

## PROFOUND CHANGE OR JUST A FACADE? LEGAL TRANSFORMATION OF THE ESTONIAN AND LATVIAN PENITENTIARY SYSTEMS

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**Abstract.** I investigated the process of transformation of penitentiary systems in two post-Soviet countries: Estonia and Latvia. Over the past 40 years, Latvia and Estonia have undergone reforms to their penitentiary systems bringing their prisons up to European standards. Both countries have abandoned the death penalty, and there are no political prisoners, and the development of democracy and the implementation of Western solutions have proceeded extremely quickly. However, the fundamental question is: to what extent were the changes to penitentiary systems profound and to what extent was it just a facade? To what extent is the readiness to train prison staff equivalent with a readiness to internalize Western standards? To what extent is the penitentiary system Western and to what extent it remains Soviet?

**Keywords:** Estonia; Latvia; prison; penitentiary systems.

### INTRODUCTION

Over the past 40 years, Latvia and Estonia have undergone reforms to their penitentiary systems bringing their prisons up to European standards. These countries have also benefited from financial and material support from other countries to ensure the best possible outcome. Both countries have abandoned the death penalty, and there are no political prisoners, and the development of democracy and the implementation of Western solutions have proceeded extremely quickly. It is also worth noting that statistics show that the number of inmates has halved in 20 years (since the collapse of Soviet Union). However, the fundamental question is: to what extent were the changes to penitentiary systems profound and to what extent was it just a facade? To what extent is the readiness to train prison staff equivalent with a readiness to internalize Western standards? To what extent is the penitentiary system Western and to what extent it remains Soviet?

## 1. METHODOLOGICAL SCOPE

The aim of this paper is to examine the core of penitentiary law and its peculiarities and identify what differentiates it from other specialized branches of law. Penitentiary law is shaped not as much by specific institutions as its overall goals. Thus, to truly understand the penitentiary law and the changes it underwent on the turn of 20th and 21st centuries, one has to learn about its current and past goals.

The primary reason for choosing this research goal is a *par excellence* scientific need. The initial assumption was that the penitentiary law ought to be approached from the perspective of the values it implements. The utilization of historical and comparative methods allows for identifying the changes that took place in various penitentiary systems since Soviet times. Furthermore, the dogmatic method allows one to better understand modern values, as well as political, social and economic doctrines made manifest by the legal norms. Each of the researched countries has been treated as a separate case study.

The author assumed that her chosen research methods will bring the best results, that is a comprehensive understanding of penitentiary law and doctrines, as well as their perception. This means not only describing the current law in force, but rather showing how it's interpreted to implement its goals. As pointed out by Z. Ziemiński, "the goals of the dogmatic method include recreating a systemic norm (which effectively creates certain social effects) from a given concept of the source of law (which usually leaves some wiggle room as to defining such norms)" [Ziemiński 1980].

Specific questions that I was trying to answer during our research:

- 1) How the correctional systems of Estonia and Latvia have changed over the last 40 years – legal and organizational aspects?
- 2) How the changes in the penitentiary systems of Estonia and Latvia are evaluated by the international community (reports of international organizations, judgments, tribunals)?
- 3) Have the penitentiary systems in these post-Soviet countries fully adopted Western standards, or do they still retain characteristics of their Soviet past?

The research focused on changes taking place over the past 40 years in the penitentiary systems of Estonia and Latvia (1980-2020).

This article is the result of a study utilizing three research methods – dogmatic, historical and comparative – that aimed at determining and evaluating current laws. The paper contains an overview of the law in force and statistics describing its utilization, as well as reports of international organizations and statements of state authorities. K. Jaspers' definition, describing the concept of science as containing three elements: methodical cognition, certainty of knowledge and universal validity was adopted as our starting point.

## 2. PENITENTIARY LAW AND SYSTEM

A penitentiary system has many definitions, which have changed along with the development of prisons and their role in a society. Historically, the term “penitentiary” referred to institutions that accepting prostitutes who vowed to reform themselves and to relinquish their sinful ways. These goals of repentance and correction are apparent in the very name “penitentiary”, derived from the word “penitent.”<sup>1</sup> In the eighteenth century the most common penitentiary model was the Shared Imprisonment System (the cells contain various, often randomly chosen prisoners, resocialization processes are essentially non-existent, and the penal facilities are only meant to isolate criminals from the rest of society).<sup>2</sup> In the beginning of the 19th century in Europe new penal philosophies appeared. The new goal of the penitentiary systems was to change the prisoner through the means of total isolation. Single-person cells began to dominate, in which the condemned were to repent for their sins and contemplate God by reading the Bible [Johnston 2020]. In the USA, the justice system was undergoing a massive reform throughout the first half of the 19th century. The reformers believed that the penitentiary could serve as a model for family and education and thus sought a system that valued rehabilitation over harsh punishment.<sup>3</sup> In later centuries, due to further advancements in education, sociology, psychiatry and psychology, more focus was placed on the mental wellbeing of prisoners and how their circumstances contribute to developing mental issues. The possibility of resocialization became known, and an understanding arose that returning a convict to the society has positive social and economic effects. In the 21st century, human rights and conviction of the international community in enforcing them have greatly increased in importance. Penitentiary systems began changing and the recidivism indicator has become the key measure of their effectiveness (the lower the better).

However, regardless of the historical era, the correctional system “is designed to keep society at large safe by separating them from individuals who have committed crimes”<sup>4</sup> and looking back at earlier penitentiary systems, one could come to a conclusion that a penitentiary system is strongly linked to social and political opinions, as well as the economic and geopolitical situation of a given time.

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<sup>1</sup> See <https://www.encyclopedia.com/history/culture-magazines/penitentiaries-and-prisons> [accessed: 10.05.2024].

<sup>2</sup> See <https://www.parliament.uk/about/living-heritage/transformingsociety/laworder/policeprisons/overview/earlyprisons/> [accessed: 10.05.2024].

<sup>3</sup> See <https://digital.library.cornell.edu/collections/prison-reform> [accessed: 10.05.2024].

<sup>4</sup> See <https://thelawdictionary.org/article/role-of-the-correctional-system/#:~:text=The%20correctional%20system%20is%20designed%20to%20keep%20society,the%20convicted%20criminal%20in%20a%20jail%20or%20prison> [accessed: 10.05.2024].

Nowadays, as noted by Mike Nellis: “Across Europe, prison overcrowding, prison population growth and the pursuit of effective systems of community supervision continue to pose major challenges to criminal justice systems, in terms of both efficient institutional management and attentiveness to the human rights of suspects and offenders. These are relatively longstanding concerns, but increasingly austere financial regimes in many countries, have further intensified the search for cost-effective solutions” [Nellis, n.d.]. Solutions such as serving the sentence outside prison (under the electronic monitoring system) were implement, and attempts were made to return the convicts to the society as soon as possible. This would alleviate the burden placed on the state budget, but care was taken to keep ensuring it being safe for the society and complying with human rights.

However, before Europe was able to enter the 21st century, it had to face the legacy of soviet prison systems. And it is that transformation which interested the author of this paper, who took a close look at the penitentiary systems off Estonia and Latvia as her case studies.

### 3. CASE STUDIES

The paper focused on the legal solutions utilized in the two Baltic countries – Estonia and Latvia. This choice was largely motivated by their similar penitentiary history and geopolitical situation (following World War II, they formed parts of the USSR and nowadays are EU and NATO members).

Both Estonia and Latvia are former Soviet states. Throughout their existence, the Soviet authorities did everything in their might to force submission of individuals the society at large, for a variety of ideological and practical reasons. Soviet penal camps were “total institutions”, the prisoners had no rights and were kept in terrible living conditions and the penal law allowed the death penalty, albeit it was rarely implemented in practice [Vavokhine 2004]. Since 1991, Latvia and other former Soviet states once again became independent, sovereign nations. Throughout this period, they had to face numerous social, economic and political challenges [Dreifelds 1989]. One of these included promptly reforming their judicial systems in the area of criminal proceedings [Joutsen 1996].

International pressure, complications in facilitating the international integration and joining the European Union have all accelerated the attempts of national and local authorities to implement the solutions aiming to implement solutions to protect human rights and dignity, improve living conditions of the imprisoned and improving the resocialization ratio, as required by numerous signed treaties and conventions [Wheeldon 2009]. Currently these two states are parties to many international agreements.

Below, I have listed a number of document of major importance to the legal changes taking place in these countries. Important international regulations impacting the penitentiary systems of European states:

- 1) the Universal Declaration of Human Rights (UDHR) – adopted by the UN General Assembly in Paris on 10 December 1948 during its 183rd plenary meeting;
- 2) European Convention on Human Rights (ECHR) – opened for signature in Rome on 4 November 1950 and came into force on 3 September 1953;
- 3) Standard Minimum Rules for the Treatment of Prisoners. Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977;
- 4) Procedures for the effective implementation of the Standard Minimum Rules for the Treatment of Prisoners. UN. Economic and Social Council (1984, 1st sess.: New York);
- 5) European Prison Rules – on February 12, 1987, the Committee of Ministers of the Council of Europe adopted Recommendation (87)3 on European Prison Rules. These rules are a revised version of the European Standard Minimum Rules for the Treatment of Prisons of January 19, 1973. The Prison Rules were reformulated in 1987 (R 87.3). The Rules have been revised four times since 1973, most recently in 2020;
- 6) Recommendation Rec(2006)2-rev of the Committee of Ministers to member States on the European Prison Rules;
- 7) Recommendation CM/Rec(2012)5 of the Committee of Ministers to member States on the European Code of Ethics for Prison Staff;
- 8) Recommendation CM/Rec(2014)4 of the Committee of Ministers to member States on electronic monitoring;
- 9) Recommendation CM/Rec(2018)8 of the Committee of Ministers to member States concerning restorative justice in criminal matters.

### 3.1. Estonia

Estonian legal system belongs to the continental European legal tradition, the Roman-Germanic family. The general principles of international law and binding international treaties are an inseparable part of Estonian law, as can be clearly seen in the shape of its penitentiary system. Judicial precedent remains a source of law in Estonia. Case law is decisive with regard to interpretation of law.<sup>5</sup>

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<sup>5</sup> See <https://www.baltic-legal.com/> [accessed: 10.05.2024].

The penitentiary system is based on two key legal acts: the Penal Code<sup>6</sup> and Code of Criminal Procedure.<sup>7</sup>

International Agreements that Estonia is a party to are also of key importance: UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT); UN Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT); UN Convention on the Rights of the Child (UNCRC); UN Convention on the Rights of People with Disabilities and Optional Protocol (CRPD); UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules); UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules); UN Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules); Principles for the protection of persons with mental illness and the improvement of mental health care; Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol); European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment; Standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

Currently, Estonia has three prisons with an official capacity of 3,357, indicating an occupancy rate of 76.6%. According to World Prison Brief data (as of 2020), 20.1% of detainees in Estonia were held in pre-trial jail, 4.5% of prisoners were women, while minors accounted for 0.6% of all prisoners. 35.5% of all prisoners were foreign citizens.<sup>8</sup>

In the past few years, Estonia's penitentiary system underwent many changes and saw the implementation of numerous modern legal solutions. One should bear in mind that after regaining its independence in 1991, Estonia's penitentiary system was strongly influenced by the Soviet system – and thus shared many of its issues at the dawn of the 21st century. The Estonian criminal justice system can be briefly characterized in a handful of bullet points: insufficient funding; retributive nature; outdated prison infrastructure; lack of efficient alternatives to imprisonment; presence of prison subcultures; dominance of Russian language within criminal justice system; stigmatization of offenders in the society [Imants, et al. n.d.].

Since the 1990s, Estonia had been adjusting its penitentiary system to the international laws and recommendations. It bears mentioning such important changes as abolishing the death penalty, improving the living conditions

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<sup>6</sup> Passed 06.06.2001, RT I 2001, 61, 364, entry into force on 01.09.2002.

<sup>7</sup> Passed 12.02.2003, RT I 2003, 27, 166, entry into force on 01.07.2004.

<sup>8</sup> See <https://news.err.ee/1026620> [accessed: 10.05.2024].

of convicts, introducing electronic surveillance systems and minimizing the number of underage detainees.

In 1998, Estonia entirely abolished the death penalty. The complete ban on capital punishment is enshrined in both the Charter of Fundamental Rights of the European Union and two widely adopted protocols of the European Convention on Human Rights of the Council of Europe.

Estonia is also a signatory to the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The Republic of Estonia signed this protocol on 21.09.2004, after which it entered into force on 27.11.2006. Under the Protocol, “a place of detention means a place where persons are or may be deprived of their liberty, either by virtue of an order by a public authority or at its instigation or with its consent or acquiescence. Thus, places of detention comprise not only prisons or police detention centers. They also include hospitals providing involuntary psychiatric care, closed childcare institutions, as well as care homes from where people cannot leave at will. Several hundred places of detention operate in Estonia.”<sup>9</sup>

To fulfill the requirements of the Protocol, Estonia is modernizing its places of detention. A number of new and renovated facilities have been opened and the living conditions in prisons and other places of detention have improved greatly over the past 30 years. The oldest prison facilities still in use currently only date back 20 years, which is quite exceptional on the European scale.

New regulations are being drawn up to further improve the conditions of detainees, such as the 2020 Draft Act enabling the detainees to communicate with their families through a video feed. There are also attempts to allow children visiting their imprisoned family members to bring toys with them (in accordance with Estonia’s Chancellor of Justice recommendation that children’s needs and interests should be taken into account when setting conditions for visits. Since 18.02.2007, the Chancellor of Justice fulfills the responsibilities of a national preventive mechanism, in accordance with OPCAT Article 3 and para. 1(7) of the Chancellor of Justice Act).<sup>10</sup>

Estonia also stresses the ethics of implementing the punishments and preventing recidivism. That is why it had implemented a program to minimize the number of juvenile detainees in 2007. Currently, there are no more minors detained in Estonian prisons. According to Rait Kuuse (the Deputy Secretary General for Prisons at the Ministry of Justice): “If the first offense is not serious,

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<sup>9</sup> Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. See [https://www.ohchr.org/en/ohchr\\_homepage](https://www.ohchr.org/en/ohchr_homepage) [accessed: 10.05.2024].

<sup>10</sup> UN Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.



then alternative methods of influence are called for, such as the use of probation measures already implemented by the prosecutor's office or other alternatives to imprisonment: community service, supervision by a probation officer, electronic monitoring. These are all kinds of restraints. But even before that, we need support measures implemented by social workers in local communities. This is especially important for young people, as it allows for early detection of unlawful conduct."<sup>11</sup> Statistical data concerning the falling number of juvenile detainees has been shown on the chart below (Illustration 1).

Illustration 1. The number of juveniles in Estonia's prison system.



Source: *Eesti Rahvusringhääling*, ERR: <https://news.err.ee/1609257078/estonia-no-longer-has-juvenile-prisoners> [accessed: 10.05.2024].

As mentioned before, Estonia had implemented electronic monitoring (EM) in its penitentiary system. This technology has been in use in various countries since the 80s (first introduced in 1983 in the United States) [Haverkamp 2014], however its implementation has differed greatly – in some countries, electronic monitoring is utilized as an alternative sanction, while in others it complements another form of punishment [Nišević, et al. 2015].

Electronic monitoring entered Estonia's public discourse in 2004, followed by a pilot program being launched in 2006, which encompassed placing electronic bracelets on conditionally released prisoners.<sup>12</sup> The first bracelets were issued on May 22nd 2007, meaning that the country had implemented this solution prior to the Recommendation CM/Rec(2014)4 of the Committee of Ministers to member States on electronic monitoring.

<sup>11</sup> See <https://news.err.ee/1609257078/estonia-no-longer-has-juvenile-prisoners> [accessed: 10.05.2024].

<sup>12</sup> See <https://eeagrants.lv/en/2020/09/04/a-study-visit-to-estonia-on-electronic-monitoring-issues-2/> [accessed: 10.05.2024].



In its first years of implementation, Estonia's electronic monitoring was characterized by: a) responsible authority –National Prison Service; b) utilized technological solutions –radio frequency combined with GPS and alcohol monitoring; c) provider –3M; d) scope: maximum capacity of 300 simultaneous bracelets; e) applications (monitoring early released prisoners (back-doors model; monitoring in the pre-trial phase; instead of short prison sentence (up to 6 months, 1 day=1day) (front-doors model); extra measure for probation violators; victim protection; monitoring offenders sentenced for new crimes during their probation); f) monitoring center: active 24/7, operated by prison staff; g) installation: as soon as possible, performed by probation officers; h) intensity (duration divided into 3 consecutive periods (strict, medium, flexible); mandatory visits to the probation office –once per 10-14 days; probation officer performs on-site control visits at home, workplace, etc.); i) duration: under 12 months [Imants, et al. n.d.]

As of writing, there are two types of electronic monitoring in Estonia (from a technical standpoint): local home security and GPS devices. "In the case of local monitoring, a home security device is installed in the home of the serviced person and a leg bracelet is attached around his leg. The guarded person is assigned a permissible radius of movement and a schedule is drawn up for him. If the serviced person leaves the coverage area of the home security device at a time not authorized for this purpose, the device will sound an alarm. Alarm messages also come, for example, when moving the home security device, removing the leg bracelet, unplugging the device, etc. In the case of a GPS device, the above applies with the exception that the device is attached to the foot of the serviced person and its movement and adherence to the schedule can be constantly monitored. During probation, the probationer is obliged to comply with the inspection requirements, as well as the obligations imposed by the court. In the event of a violation, the probation officer will respond to the violation by issuing a warning or submitting an emergency report to the court."<sup>13</sup>

One of the many issues Estonia's penitentiary system struggled with in the 90s was a large number of detainees. As pointed out in the Probation in Europe report, "Due to the large number of convicts in prisons after regaining independence from the Soviet occupation there was a need to start search for new techniques and methods to guarantee the security of society" [van Kalmthout and Durnescu 2012].

In addition to the electronic monitoring and special juvenile programs, Estonia has also implemented a probation system. The preparations took place since 1991, when the penal law reform first began. In 1993, acting on

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<sup>13</sup> See <https://vanglateenistus.ee/kriminaalhooldus/elektroonline-valve/elektroonline-valve> [accessed: 10.05.2024].

a request of the Ministry of Justice, early concepts for the Estonian Probation Service have been drafted. “In 1996 the Ministry of Justice began with drafting the Probation Supervision Act, preparing in parallel all the legal acts relating to the implementation of the Act and also preparing an implementation plan and the budget. The Probation Supervision Act was adopted in 1997 and entered into force on 1 May 1998. In drafting the Act, laws of other countries regulating similar systems were used as a basis. The probation service started to work all over the Estonia on 1 May 1998” [ibid.].

Since then, the probation system kept evolving due to various social and legal changes, as well as new organizational and technological solutions (such as the introduction of electronic monitoring). Notable documents regulating the probation system include: a) 01.03.2018. Regulation No. 19 “The Statute of the Database of Detainees, Arrestees, Detainees, and Probationers;” b) Order No. 15 of 22.02.2007 “Procedures for the execution and supervision of electronic surveillance;” c) Order No. 49 of 25.06.2004 “Procedures for the preparation, execution and supervision of community service;” d) Decree No. 37 of 7.05.2004 “Establishing additional qualification requirements.”

In summary, Estonia undoubtedly strives to adjust its penitentiary system to European standards. The state is clearly moving away from the post-Soviet thought, both in terms of regulations and the means of their practical implementation. However, the high incarceration rates are still perceived as troubling. Nonetheless, as stressed by the spokesperson of the Ministry of Justice, the number of prisoners in Estonia has decreased significantly over the years<sup>14</sup> – the total number of crimes committed over 2011 has amounted to 42,567, while in 2021 it was as low as 25,982.<sup>15</sup> Detailed data is presented in the below tables:

**Table 1.** Number of inmates and prison population rates as of 31 January 2022

Country	Population of the country on 1st January 2022	Total number of inmates (including pre-trial detainees) [Stock]	Prison population rate
Estonia	1 321 910	2181	165.0

Source: SPACE-I\_2022

**Table 2.** Trends in prison population rates from 2012 to 2022

Country	2012	2014	2016	2018	2020	2022	% change from 2012 to 2022
Estonia	257.8	225.1	202.9	191.4	184.4	165.0	-36.0

Source: Compiled by the author based on SPACE-I\_2022

<sup>14</sup> See <https://news.err.ee/1026620> [accessed: 10.05.2024].

<sup>15</sup> See <https://www.stat.ee/en> [accessed: 10.05.2024].

### 3.2. Latvia

Latvia has an independent judiciary, with a three-tiered court system. An independent judicial authority exists in the Republic of Latvia alongside legislative and executive authorities. Articles of the Chapter 6 of the Constitution (“Courts”) state that in Latvia, court cases shall be heard by district (city) courts, regional courts and the Supreme Court; judges shall be independent and subject only to the law; judges shall be confirmed in the office by the Saeima (Parliament) and be irremovable (Chapter 6 of the Constitution).<sup>16</sup>

The two core acts regulating this Latvia’s penitentiary law are the Criminal Act (adopted on June 17, 1998) and the Criminal Procedure Act (adopted by the Parliament on April 21, 2004), adopted by the Parliament on April 21, 2004. However, the legal norms broadly regulating criminal law and criminal procedure can also be found in other legal acts, such as: Prevention of the Laundering of the Proceeds from Crime Act (adopted on December 18, 1997), the Office of the Prosecutor Act (adopted on May 19, 1994) and the Investigatory Operations Act (adopted on December 16, 1993).

Similarly to the Estonia, Latvia struggles with legacy of the Soviet system. As pointed out in a 2013 report: “Latvian prison system is the legacy of the Soviet prisons system, and consequently many problems as poor conditions, large dormitories, overcrowding of cells, strong internal prisoner hierarchies, and still – disrespect of human rights remain. Several prisons are located in buildings older than 100 years, and have large dormitories accommodating up to 30 prisoners” [Kamenska, et al. 2013].

Another issue concerned the widespread use of drugs in prisons. According to “Drug abuse in Latvian prisons” research carried out in 2010, 66,1% of detainees used drugs prior to incarceration and 17.8% kept using drugs in prison [ibid.]. Moreover, the Council of Europe Committee for Prevention of Torture has heavily criticized the Latvian prison system for its “shortcomings with regard to health-care of prisoners, lack of independence of investigation of cases of ill-treatment, absence of long-term strategy to tackle inter-prisoner violence, as well as for stringent regime and lack of activities for prisoners, in particular for life-sentenced prisoners” [ibid.].

Understanding the scale of the problem, Latvia intensified its efforts to improve the penitentiary system. In 2013, Latvian government has decided to allocate LVL 55.000.000 (approx. 78,000,000 EUR) over 5 years to the construction of a new prison and finally accepted the regulation no. 191 on the Procedure of the Implementation of Prisoners Re-socialization proposed Cabinet of Ministers. Since then, each prisoner’s documentation includes a section concerning resocialization and each resocialization plan is being created together

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<sup>16</sup> Constitution of the Republic of Latvia (1922), <https://www.satv.tiesa.gov.lv/en/2016/02/04/the-constitution-of-the-republic-of-latvia/> [accessed: 10.05.2024].

with the prisoner, including their opportunities for education and employment, as well as consultations with a social worker, psychologist or a chaplain).

Latvia keeps actively working to transform its penitentiary system. As early as in 1999 it launched a 5 year cooperation scheme with Canada to learn the solutions utilized in the West and attempt to implement them in the Latvian environment [Wheeldon 2010]. The project involved studio visits and mediation workshops. Various people related to the Latvian penitentiary system learned about new concepts such as “postpenitentiary support” or practices such as pre-sentencing reports and scientific appraisals. The participants have also developed their competences in the area of relations-building among coworkers and managing emotions in contacts between convicts and servicemen.

The program contributed to changing attitudes within the Latvian penitentiary system. As pointed out by Wheeldon, one of the respondents claimed that the study tour did not just alter her views about justice, but ‘changed the attitude’ of all the Latvians who participated. Pilot projects were identified by participants as very important in the development of Probation and provided policy makers with “practical examples and new information to allow pilot project Directors to try different programs and innovations.” The pilots were identified as the ‘basis of probation’ because they provided ‘alternatives to help convince people’ that other kinds of less punitive approaches could work. In addition, these projects created community experts in alternative programming who were hired as Latvia’s first Probation Officers [Wheeldon 2010].

Latvia is also working other states to better facilitate the implementation of penitentiary reforms. In 2014, Latvia launched a project implemented under the Norway Grants mechanism (Programmes in Latvia under the EEA and Norway Grants 2014-2021) aiming to familiarize the Latvian Probation Service with such solutions as electronic monitoring, mediation and to promote practices ensuring desistance from crime – especially among juvenile offenders.<sup>17</sup>

According to data of the State Probation Service of Latvia (SPS), who is responsible for implementing electronic monitoring, Latvian system currently utilizes radio frequency (RF) and global navigation satellite system (GNSS) technologies. The electronic monitoring system is provided by SuperCom LTD under a contract valid until June 5th, 2026 (earlier: SuperCom Limited; contract till 2020). SPS rents 85 RF base stations, 97 RF tags, and 5 GNSS device sets. The terms of contract allow for these numbers to be increased by 10 RF and 10 GNSS devices. Electronic monitoring is utilized in cases of early release from imprisonment, utilizing a back-door model to facilitate reintegration.

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<sup>17</sup> See <https://eeagrants.org/news/introducing-alternatives-imprisonment> [accessed: 10.05.2024].

The duration of monitoring for each individual is decided by the court and can range from 1 to 12 months. Upon a court decision to release a person under electronic monitoring, the person becomes a client of SPS and must appear at an SPS office within three working days. After the first meeting, SPS attaches the EM tag and install an EM device at the client's residence within one working day. Said installation is carried out by SPS supervision officers with remote assistance from the EM center, which operates 24/7 to provide continuous oversight and response services.

SPS begins monitoring every client with RF devices. However, if a person receives a written warning due to unfulfilled obligations concerning their location, SPS can make a choice to expand the scope of monitoring with GNSS devices. The frequency of mandatory visits at the SPS office is determined by SPS and depends on the estimated risk and individual needs. The clients under electronic monitoring do not have any specific obligations for more frequent visits than those under other supervision categories. In practice, this averages to approximately two SPS visits per month. SPS officers conduct on-site control visits to the client's activity locations, such as workplaces and other relevant sites, to ensure compliance with the terms of the EM (State Probation Service email consultation).

The key challenge in implementing electronic monitoring in Latvia was the unwilling attitude toward implementing alternatives to imprisonment of both the society at large and the judicial community, as well as an unprecedented level of cooperation with private business in the provision of public services. Questions were raised of how will the courts react? To what extent will the judges rely on information received from this technology? However, after 10 years of utilizing the system, its effectiveness appears close to 95%, encouraging the judiciary to keep using it [Imants, et al. n.d.].

The detailed statistical data concerning electronic monitoring in Latvia are shown in the table below (Table 3):

**Table 3.** Statistical data concerning electronic monitoring in Latvia (since introduction of EM on July 1, 2015, up to May 20, 2024)

Released from prison with EM	EM completed (Total number of clients)	terminated early for exemplary behavior	replaced EM with imprisonment (due to EM obligation breaches)	Success rate	Currently under supervision	Number of clients in a process of EM device installation
548 clients	495 clients	36 clients	21 clients	95%	31 EM clients	1

Source: State Probation Service of Latvia.

To best characterize Latvia's penitentiary system and showcase changes taking place since the fall of USSR, it bears mentioning that the total number of inmates in Latvia exceeds 3,000 people (Table 4) yet the prison population rate decreased by 43% over the past 10 years (Table 5). This might suggest positive outcomes of the changes being implemented in this Baltic state.

**Table 4.** Number of inmates and prison population rates on January 31st 2022

Country	Population of the country on 1st January 2022	Total number of inmates (including pre-trial detainees) [Stock]	Prison population rate
Latvia	1 848 837	3183	172.2

Source: Compiled by the author based on SPACE-I\_2022

**Table 5.** Trends in prison population rates from 2012 to 2022

Country	2012	2014	2016	2018	2020	2022	% change from 2012 to 2022
Latvia	303.0	240.3	212.6	194.6	179.0	172.2	-43.2

Source: Compiled by the author based on SPACE-I 2022.

A research carried out by Ernst & Young Baltic SIA under a contract with the Latvian Prison Administration (IeVP) brought out some interesting data.<sup>18</sup> The research encompassed surveying the prisoners, interviews with state institutions and companies employing the convicts, analyzing the practices utilized in Latvia and comparing them to ones used in Lithuania, Sweden and the United Kingdom. Its ultimate goal was to appraise the challenges arising from having former convicts enter the labor market and comprehensively analyzing the market's reaction to the integration of former prisoners soon after completing serving their sentences.

The research proved that Latvian prisoners enjoy access to a wide selection of educational and resocialization programs and professional counseling provided by the National Vocational Agency (NVA), which could be seen as a positive factor in integrating the former convicts into society and the labor market. However, it also highlighted a number of areas for improvement, such as an insufficient and inadequate quality of the vocational education programs – the employers often had to retrain the former convicts themselves. It was suggested to strengthen the cooperation with educational institutions and the employers offering trainings or employment for the convicts, supporting prisoners facing difficulties in this process and expanding the scope of the educational programs and better equipping the prisons with tools necessary for vocational training.

Another issue concerned insufficient motivation of the prisoners, often-times caused by their psycho-physical state. It was recommended to expand

<sup>18</sup> See <https://www.ievp.gov.lv/lv/media/5385/download?attachment> [accessed: 10.05.2024].

the attempts at identifying issues relating to physical and psycho-emotional health, their appraisal and provision of comprehensive support, including psychological health. Another suggestion concerned introduction of stipends or other grants for prisoners participating in the resocialization programs or increasing the wages of the employed convicts.

Despite some shortcomings, one should generally consider the mere fact of such research being carried out by the State Administrative Institution under the supervision of the Ministry of Justice, seeking new solutions to vocational activation of the prisoners and supporting their postpenitentiary future allows for a positive appraisal of the intentions of Latvian government as it concerns the implementation of comprehensive institutional change in the way and purpose of serving sentences.

In summary, Latvia – similarly to Estonia – intensifies its attempts to bring its penitentiary system into the 21st century. Similar to other former Eastern Bloc countries, it struggles with legacy of the Soviet system whose complete transformation requires changes on legal, political and social levels, as well as major financial and organizational commitment. However, one should generally assume these actions are bringing positive outcomes. The prisons aren't overcrowded, the prison population greatly decreased and the implementation of modern solutions, despite coming with certain trepidations, has proven successful.

However, unlike the system of court oversight that remains in force in Estonia since 1998 [Luhamaa and Ristikivi 2022], the shared work with Canada has allowed the local reformers to create and test probation functions and verify their viability in local communities [Wheeldon 2010].

## CONCLUSION

Up until 1989, the prison systems of Latvia and Estonia were largely isolated from their Western counterparts, forming parts of USSR's penitentiary system. It's difficult to point out the values implemented by the latter, as the totality of socio-political life in the Soviet Union aimed at a total subjugation of the citizens to the system and the Party/state authorities focused on pushing and isolating all individuals (oftentimes ignoring any and all moral principles, including mass crimes against own citizens [Caute 2017] daring to oppose the state-mandated rules, or even merely speak out about their differing ideas.

Following the fall of USSR and regaining their independence, Latvia and Estonia have begun their transformations toward more Western-inspired penitentiary systems focused on resocialization and respect for human rights. From the outset, this task was proved difficult as all countries of the former Eastern Bloc have struggled with a crime rate spike and notable financial troubles making investing in penitentiary systems unfeasible.



Another major issue concerned the social structures – the majority of prison staff consisted of officers trained under the Soviet system. Thus, despite the legal reforms, behavioral patterns formed in the previous decades remained present [Vavokhine 2004]. For sake of comparison, one could quote the statistics from Poland – another country of the former Eastern Bloc undergoing a similar transformation. According to researchers, 60% of Polish Prison Service in the 90s consisted of Soviet-era officers [Biezuński 2015].

Furthermore, the sentiments of Latvian and Estonia societies were rather negative toward the modern solutions introduced by the Ministry of Justice, such as serving one's sentence through electronic monitoring of implementing the Norwegian solutions stressing maintaining positive relations within the prison facilities (as a part of so-called dynamic security). It bears mentioning that both countries work closely with Western countries to implement various programs supporting penitentiary reforms – between 1991 and 2003, Canada funded over 250 projects worth \$CDN 54.9 million in the Baltic states of Estonia, Latvia and Lithuania [Wheeldon 2009]. A programmatic focus for Canada centered on human rights, democratic development, and good governance. This included reforming criminal and penal codes, training and technical assistance, and broader capacity development in order to transition the former Soviet 'command and control' style toward one resembling international norms and standards [Wheeldon 2010].

In summary, both Estonia and Latvia have made great strides to reform their penitentiary systems, implementing both legal and socio-political solutions. While these new solutions remain imperfect and the overall incarceration rates are still relatively high, the changes have met positive reception from the international community, including the human rights watchdogs focusing on places of detention.

According to the author, the path Estonia and Latvia took to transition from the Soviet system to the current state of their penitentiary systems enable the claim that the changes weren't a mere facade, but rather a profound change and that these states can be described as having fully westernized correctional systems.

This is of utmost importance taking into account Europe's current security situation, the attempts of the Russian Federation to undermine unity within the European Union, Putin's speeches concerning a return to the Soviet Union and returning questions of whether we're embroiled in another Cold War. It is therefore very important for the EU members, especially the Eastern European states, to not only clearly declare who their allies are but also share the Western values in many areas, including the penitentiary systems.

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