

JCN-Project

Analysis of the questionnaire

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2013



Main research questions

- **Who is a “dangerous”/”high risk” offender?**
- **Different levels:**
 - **Police (when arresting)**
 - **Prosecutor/court (decision on remand)**
 - **Court (sentencing stage)**
 - **Prison and probation administration (execution of sentences; sentencing plan; integration plan)**
 - **Probation and aftercare services (after release from prison; probation plan)**



Preliminary definition by the JCN-project partners

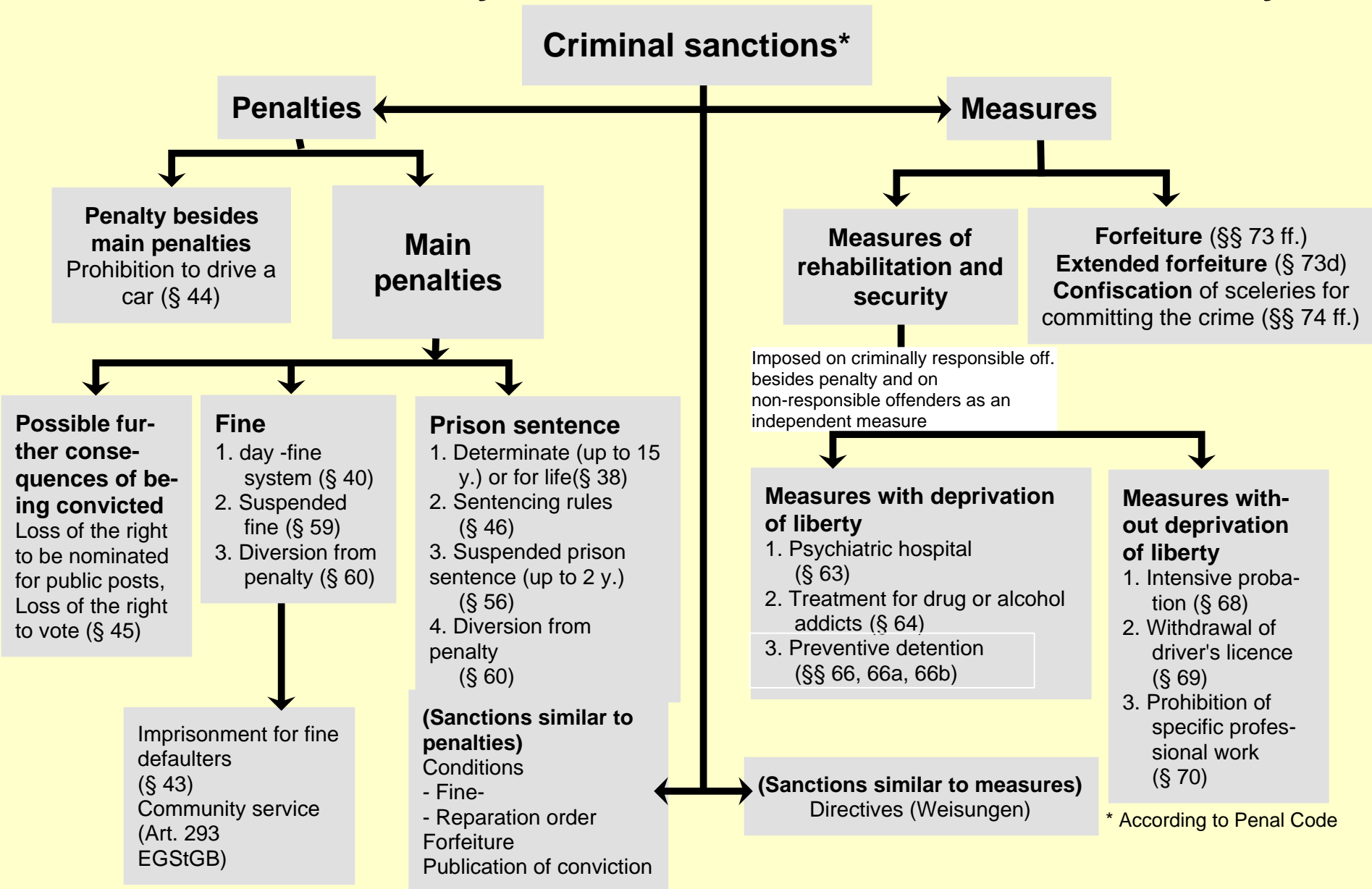
- **High risk offenders are offenders identified as at high risk of reoffending through threat of or serious injury or offences against the person (i. e. sex offenders, serious violent offenders).**
- **Dangerous offenders:**
- **§ 66 German CC:**
- **Offenders having committed (repetitively) sexual or violent crimes and who show a disposedness to commit further serious violent or sexual crimes.**
- **Similarly section 11 Finish CC**



Legal issues concerning sentencing and the role of “dangerousness”

- The main question highly depends from the concept of criminal law.
- Does the law differentiate between so-called measures of rehabilitation and security (Germany: inter alia preventive detention) and penalties (related to the gravity of guilt, proportionality of sanctions)
- Does punishment include considerations of security (e.g. long-term imprisonment because of dangerousness)?

Structure of the system of criminal sanctions in Germany



* According to Penal Code

Range of prison sentences in European countries

Country	Range of determinate sentences	Early release after	Life imprisonm.	Conditional release after
Belgium	8 d. – 30 y.	1/3-2/3	yes	10 y.
Denmark	30 d. – 16 y.	1/2-2/3	yes	12 y.
Germany	1 m. – 15 y.	1/2-2/3	yes	15 y.
England/W.	5 d. – 22 y.	1/2-3/4	yes	12-30 y.*
Estonia	30 d. – 20 y.	1/2-2/3	yes	30 y.
Finland	14 d. – 12 y.	1/2-2/3	yes	Ca. 10-12 y.

* Early release can be excluded for certain crimes.

Range of prison sentences in European countries (2)

Country	Range of determinate sentences	Early release after	Life imprisonm.	Conditional release after
France	6 m. – 30 y.	1/2-2/3	yes	15 y.
Greece	10 d. – 20 y.	2/5-2/3	yes	16-20 y.
Ireland	.		yes	y.
Italy	5 d. – 24 y.	1/2-3/4	yes	26 y.
Croatia	30 d. – 15 y.*	1/3-1/2	no	-
Lithuania	3 m. – 20 y.	1/3-3/4	yes	Only by decision of mercy

* For most serious crimes such as genocide: 20-40 y.

Range of prison sentences in European countries (3)

Country	Rahmen zeitiger FS	Early release after	Life imprisonm.	Conditional release after
Netherlands	1 T. – 20/30 J.	2/3	yes	Ca. 13 y., by mercy
Norway	14 T. – 20 J.	Not regulated	no	Instead:: 21 y. prison s. 2/3 = 14 y.
Austria	1 T. – 20 J.	1/2-2/3	yes	15 y.
Poland	1 M. – 15/25 J.	1/2-3/4	yes	25 y.
Russia	6 M. – 20 J.	1/2-2/3	yes	25 y.

Range of prison sentences in European countries (4)

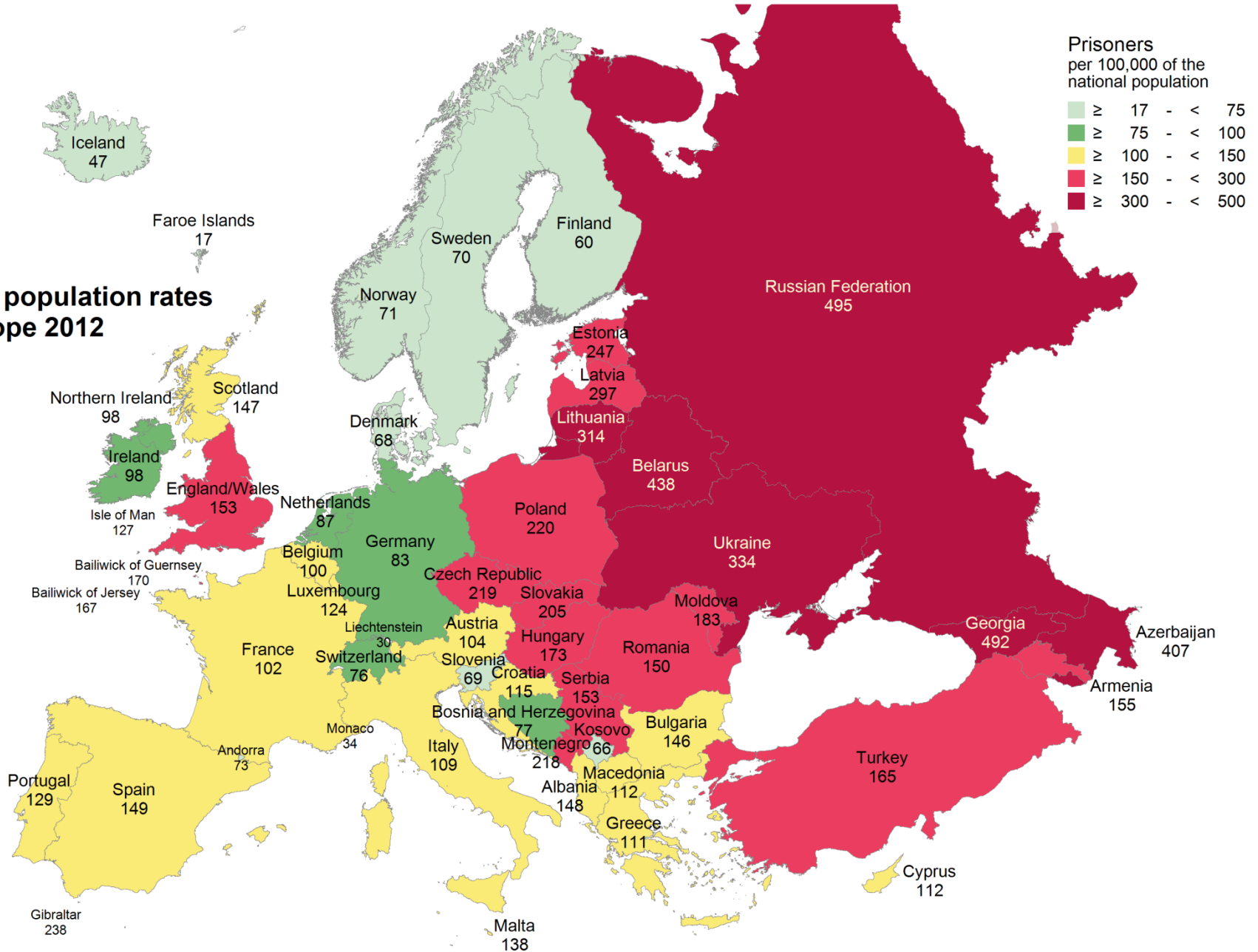
Country	Range of determinate sentences	Early release after	Life imprisonm.	Conditional release after
Sweden	14 d. – 10 y.	2/3	yes	Nach 2/3 von gadenweise umgewandelter 15-25-J. FS
Switzerland	1 d. – 20 y.	1/2-2/3	yes	Gesetzl. nicht geregelt
Slovenia	1 d. – 30 y.*	1/2-3/4	yes	25 y.
Spain	3 d. – 20 y.*	3/4	no	-
Czech R.	1 d.- 15/25 y.	1/2-2/3	yes	20 y.

* For most serious crimes or recidivist offenders (Spain): 30 y.

Consequences of different levels of punishment, in particular the length of imprisonment

- **Prison population rates vary considerably**

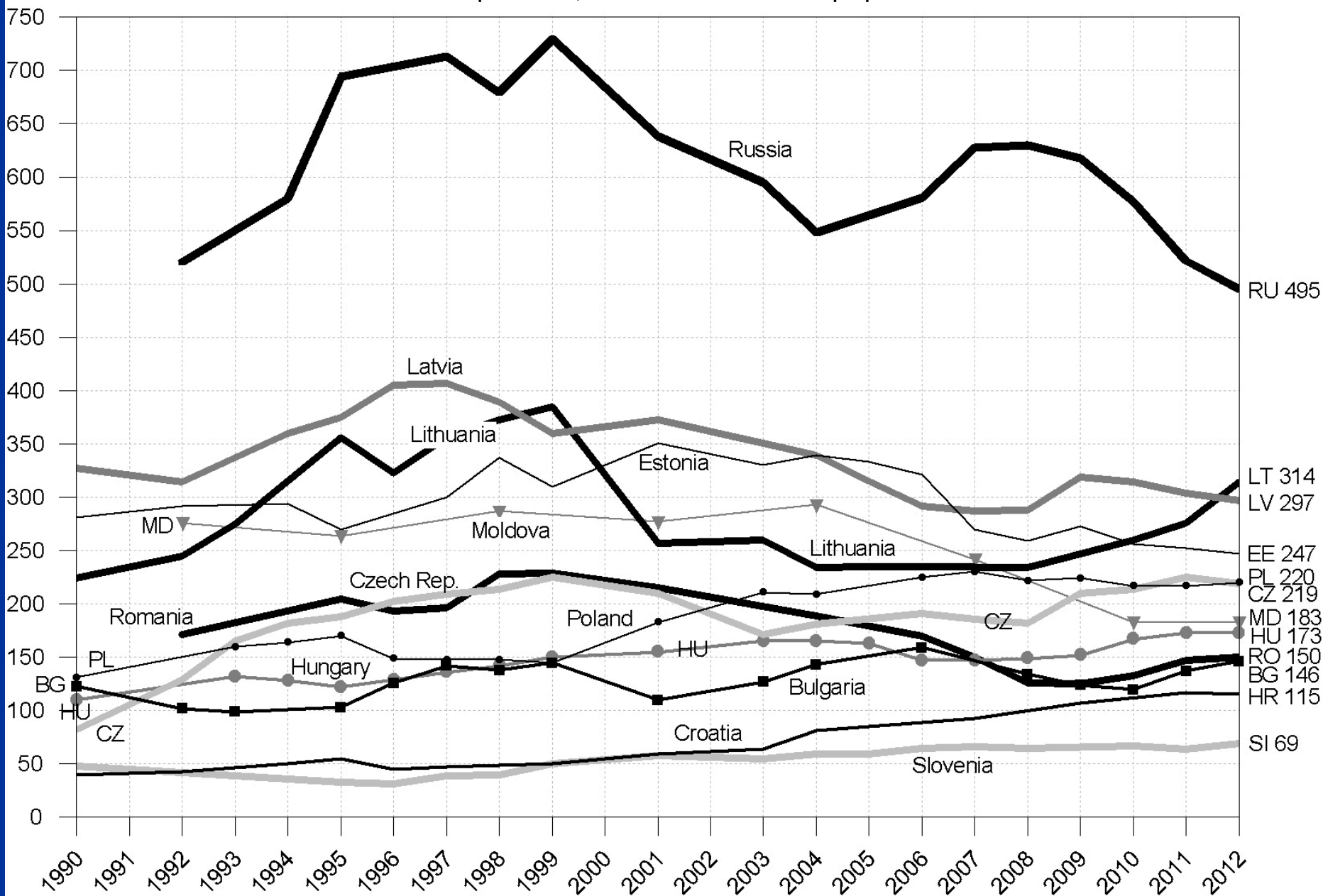
Prison population rates in Europe 2012



Source: International Center for Prison Studies, World Prison Brief, Internet-Publication, <http://www.prisonstudies.org/info/worldbrief/> (last query 20.12.2012)

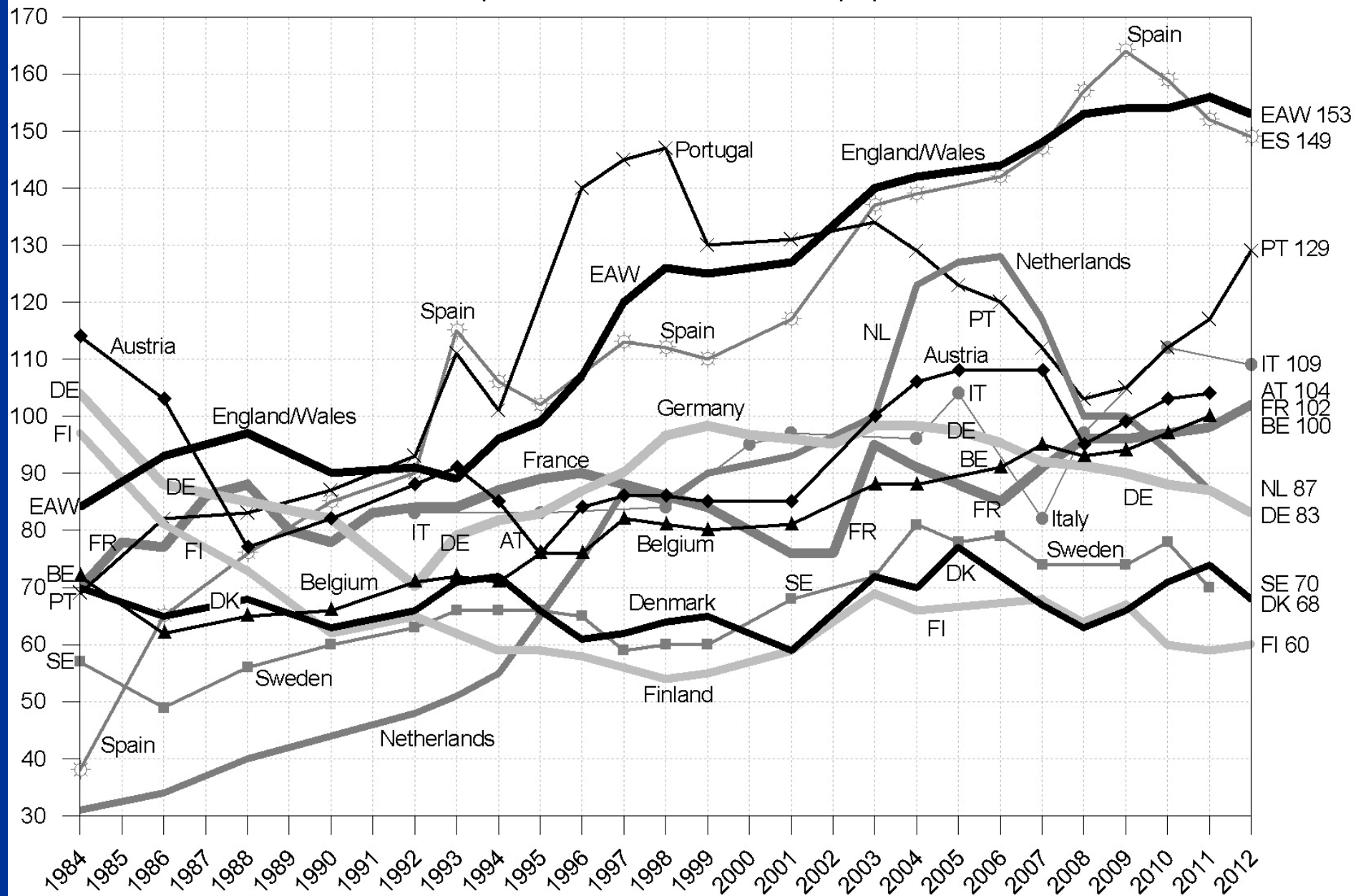
Prison population rates in Central and Eastern Europe 1990-2012

Prisoners per 100,000 of the national population



Prison population rates in Western Europe 1984-2011/12

Prisoners per 100,000 of the national population



Prison sentences and preventive detention

- Which countries have introduced preventive detention as a security measure after the (full) execution of a prison sentence?
- Germany: yes, see §§ 66-66b Criminal Code (CC)
- Estonia: the legal provision for preventive detention was outlawed by the Supreme Court
- Finland: no!
- Ireland: no!
- In any case: the numbers of preventive detainees do not influence the prison population rate: In total Germany about 500 out of 68,000 prisoners,
- In M-W: only 7 in preventive detention!

Responses to the questionnaire

	Estonia	Finland	Germany (M-W)	Ireland
Legal definition/ distinction	No	Yes	No	No
Criteria used for definition (law/practice)	P: Assessment of risk and dangerousness after conviction, mostly sexual/violent offenders, as well as offences against public safety	L: “deemed to be particularly dangerous/ a particular danger to the life, health or freedom of another”	P: Relapsing sexual offenders and offenders convicted for violent crimes, who have to serve her punishment completely	P: Use of assessment instruments and practice guidance
Boundaries and interaction	- 3 Principal punishments (pecuniary, imprisonment, dissolution of legal person) with 5 possible substitutes - Preventive detention (declared incompatible with the constitution)	Not relevant (no preventive detention)	No answer (the prison sentence is fully executed first and then the measure follows; risk ass. at different stages)	No sanctions or measures with relation to “dangerousness” or “high risk”

	Estonia	Finland	Germany (M-W)	Ireland
Legal provisions for specific risk assessment in law on sentencing	No legal provision for risk assessment in the law on sentencing	<ul style="list-style-type: none"> - For allocation and sentence planning on prisoners, who are in risk of recidivism - For prisoners serving a life sentence prior to decision about parole 	No legal provision for risk assessment in the law on sentencing (but <u>§ 56 CC, susp. sent. up to 2 y.</u>) (exception: sentence to imprisonment of a juvenile offender)	No legal provision for risk assessment in the law on sentencing
Legal provisions for redefinition of risk or risk assessment during imprisonment	<ul style="list-style-type: none"> - Continuous risk assessment (1-year period) - Prior to release on parole 	<ul style="list-style-type: none"> - In a high-security ward (every 3 months) - If segregated from other prisoners (every 30 days) - Life sentence (before release) - Serving full sentence (before release) 	<p>Prison Act, s 7(3): “within reasonable time”</p> <p>Juvenile Prison Act, s 11(2): every 4 months (every 6 months if the sentence is > 3 years)</p>	No legal provision for such risk redefinition/assessment



	Estonia	Finland	Germany (M-W)	Ireland
Legal provisions and conditions of early/conditional release	<ul style="list-style-type: none">• Semi-automatic early release, decision of the court• Release on parole	Quasi-mandatory conditional release	Court for the execution of sentences: Conditional release after reisk-assessment (good prognosis, „release must be justifiable“)	Temporary release granted by the Minister of Justice and equality; no judicial decision
Conditions or requirements which can be imposed as a condition of early release	General requirements and specific directives and obligations	General requirements and specific directives including attendance of treatment programmes	Numerous directives and obligations	Numerous directives at the discretion of the Ministry of Justice and Equality

	Estonia	Finland	Germany (M-W)	Ireland
Length of the post-custody supervision	Extent of the unserved part of the term of the punishment, but \geq 1 year (early release)			
	12 months - 3 years (probation)	Extent of the unserved part of the term of the punishment, but not > 3 years	2 – 5 years, shall not be less than the unserved part of the term of the punishment	Supervision cannot exceed the maximum custodial sentence
	5 years (release on parole from life imprisonment)	3 years (release on parole from life imprisonment)	5 years (release on parole from life imprisonment)	Lifelong (Supervision for life sentence prisoners)
			Duration of supervision of conduct: 2 – 5 years, independent of the length of the remaining sentence	



	Estonia	Finland	Germany (M-W)	Ireland
Organisation of the preparation for release (legally/ practically)	Sentence plan (+)	Sentence plan (+)	Sentence plan (+)	Sentence plan (+)
	Release plan?	Release plan (+)	Release plan (+)	Release plan (+)
	automatically 2 months prior minimum serving time for early release	well in advance of the probable release date	6 months prior to release	approx. 9 months prior to release
	Transfer to open prison (+), if prerequisites fulfilled	Transfer to open prison (-)	Transfer to open prison (+), if this serves to prepare the prisoner's release	Transfer to open prison may be granted for prisoners with short sentences or a remaining term > 2 years
		“Supervised probationary freedom”: max. 6 months prior to release on parole	Prison leave (21 days/year) + special leave (1 week per 3 months) prior to release	Temporary Release (duration within the discretion of the Minister)

	Estonia	Finland	Germany (M-W)	Ireland
Services involved in release preparation	<ul style="list-style-type: none"> - Case manager - By request of the case manager: Probation officer, local municipality, social worker 	<ul style="list-style-type: none"> - Senior criminal sanctions official (if necessary in cooperation with prison's social worker, worker for alcohol and drug abusers, guidance counselor, health care) - Local authorities of the municipality - Psychiatric Prison hospital 	<ul style="list-style-type: none"> - “ Division manager” - Psychological service - Prison officers - Supervisory office - Probation officer - Court for the Execution of Sentences - Police - Forensic psychologist - Prosecution - For juveniles: youth court service 	<ul style="list-style-type: none"> - Prison Service - Custody Management - Health and Nursing Service - Psychology Service - Addiction Service - Training Service - Chaplaincy - Statutory services (HSE Forensic Psychiatric Service, Probation Service, Education Service. Statutory Homeless and Social Protection services) - Community and voluntary bodies

	Estonia	Finland	Germany (M-W)	Ireland
Services involved in the community after release	- Local municipalities	- Social worker of the prisoner's municipality (if subjected to supervision)	- Halfway houses - Debt regulation - Counseling - Clinics for therapy - Social assistance office - Employment agencies For juveniles: - Child protective services - Youth welfare office	- Probation Service - Prison Service - Courts Service - An Garda Síochána
When does the preparatory stage for release begin?	At least 2 months prior to release	At the latest 6 months before release	6 -12 months before the prospective release	

	Estonia	Finland	Germany (M-W)	Ireland
Visit of the probation officers? Continuity of care (law/practice)?	Visits (+), if needed	Visits (+): once or twice a few months before release	Visits (+), if needed (at least 6 months prior to release): frequency is set individually	Visits (+),if prisoners are subject to post custody supervision
		Continuity of care (+), by law for those placed under supervision	Continuity of care (+), by practice (will be institutionalized by the new Prison Act)	Continuity of care (+) for post custody supervision or supervision as a condition of a temporary release order
Is there a case manager in the prison and/or in the community?	Prison: (+), Officers/contact persons Community: (+), Probation officer	Prison: (+), Senior criminal sanctions official Community: (+), Supervisor at the Community Sanctions Office/ social worker	Prison: (+), manager of a division Community: (+), Probation officer	Prison: (+), case manager of the ISM Community: (+), assigned Probation Officer



	Estonia	Finland	Germany (M-W)	Ireland
Prison/ institutional leave	21 days/year	Max. 3 days in every two month	Up to 21 days/year	Duration within the discretion of the Minister
Legal provi- sions for half- way houses and/or elec- tronic supervi- sion for “dange- rous” or high risk offenders	Halfway houses (-) Electronic supervision (+) in combination with release on parole	Halfway houses (+) Electronic supervision (+) as part of the “Supervised probationary freedom”	Halfway houses (+), (New Prison Act) Electronic supervision (+) for offenders under supervision of conduct	Halfway houses (-) Electronic supervision (-)
Are NGOs /private aftercare services involved?	NGOs	Peer groups, self- care groups, spiritual groups (congregations) and other voluntary organizations	Private external services	Community and voluntary bodies

	Estonia	Finland	Germany (M-W)	Ireland
Are NGOs /private aftercare services involved?	Funded by project grants awarded from elsewhere			Specific community based organizations are funded by the Irish Prison Service
	Providing rehabilitation services in prison and in the community, e.g. support person, self-help groups for addicts, anonymous alcoholics, drug treatment services	Providing support work in prison and in the community	Providing services in prison and in the community, e.g. in the areas of vocational training, school, social training, consultation, counselling and treatment programmes	Providing support work in prison
		Supervised by the Criminal Sanctions Agency in prison and by different authorities in the community	All decisions related to the development of the offender are made by the prison and the probation service	Accountable to the Irish Prison Service



	Estonia	Finland	Germany (M-W)	Ireland
Systems and forms of control/supervision after release				
Provisions or guidelines/standards for risk definition/ risk assessment during the probation/aftercare period	Legal provision for the usage of a risk assessment tool for probationers with a sentence exceeding 1 year (Probation Supervision Act)	Availability of the results of previous risk assessments to supervisors, but no provision for own risk assessment in supervision	Risk assessment in prison for life time prisoners, violent and sex offenders prior to release The probation service uses tests for risk assessment and special tests for sexual offenders	



	Estonia	Finland	Germany (M-W)	Ireland
What services are involved, with legal responsibilities, in aftercare supervision?		No other services are involved with legal responsibilities	Supervisory agency, Probation officer, Criminal judge (Court for the Execution of Sentences), Forensic psychologist, Prosecution, Non-profit organisations	Probation Service, Irish Prison Service, Courts Service, An Garda Síochána (Police)
Tasks and working practice of those services				



	Estonia	Finland	Germany (M-W)	Ireland
What is the role and interplay/ co-operation of state and private aftercare services?	NGOs can be involved by local municipalities in the process of rehabilitation This option is hardly used in practice	NGOs provide support services	Private institutions are supplying support for reintegration	Probation Service works in partnership with communities, local services and voluntary organizations
Involvement of the police	<ul style="list-style-type: none">- Local police is informed about offenders in its region- The probation officer is entitled to receive and request information from the police	<ul style="list-style-type: none">- The police can assist the supervisor with appointments- Police officers are used as assistant supervisors with high risk offenders- The Supervisor can receive information on the parolee from the police	<ul style="list-style-type: none">- The police has to share any information about the offender with the probation officer- The police visits the offender at home and controls if he/she complies with the directives and obligations	Involvement only in relation the requirements of sex offenders under the Sex Offenders Act 2001 and a joint model of sex offender management (SORAM)



	Estonia	Finland	Germany (M-W)	Ireland
Is electronic monitoring applied?	Since 2007 in the following cases: - Release on parole with EM - EM as an alternative to arrest in the pretrial phase - EM as a supplement for short sentences (up to 6 months)	Only in supervised probationary freedom	Only for offenders under supervision of conduct	Not generally. It is used in prisoner management during hospitalization and similar circumstances only.
Which form of electronic supervision is used?	Mostly house arrest GPS is used only in a few cases (supplement for short sentences)		GPS is used. In regions with tunnels and buildings LBS is used additionally. There is no electronic supervised house arrest.	



	Estonia	Finland	Germany (M-W)	Ireland
Are NGOs or private aftercare services involved in the aftercare phase?	In some cases according to the regional possibilities	Yes, but not with legal responsibilities	Yes. Cooperations are fixed with non profit organisations and local authorities	The Probation Service works in partnership with voluntary organizations
How many and what kind of “dangerous”/high risk offenders are in prison?	Tallinn prison (01/13): - 133 (22,9% of all assessed inmates) - 32 (24% of above) are assessed as posing a risk to concrete persons - main risk factor: violence	Finland (15.01.2013): - 740 (28,8 % of all prisoners) - ~ 607 (82% of above) are classified as high risk prisoners (for definition: see original answer)		



	Estonia	Finland	Germany (M-W)	Ireland
How many and what kind of “dangerous”/ high risk offenders are under supervision of the probation and aftercare services?	Within the district of Tallinn prison (3171 probationers in total): - 87 [86 high risk; 1 very high risk] equaling around 3,4 % of all assessed probationer and 2,7% of all probationers) - 36 are assessed as posing a risk to concrete persons	Finland: - 525 (50 % of all probationers, excluding young offenders) - of those: 469 sentenced for homicide and bodily injury 56 sentenced for sex offences	Mecklenburg-Western Pomerania (31.12.2012): - 585 offenders belong to the category “intensive” (compare: original answer) (~ 14 % of all probationers)	



	Estonia	Finland	Germany (M-W)	Ireland
“Dangerous”/ high risk offenders under police surveillance or supervision?	There is no possibility for high risk offenders to be under specific police supervision	The police does not participate in the probation surveillance (only in exceptional cases)	Mecklenburg-Western Pomerania (31.12.2012): Offenders subject to FoKuS: 156 Offenders under police surveillance (without FoKuS): 249	

	Estonia	Finland	Germany (M-W)	Ireland
Studies on recidivism and/or recall from early/conditional release	<p>Recidivism rates (2010):</p> <ul style="list-style-type: none"> - Early/conditional release: 27 % - Probation supervision and electronic monitoring: 13 % - Fully served sentence: 48 % 	<p>Nordic study on recidivism (2010):</p> <p>Released prisoners that committed an offence which led to a sanction in a 2-year follow-up period</p> <ul style="list-style-type: none"> - 32 % violent offence - 11 % sexual offence <p>High risk offender statistic: see original answer</p>	<p>Nation-wide examination of recalls (2010):</p> <ul style="list-style-type: none"> - Around 33 % recidivism rate for offenders with an earlier conviction - 15 % recidivism rate for offenders previously convicted for physical injuries - Low base rate for violent and sexual offenders. Regular review of probation by the Federal Statistical Office: around 70% of probation supervisions are successful 	<p>Probation Service Recidivism Study (2011) on all offenders who were subject to either a Probation Order or a Community Service Order in the year 2007.</p> <p>Recidivism rate:</p> <ul style="list-style-type: none"> - Overall: 37,2 % - By Order Type: <ul style="list-style-type: none"> Probation Order: 39,3 % Community Service Order: 33,5 % - For assault type offences: 30,8 %



	Estonia	Finland	Germany (M-W)	Ireland
Evaluation of the risk assessment instruments used by the prison and probation services	- Research on the validity of the instrument was carried out in 2006/2008/2012 proving a predictive power at a good level with some uncertainties in predicting reoffending after conditional release	- Research on the validity of the instrument used in prison is currently being carried out - The toll used in connection to community sanctions is not evaluated yet	- The risk assessment instruments used by the probation service have been evaluated and shown to have led to an increase in detailed documentation and focus of statements	- The instruments used in prison have each been evaluated - not, however, in Ireland yet - The instrument currently developed for the probation service has not yet been fully evaluated



Summary and conclusion

- **Is it possible to identify a common concept of “dangerousness” and high risk offending?**
- **For what purpose?**
- **Is there a need for common understanding and why?**



Thank you for your attention!