COUNTRY FACTSHEET

Sentence Adjustment Mechanisms in Europe
Procedural Barriers & National Contexts

BELGIUM

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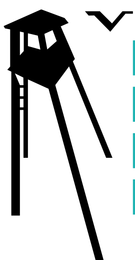

EUROPEAN
PRISON
LITIGATION
NETWORK

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1. Introduction

Belgium has undergone a major overhaul of its system of sentence adjustments over the last twenty years. Historically, until 1998, the responsibility for deciding on sentences enforcement was in the hands of the executive authority. The *Dutroux* case in 1996 largely accelerated the process towards a reform of this regime, with the idea of *jurisdictionalising* and legalising this matter.

However, at first, this reform only concerned conditional release, together with the creation of parole boards (‘*commissions de libération conditionnelle*’) in 1998[1]. Of administrative nature, these boards were only to be provisional, pending the creation of the sentence enforcement courts (‘*tribunaux de l’application des peines*’ – TAP). They raised various critics, which showed the absolute necessity to finalize the reform. Moreover, apart from conditional release, the other forms of sentence adjustments mechanisms were still under the authority of the executive power[2]. This brought legal uncertainty and confusion regarding the principle of separation of powers between the executive power and the judicial one. Indeed, most of the rules were contained in ministerial circulars, which couldn’t give all the coherence, transparency and legal security waited for this important matter.

It was then decided that the judicial power should intervene regarding sentence adjustments – especially when it leads to a substantial modification of the sentence’s nature –, allowing the convicted person to have his case examined by an independent and impartial court, in the context of an adversarial debate[3]. This led to the adoption of the 17 May 2006 Law on the external legal status of persons convicted to a custodial sentence and on the rights granted to the victim in the context of the enforcement of sentence (ELS Law). On the same date, another law was adopted to establish sentence enforcement courts (TAP), which aimed to replace the former conditional release commissions. The first TAPs were established on the 1st of February 2007[4].

However, implementation of the law was largely delayed, and it took until the early 2020s for all its provisions to come into force. Until recently, the federal public service and the prison administration were still responsible to decide on sentence adjustment measures for

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[1] Belgium, The Act on conditional release and amending the Act of 9 April 1930 on social protection for abnormal and habitual offenders, replaced by the Act of 1 July 1964 (*Loi relative à la libération conditionnelle et modifiant la loi du 9 avril 1930 de défense sociale à l’égard des anormaux et des délinquants d’habitude remplacée par la loi du 1er juillet 1964*), 5 March 1998.; The Act establishing parole boards (*Loi instituant des commissions de libération conditionnelle*), 18 March 1998.

[2] Devresse, M.-S. (2013), ‘Les aménagements de peine en Belgique. Aperçu des particularités d’un statut dit “externe” en constante évolution’, *Crimonocorpus*, No. 3, pp. 3-5. ; International Prison Observatory (2024), ‘2024 Notice – From observing prison conditions to denouncing the penal system’, 26 April 2024, pp. 101-102.

[3] Rapport fait au nom de la commission de la justice par Mme Laloy et le Sénat de Belgique concernant le Projet de loi instaurant des tribunaux de l’application des peines, *Doc.parl.*, Sén., 2004-2005, n°3-1127/5, pp. 3-4. ; Beernaert, M.-A. (2019), *Manuel de droit pénitentiaire*, Limal, Anthemis, pp. 38 and 42.; Beernaert, M.-A. (2023), *Manuel de droit pénitentiaire*, Limal, Anthemis, pp. 44. ; Beernaert, M.-A., Funck, J.-F. and Nederlandt, O. (2022), ‘L’entrée en vigueur du nouveau régime d’exécution des peines privatives de liberté de trois ans : enjeux et pistes d’action pour éviter l’aggravation de la surpopulation carcérale’, *Journal des tribunaux*, pp. 471-472. ; Nederlandt O. and Jadoul, M. (2019), ‘Guide du routard du tribunal de l’application des peines : quelques « bons plans » pour les avocats’ in: Berbuto, S., Cirriez, P. *et al.* (eds.), *Actualités en droit pénitentiaire*, Anthemis, pp. 101.

[4] International Prison Observatory (2024), ‘2024 Notice – From observing prison conditions to denouncing the penal system’, 26 April 2024, pp. 104.; Beernaert, M.-A. (2019), *Manuel de droit pénitentiaire*, Limal, Anthemis, pp. 50.; Devresse, M.-S. (2013), ‘Les aménagements de peine en Belgique. Aperçu des particularités d’un statut dit “externe” en constante évolution’, *Crimonocorpus*, No. 3, pp., p. 5.

persons sentenced to 3 years' imprisonment or less, which was posing certain problems in terms of separation of powers. With the entry into force of the latest provisions in September 2022 and September 2023, the judicial authority is now responsible for all sentence adjustments (with the temporary exception of people sentenced to less than 6 months).

2. Overview of Belgium's penal and prison system

Belgium faces a high level of penal and prison pressure, as well as a poor state of its prison estate. Generally speaking, there are many similarities between Belgium and France in terms of penal rationale, the way the prison system operates and the enforcement of sentences.

Two pilot rulings handed down over the last 10 years provide an insight into the main problems of the Belgian prison system:

- In *Vasilescu v. Belgium* (25 November 2014, no. 64682/12), the ECHR ruled that chronic overcrowding, combined with the deteriorated state of the infrastructure and the lack of prospects for improving prison conditions, violated human dignity under Article 3. It considered that these deficiencies were part of a structural problem in the Belgian prison system, and that the latter needed to implement far-reaching reforms in order to meet the requirements of the Convention.

- In *W.D. v. Belgium* (6 September 2016, no. 73548/13), which concerned the situation of mentally ill internees in Belgium and the lack of appropriate care for such persons in the prison system, the ECHR found a violation of Articles 3, 5 § 1, 5 § 4 and 13 of the Convention. It found that many internees were kept in unsuitable prisons, without adequate therapeutic care or effective remedies to address this situation. It therefore encouraged Belgium to reduce the number of people held in prisons without adequate supervision and to redefine the criteria for internment.

Fair Trial Guarantees

The Court of Cassation has decided that both Article 5 and 6 of the European Convention of Human Rights does not apply to the TAP: for Article 5 because its control is limited to the conditions and modality of sentence enforcement; for Article 6, since it does not decide on the merits of a criminal charge.[5] However, the Constitutional Court seems to think otherwise and admits that Article 6 of the European Convention of Human Rights applies in sentence enforcement matters.[6]

3. Overview of Belgium's sentence adjustment mechanisms

a. Institutional architecture

The institutional structure for implementing sentence adjustments comprises the sentence enforcement courts ('*tribunaux de l'application des peines*', hereafter TAP), the Minister of Justice and its administration (the federal public service) and the prison administation:

[5] Cass. (2e ch.), 13 January 2016, RG P.15.1659.F, available on www.juportal.be.; Cass., 10 October 2007, *Revue de droit pénal et de criminologie*, 2008, p. 150.
[6] C.C., 4 March 2009, n°35/2009, available on www.const-court.be.; Chomé, A. (2010), "Statut externe du détenu" in: *Droit penal et procedure pénale*, Bruxelles, Kluwer, pp. 142.

- **TAP**: these courts constitute one of the sections of the Belgian first instance court ("Tribunal de première instance") located at the seat of the Courts of appeal (Mons, Brussels, Antwerpen, Gent). They are composed of sentence enforcement judges ('*juges de l'application des peines*', hereafter JAP);

- **Federal public service:** it is mainly the '*Direction Générale des établissements pénitentiaires'* (DG EPI) who has jurisdiction with regard to sentence enforcement. Within this administration, there is the '*Direction gestion de la détention'* (DGD) that deals with the granting of certain sentence adjustment mechanisms.

- **Prison Administration**: Prison directors play a role in providing opinions on inmates' behaviour and suitability for adjustment mechanisms.

b. Players in the system

The following parties are involved in Belgium's sentence adjustment system:

- **Sentence enforcement judges (JAP)**: Responsible for assessing applications and issuing decisions. As in France, they can either decide alone or in panels (TAP):

  - With the entry into force of certain provisions of the ELS law in September 2022 and September 2023, the JAP is now the one responsible for granting (alone) sentence adjustment measures for convicted person up to 3 years custodial sentences;
  - TAP have jurisdiction over convicted persons to one or more custodial sentences of more than 3 years, regarding their claims for the different sentence adjustment mechanisms such as: electronic monitoring, limited detention, conditional release, and provisional release for the purpose of deportation or surrender. In exceptional cases, it may also grant permission to leave and prison leave.

- **Prison Directors**: Provide criminological evaluations and may initiate applications.

  It should be noted that until recently, for convicted persons to a one or more custodial sentences up to 3 years, it was the DGD and the prison director who were dealing with the claims of sentences adjustments measures, such as electronic monitoring or provisory release ("*libération provisoire*"). Therefore, this regime was mainly governed by ministerial circulars. The explanation behind is that the provisions in the law regarding the jurisdiction of the sentence enforcement judge for these measures weren't entered into force yet. However, the DGD keeps its jurisdiction for granting permission to leave and prison leave.

- **Probation officers**: Prepare reports on inmates' social and behavioural conditions and supervise released individuals.

- **Prosecutors**: Represent the state and may challenge decisions granting adjustments.

- **Lawyers**: Advocate for inmates' applications and represent them in legal proceedings.

c. Types of sentence adjustments

Belgium's legal framework for sentence adjustment and reduction provides for the following mechanisms:

- Conditional release;
- Limited detention;
- Home detention under electronic monitoring;
- Temporary leave;
- Prison leave (which can be extended);
- Provisional release on medical grounds;
- Placement in a transitional housing facility;
- Early release 6 months before the end of the sentence.

These mechanisms are governed by the Law of May 17, 2006, concerning the external legal status of individuals sentenced to custodial penalties and the rights afforded to victims in the context of sentence enforcement (hereafter referred to as the "ELS Law").

d. Criteria for granting sentence adjustment

i. Conditional release

Allows a sentenced individual to serve his or her sentence outside of prison, subject to specific conditions imposed during a fixed probationary period. This probationary period is equivalent to the remaining duration of the custodial sentence yet to be served by the convicted person; however, it must be no less than one year.

- **Eligibility:** Prisoners may apply after serving at least:
  - one third of the sentence: for sentences of 3 years or less
  - one third of their sentence (up to a maximum of 14 years): for sentences of between 3 and 30 years:
  - 15, 19 or 23 years (depending on the case): for sentences of 30 and life imprisonment
  - The ELS Law allow convicts to submit a request before reaching the eligibility date for these measures. Specifically, for limited detention and electronic monitoring, a sentenced person can file their request up to four months prior to meeting the time threshold for eligibility. For conditional release, this request can be submitted six months before reaching the eligibility threshold.

- **Assessment criteria:** the legislative framework sets out 3 cumulative conditions, in addition to the one relating to the time threshold for eligibility. These conditions are different regarding the length of the sentence:
  - For all convict, the absence of contraindications (art. 28, §1 ELS law):
    - 1° the impossibility for the convict to support themselves;
    - 2° a clear risk for physical integrity of third-parties;
    - 3° the risk that the convicted person bothers victims;
    - 4° the convicted person's attitude towards victims of the offenses having led to their conviction;

        - 5° the efforts made by the convicted person to compensate the victim, taking into account the convicted person's financial situation as it has evolved due to their actions since the commission of the offences for which they were convicted.
    - For convicts of 3 years and more, to these conditions are added:
        - the convict must present social reintegration plan;
        - there should be no risk of committing new serious offences (not merely a "clear risk for physical integrity of third parties").
    - For all convicts, agreement on the specific conditions.

ii. Limited detention

Allows the convicted person, on a regular basis, to leave the prison for a determined period of 16 hours maximum per day. They come back to the prison to sleep. This mechanism is granted to the convicted person to defend its professional, training and family interests that require its presence outside of prison

- **Eligibility**:
    - Can be granted to custodial penalties which does not exceed 3 years, 6 months minimum before the date of eligibility for conditional release (this last condition also applies to sentences of more than 3 years).

- **Assessment Criteria**:
    - the absence of contraindications (see 'Conditional release'), except 1st condition;
    - for convicts of 3 years and more, to these conditions are added:
        - the convict must present social reintegration plan;
        - there should be no risk of committing new serious offences (not merely a "clear risk for physical integrity of third parties").
    - agreement on the specific conditions.

iii. Home detention under electronic monitoring

Allows the person to serve a part of its sentence outside prison under electronic surveillance, following a determined execution plan.

- **Eligibility**:
    - Can be granted to custodial penalties which does not exceed 3 years, 6 months minimum before the date of eligibility for conditional release (this last condition also applies to sentences of more than 3 years).

- **Assessment Criteria**:
    - the absence of contraindications (see 'Conditional release');
    - for convicts of 3 years and more, to these conditions are added:
        - the convict must present social reintegration plan;
        - there should be no risk of committing new serious offences (not merely a "clear risk for physical integrity of third parties").
    - agreement on the specific conditions.

iv. Temporary leave

Allows the sentenced person to leave prison for a determined period.

- **Eligibility**:
    - Available for up to 16 hours defend social, moral, legal, family, training or professional interests which requires its presence outside of prison, or to undergo medical examination or treatment outside of prison
    - During the two years preceding the date of eligibility to conditional release, permissions to leave can be granted to prepare the convicted person for its social reintegration.

- **Assessment criteria**:
    - Absence of contraindication: these contraindications are:
        - the risk for the convict to escape the enforcement of their sentence;
        - the risk to commit serious offences during the time of the measure;
        - the risk they bother victims.
    - agreement on the specific conditions.

v. Prison leaves

Allows the convicted person to leave prison for longer periods than temporary leaves.

- **Eligibility**:
    - Available for up to 36 hours per trimester to preserve and promote the family, emotional and social contacts of the convicted person, or to prepare social reintegration.
    - The person must ask in the year preceding the date of eligibility for conditional release. The ELS law precises that 3 months prior to meeting the time threshold for eligibility, or immediately if the delay cannot be respected (either the convict meets the time-related conditions at the start of their sentence enforcement or will meet them within a period of less than three months), the prison director inform the sentenced person of the possibilities to be granted prison leaves.
    - Can be "extended": this measure was implemented to limit prison overcrowding in 2017-2018, but also during the Covid pandemic and in March 2024. However, unlike the "classical" prison leave, there is no legal basis for this measure (only notes from the DG EPI).
      Under certain conditions, the prison director granted the extended prison leave to certain category of convicted person for alternating periods of one month (*i.e.* 30 days of prison leave, 30 days of detention).

- **Assessment criteria**:
    - Absence of contraindication: these contraindications are:
        - the risk for the convict to escape the enforcement of their sentence;
        - the risk to commit serious offences during the time of the measure;
        - the risk they bother victims.
    - agreement on the specific conditions

iv. Provisional release on medical grounds

Allows the sentence enforcement judge to grant this measure to the convicted person for whom it is established that they are in the terminal phase of an incurable disease or that their detention has become incompatible with his or her state of health.

- **Eligibility**:
  - The person is definitively released by the end of the part of the custodial sentences still to be served at the time of provisional release, up to a maximum of 10 years.

vi. Placement in a transitional housing facility

Created by the Law of July 18, 2018. Allows a convicted individual to serve their custodial sentence according to a specified placement plan. The enforcement of the custodial sentence continues during the individual's time in the transitional housing facility. These facilities are regarded as an intermediary step between traditional incarceration and the reintegration of the convicted individual into society, with the objective of facilitating social reintegration.

- **Eligibility**:
  - 18 months before the date of eligibility for conditional release.

- **Assessment criteria**:
  - the convict is able to stay in an open communitarian regime;
  - the absence of contraindications that cannot be remedied by setting special conditions. These contraindications relate to the risk, during the placement of the convict, that they escape from the sentence enforcement, commit serious offences or bothers victims;
  - the sentenced person gives their written consent to the placement plan and to the conditions related to this measure;
  - the person convicted gives their consent to the internal regulation of the transitional housing facility.

- **To be noted:** not really a sentence adjustment, but more a specific detention regime inside particular prisons (see comparison with France).

vii. Early release 6 months before the end of the sentence.

The Law of the July 31st, 2022 (MSS II) reactivated the early release 6 months before the end of the sentence measure. It is however subject to several exceptions.

e. Procedure for applying

Belgian law provides distinct mechanisms for sentence adjustments, with clear procedural distinctions based on the nature of the adjustment sought and the jurisdiction of sentence enforcement judge ('*juge de l'application des peines*' – JAP) or the sentence adjustment court ('*tribunal de l'application des peines*' – TAP).

- **Prison leave, temporary leave or transitional housing facility:**
    - The convicted person must submit a request to the prison director to initiate the process, who provides a substantiated opinion regarding the assessment of conditions, potential contraindications, and the timing of the leave (for prison or temporary leaves);
    - The Minister of Justice or the relevant authority will decide within 14 working days of receiving the file. This decision is communicated in writing within 24 hours to the convicted person, the public prosecutor, and the prison director. This period may be extended once by 7 working days if additional information is needed, with notification provided to the prison director and the convicted person.
- For **other measures** (limited detention, conditional release, or electronic monitoring), the process depends on whether the custodial sentence is more or less than 3 years – determining whether it falls under the jurisdiction of the TAP or JAP:
    - If the JAP as jurisdiction, the prison director must inform the convict of his or her eligibility (6 months before for conditional release). The convict must submit his or her request to the prison registry.
    - If the TAP has jurisdiction, the convict must initiate the process by submitting a written request. This request is then transferred from the prison registry to the TAP's registry within 24 hours. The prison director provides their opinion on the request within 2 months for limited detention or electronic monitoring. For conditional release, the opinion must be provided within 4 months. In all cases, this opinion must be based on public safety concerns and the convict's rehabilitation progress.

4. Placement at the disposal of the court

In addition to the previously mentioned mechanisms, Belgian law allows penal courts to impose a "*mise à disposition du tribunal de l'application des peines*" (placement at the disposal of the sentence enforcement court) as an additional penalty, which takes effect after the completion of the main penalty. This measure is intended for the protection of society and is applied when there is a need to decide whether the convicted person should remain in detention or be released under supervision. The penalty period for this measure is set between a minimum of 5 years and a maximum of 15 years.

The court or tribunal imposes this measure after the principal sentence expires, and it authorizes the TAP to decide, prior to the expiry of the main penalty, whether the convicted person should remain in custody or be released under supervision. If the convicted individual poses a risk of committing serious offenses against the physical or mental integrity of others, and this risk cannot be mitigated by special conditions such as electronic monitoring, the TAP can decide to keep the individual in custody.

Since deprivation of liberty beyond the principal penalty should only be used when absolutely necessary, the law stipulates that after one year under this measure, the TAP must reassess the possibility of granting electronic monitoring. The sentenced person will be definitively released once the period of disposal set by the judge expires, in accordance with Articles 34bis and 34ter of the Criminal Code. However, after two years of electronic monitoring, the convicted person may request to lift the measure earlier. If there is no reasonable risk of reoffending, the TAP may grant this request.

5. Statistics

Observers points out that electronic monitoring takes the place of conditional release, delaying or impeding it. Conditional release seems to be less and less used. In 2022, for convicted person to custodial sentence of more than three years, 294 conditional releases were granted and 312 electronic monitoring. From the statistics given by the government of Flanders, in 2023, there was 692 electronic monitoring activated. In 2022, 1733 convicted person were granted prison leave and 4858 of them, permission to leave.

		2004	2014	2024
	Data valid for:	*01.03.04*	*yearly average*	*average: 01/01/2024 until 31/08/2024*
a. Prison population rate per 100,000 inhabitants; rate of admissions per 100,000 inhabitants; variation rate over 10 and 20 years (2004, 2014, 2024);		88,9	103,8	103,0
b. The number of prisoners (by distinguishing between convicted prisoners in custody, convicted prisoners not in custody (if relevant) and persons remanded in custody). Specify what this indicator was 10 years earlier and 20 years earlier (2004, 2014, 2024);	*Convicted in custody*	4713	6772,8	7118,2
	Remand in custody	3614	3610,6	3847,3
	Other in custody	918	1194,9	1152,1
	Convicted not in custody	NAP	NAP	NAP
c. The prison density (i.e. ratio between the number of prisoners and the number of places). If necessary, distinguish by type of establishment;		1,15	1,17	1,12
d. The average duration of sentences. Specify what this indicator was 10 years earlier and 20 years earlier (2004, 2014, 2024);		7,0	7,4	7,6
e. Turnover ratio (i.e. number of entries compared	*turnover [only exits*	NA	1,36	1,76

to number of exits). Specify what this indicator was 10 years earlier and 20 years earlier (2004, 2014, 2024);	*from prisons]*			
	turnover [exits from prisons and electronic surveillance]		1,00	0,99
f. Percentage of women in prison (in 2004, 2014, 2024);		NA	4,2%	4,4%
g. Percentage of foreign nationals in prison (in 2004, 2014, 2024);		NA	45%	44,3%
h. *If available,* Percentage of elderly (65 and over), ill or disabled people (HIV, TB, etc.) (in 2004, 2014, 2024);		NA	NA	2,5%

6. Procedural and substantial barriers

a. Hybridity of the Belgian normative system and crisis of legality

For an extended period, certain provisions of the law regarding the enforcement of sentences were not implemented, leading to criticism over the legal uncertainty they created. Individuals sentenced to terms of 3 years or less were subjected to unpublished and frequently amended ministerial circulars – it is still the case for less than 6 months detention –, resulting in significant ambiguity in the applicable rules. This lack of transparency and consistency fueled a long-standing “legality crisis”. Recently, the entry into force of provisions granting jurisdiction to the sentence enforcement judge for sentences ranging from 6 months to 3 years marks a step toward addressing this issue.

However, the current framework for sentence enforcement mechanisms, recently revised, continues to draw criticism from academics. The overlap of available measures and the authorities responsible for their implementation has created considerable confusion, making the legal framework not only complex but also difficult for those affected to understand. This lack of clarity is not merely a theoretical concern but has practical implications: penitentiary laws that have come into effect are frequently violated, not out of malice but because of their complexity and the limited awareness among stakeholders.

b. The (in)effectiveness of subjective rights

When it was passed, the Act of 17 May 2006 sought to change the framework for the enforcement of sentences from one of privileges to one of subjective rights for convicted persons. This change was intended to ensure that access to certain measures, such as conditional release or temporary leave, no longer depended on discretionary goodwill, but was based on legal rights. However, Belgian research shows that simply establishing subjective rights in legal texts does not guarantee their effective or consistent application. Observers continue to point to the persistence of a “privilege” mentality in the practical implementation of these measures, which undermines their status as genuine subjective rights. Conditional release, for example, was intended to become the norm in the

enforcement of sentences, but in practice its application remains limited and its use is steadily declining.

- **Persistent discrepancies in subjective rights:**

A crucial problem lies in the inconsistency between the rights theoretically granted by the law and their practical recognition. For example, in the case of temporary leave or prison leave, once the convicted person meets the stipulated conditions, the authority granting the leave is legally obliged to approve the application. These measures are therefore unequivocally regarded as subjective rights. On the other hand, prisoners have no such subjective right in the case of conditional releases or releases on medical grounds. Even if the legal conditions are met, these measures remain at the discretion of the competent authority. This reflects a tension between the intention of the law to enshrine rights and its concrete application, which perpetuates inequality of access to mechanisms of sentence adjustments.

- **The pre-eminence of discretionary power:**

The discretionary power of the judge further complicates the realisation of subjective rights. According to the *Cour de cassation*, the use of permissive terms in the legal provisions – such as “may” – rather than mandatory terms such as “must” – gives the judge considerable latitude in deciding whether or not to approve certain measures. While this discretion allows for case-by-case assessment, it also introduces significant variability and uncertainty, which can undermine the perception of fairness and law consistency.

c. Motivational deficiencies

Decisions relating to sentence enforcement mechanisms must be systematically substantiated in order to guarantee transparency and legitimacy. For common measures, the process begins with an opinion drawn up by the prison director. This opinion analyses a number of essential elements, such as the conditions for granting the measure, the documents in the file, any contraindications, the need to impose special conditions, etc. Once the opinion has been drawn up, it is forwarded to the competent authority, which makes the final decision, subject to the same obligation to give reasons, in accordance with the law on the execution of sentences (ELS).

Criticism has been raised regarding the quality of the reasoning provided for decisions. In the case of temporary and prison leave, refusals are often based primarily on the seriousness of the original offences, without adequately considering the individual's efforts toward rehabilitation or progress during detention. Furthermore, the rationale behind decisions made by the competent authority is frequently difficult for convicts to understand. These decisions are often viewed as overly bureaucratic and security-driven, seemingly prioritizing subjective judgments over a thorough assessment of the prisoners' actual living conditions and prospects for reintegration.

d. Processing durations not systematically binding

The ELS law outlines specific deadlines for various actions, such as the prison director's opinion, decisions from the Minister, TAP, or JAP. However, these deadlines are not always enforced with penalties for non-compliance. For temporary leave, there is no remedy if the

prison director fails to provide an opinion on eligibility. In contrast, if the prison director does not provide an opinion on prison leave within two months of receiving a request, the convict can request the TAP to order the Minister to provide an opinion through the prison director, under the threat of a fine, within the time limit set by the President of the Court of First Instance. If the Minister of Justice or the DGD fails to issue a decision on temporary or prison leave after a positive recommendation from the prison director, the measures are automatically considered granted. However, this rule does not apply to placements in transitional housing.

For other sentence enforcement measures, deadlines are provided for the prison director's opinion, the public prosecutor, the first hearing, and the TAP's decision, but there are no penalties or sanctions if these deadlines are missed. The same applies to deadlines in the procedure before the JAP.

e. Difficulties encountered by foreign nationals

Although the Constitutional Court annulled the provisions of the "potpourri II" Law of February 5th, 2016, which excluded illegal foreign nationals from sentence adjustment schemes, considering that this exclusion was disproportionate and that reintegration in Belgium is not only accessible to people with a residence permit, there are still many difficulties for foreign nationals. The first of these is the difficulty of complying with the legal requirements relating to the construction of a convincing reintegration project.

Another difficulty arises in terms of language and accessibility. If the documents in a convict's file are written in a language they do not understand, they have the right to request a translation into one of the national languages, with the authority covering the cost. However, the reality for allophone prisoners is far more complicated. Without access to translators, these individuals often struggle to understand the legal processes, available remedies, or even their own case files. For example, at the Sint-Gilles prison in Brussels, the internal regulations are only available in French and Dutch, making it nearly impossible for non-speakers of these languages to comprehend them. In such cases, prisoners are forced to rely on fellow inmates or prison staff for translation, which may not always lead to accurate or impartial understanding. The lack of proper translation and interpretative support highlights a significant barrier to fairness and justice in the prison system. The most recent report from the CCSP (Belgian NPM) recommended that prison internal regulations be translated into as many languages as possible, in addition to the current ones, and urged the implementation of an interpretative system within penitentiary facilities.

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