugal
Spain
Sweden

Assessment of correlation not required

Belgium
Denmark
England & Wales
Ireland
Luxembourg
# Specialist Training in Forensic Psychiatry

<table>
<thead>
<tr>
<th>Available</th>
<th>Not provided</th>
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<tbody>
<tr>
<td>England &amp; Wales (3 years)</td>
<td>Austria</td>
</tr>
<tr>
<td>Finland (6 years)</td>
<td>Belgium</td>
</tr>
<tr>
<td>Germany (1 year)</td>
<td>Denmark</td>
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<tr>
<td>Portugal (6 month)</td>
<td>France</td>
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<td>Sweden</td>
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Maximum Time Frames for Pre-trial Placement

- IRELAND: 28 days
- NETHERLANDS: 106 days
- GREECE: 6 months
- GERMANY: 12 months
- PORTUGAL: 12 months

Countries with unspecified time frames:
- Austria
- Belgium
- Denmark
- England & Wales
- Finland
- France
- Italy
- Luxembourg
- Spain
- Sweden
Time Frames for (post-trial) Reassessment

- Austria: 12 months
- Belgium: 6 months
- Denmark: 12 months
- England & Wales: 6 months
- Finland: 6 months
- France: 6 months
- Germany: 12 months
- Greece: 24 months
- Ireland: 6 months
- Italy: Not legally defined
- Luxembourg: 12 months
- Netherlands: 12 months
- Portugal: 24 months
- Spain: 6 months
- Sweden: 6 months
## Lifelong Placement in Forensic Care

<table>
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<tr>
<th>Theoretically Possible</th>
<th>Not Possible</th>
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<tbody>
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<td>Austria</td>
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<td>Spain</td>
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<tr>
<td>Denmark</td>
<td></td>
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<tr>
<td>England &amp; Wales</td>
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<td>Finland</td>
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<td>Sweden</td>
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</tbody>
</table>
Preventive Detention / Secure Custody

**legal option**
- Belgium
- Denmark
- Germany

**concept not known**
- Austria
- England & Wales *
- Finland
- France
- Greece
- Ireland
- Italy
- the Netherlands
- Portugal
- Spain
- Sweden

* Currently proposed by government for extremely dangerous persons with personality disorders
## Number of specified Beds in Forensic Care (1998-2003)

<table>
<thead>
<tr>
<th>Country</th>
<th>no. of beds</th>
<th>additional capacity in general psychiatry</th>
<th>prison placement due to shortage</th>
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</thead>
<tbody>
<tr>
<td>Austria</td>
<td>384</td>
<td>yes (incl.)</td>
<td>no</td>
</tr>
<tr>
<td>Belgium</td>
<td>1,061</td>
<td>yes (not incl.)</td>
<td>yes</td>
</tr>
<tr>
<td>Denmark</td>
<td>250</td>
<td>yes (not incl.)</td>
<td>unknown</td>
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<tr>
<td>England &amp; Wales</td>
<td>3,200</td>
<td>yes (not incl.)</td>
<td>no</td>
</tr>
<tr>
<td>Finland</td>
<td>360</td>
<td>yes (incl.)</td>
<td>unknown</td>
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<tr>
<td>France</td>
<td>486</td>
<td>yes (not incl.)</td>
<td>yes</td>
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<tr>
<td>Germany</td>
<td>7,123</td>
<td>yes (not incl.)</td>
<td>yes</td>
</tr>
<tr>
<td>Greece</td>
<td>250 – 330</td>
<td>yes (incl.)</td>
<td>yes</td>
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<tr>
<td>Italy</td>
<td>1,282</td>
<td>no</td>
<td>no</td>
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<tr>
<td>Ireland</td>
<td>80</td>
<td>yes (not incl.)</td>
<td>unknown</td>
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<tr>
<td>The Netherlands</td>
<td>1,304</td>
<td>yes (not incl.)</td>
<td>yes</td>
</tr>
<tr>
<td>Portugal</td>
<td>189</td>
<td>no</td>
<td>no</td>
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<tr>
<td>Spain</td>
<td>593</td>
<td>yes (not incl.)</td>
<td>no</td>
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<tr>
<td>Sweden</td>
<td>713</td>
<td>yes (incl.)</td>
<td>unknown</td>
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Specified Beds in Forensic Care (per 100,000 population, 1998-2002)
Availability of Forensic Outpatient Facilities

Available in:
- Austria
- Belgium
- Germany
- The Netherlands

Not available in 11 Member States
mentally ill offenders per 100,000 population (prevalence-rate)

Austria 2002: 3.4
Belgium 2002: 6.3
Denmark 1999: 21.7
Finland 2002: 6.1
France: 7.5
Germany 2003: 2
Greece 1996: 2
Ireland 2001: 2.1
Italy 2001: 2.2
Luxembourg: 9.4
Netherlands 2001: 5.7
Portugal 2002: 2.2
Spain: 10.4
Sweden 2002: 10.4
England & Wales 2001: 5.7
mentally ill offenders in forensic care per 100,000 population (rates)
Disorders of patients in forensic care (most recent year available)
Gender of mentally ill offenders in forensic care

- Austria 2001: Male 83.7%, Female 16.3%
- Sweden 2002: Male 87.5%, Female 12.5%
- Belgium 1999: Male 90.4%, Female 9.6%
- The Netherlands 2000: Male 94.9%, Female 5.1%
- Germany 2001: Male 94.4%, Female 5.6%
- England 2002: Male 90.1%, Female 9.9%
- Finland 2002: Male 85.7%, Female 14.3%
Conclusions

• Legal traditions, legal frameworks, routine procedures or key concepts of forensic care are varying remarkably across the EU, as do the pathways to the two major sanction systems – prison or specialised forensic care

• Forensic service provision is extremely varying (in quality or quantity), although hard to evaluate and compare - under-provision with specialized services is common

• Clear definitions for forensic cases or capacities are lacking standardized European indicators are not provided - which is a serious obstacle for international comparison of efficacy or effectiveness of forensic approaches

• Available data suggests an overall slow increase of forensic prevalence during the last decade

• Harmonizing legal frameworks or agreeing on basic standards for forensic care on an EU-level seems hard to achieve in the near future
Major Concern

- to increase research on interdependencies and influencing factors on procedures and outcomes
- to stimulate an international debate among experts and the scientific community
- to ensure basic human rights and contemporary standards of mental health care for civilly detained mentally ill and mentally ill offenders
- to develop a common set of European indicators on the issue and propose the inclusion into national health/justice reporting systems
- to support efforts for a harmonized training program for forensic psychiatrists and propose/promote adoption by all Member States
Treatment of Mentally Ill or Disordered Persons in European Prison Systems (EUPRIS)

- Service Provision and Outcomes

Hans Joachim Salize & Harald Dressing

Central Institute of Mental Health Mannheim, Germany
<table>
<thead>
<tr>
<th><strong>Selected for funding:</strong></th>
<th>July 22, 2004</th>
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<tr>
<td><strong>Method:</strong></td>
<td>expert evaluation</td>
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<tr>
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<td>assessment by questionnaire</td>
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<td>analysis of data by study centre</td>
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<td>feedback</td>
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<td>expert meeting</td>
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<td>final report</td>
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<td><strong>Probable start:</strong></td>
<td>September 1, 2005 - April 1, 2007</td>
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to set up network of experts on mental illness and mental health care in the prison systems of included countries

to explore and describe the availability of information on mentally ill or disordered prison inmates and on mental health care provision or treatment programmes (health or justice reporting systems)

to describe and analyse the structure and size of the prison systems of the included countries (structure, capacity, health care provision, number, rates, gender, ethnicity, age groups, crimes of inmates etc.) description of information gaps and shortages

to describe and analyse prevalence and incidence of mental disorders in prison inmates of included countries (diagnostic groups, rates, quotas, time series, information shortages)

to describe and analyse mental health care capacities within the prison-system (assessment procedures, treatments, programmes for mentally disordered inmates)
  - overall psychiatric service provision in prison
  - trained staff: number of physicians, psychiatrists, psychologists, nurses in prison
  - rates: trained mental health care staff per 10,000 prisoners
  - annual budget for psychiatric service provision in prison
  - available treatments, specific programmes
  - aftercare

to describe the collaboration with general health care, mental health care or forensic psychiatry

to describe and analyse the outcome of mental health care provision or the determinants of mental ill health in prisons

to identify and propose appropriate outcome indicators (e.g. suicidal behaviour, suicide rates in prisons)

to describe national research activities in the field and outline major findings on mental illness in prison systems
# EUPRIS Study - Collaborators

27 countries included

<table>
<thead>
<tr>
<th>Country</th>
<th>Collaborator</th>
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<tbody>
<tr>
<td>Austria</td>
<td>H. Schanda</td>
</tr>
<tr>
<td>Belgium</td>
<td>P. Cosyns</td>
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<tr>
<td>Bulgaria</td>
<td>T. Tomov</td>
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<tr>
<td>Cyprus</td>
<td>E. Anastasiou</td>
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<td>Czech Rep.</td>
<td>J. Raboch</td>
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<td>P. Kramp</td>
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<td>A. Toumaa</td>
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<td>R. Kaltiala-Heino</td>
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<td>N. Konrad</td>
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<td>L. Lajtavari</td>
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<td>J.F. Sigurdsson</td>
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<td>E. Dooley</td>
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<td>A. Fioritti</td>
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<td>A. Avramenko</td>
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<td>J.M. Spautz</td>
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<td>the Netherlands</td>
<td>C.H. de Kogel</td>
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<td>E. Kjelsberg</td>
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<td>M. Xavier</td>
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<td>F. Torres-González</td>
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<td>Sweden</td>
<td>O. Hoffmann</td>
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<td>United Kingdom</td>
<td>D. James</td>
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missing countries

- Latvia
- Liechtenstein
- Malta
- Turkey
Health in Prison Project - WHO / European Commission

Collaboration is agreed