

ALTERNATIVES TO PRISON IN EUROPE

Spain

Mónica Aranda Ocaña

European Prison Observatory. Alternatives to detention



With financial support from the
Criminal Justice Programme of
the European Union



ALTERNATIVES TO PRISON IN EUROPE

Spain

Mónica Aranda Ocaña

European Prison Observatory. Alternatives to detention



With financial support from the
Criminal Justice Programme of
the European Union



ANTIGONE
EDIZIONI

ALTERNATIVES TO PRISON IN EUROPE. Spain

Mónica Aranda Ocaña
Antigone Edizioni
Rome, October 2015

ISBN 978-88-98688-18-0



Alternatives to prison in Europe. Spain by Mónica Aranda Ocaña is licensed under a [Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Unported License](https://creativecommons.org/licenses/by-nc-nd/3.0/).

Associazione Antigone Onlus

Legal residence: Via della Dogana Vecchia, 5 – 00186 Roma
Tel. +39 064511304
segreteria@associazioneantigone.it
www.associazioneantigone.it

European Prison Observatory

Project staff: William Aloskofis, Mónica Aranda Ocaña, Roberta Bartolozzi, Federica Brioschi, Marie Crétenot, António Pedro Does, Omid Firouzi Tabar, Patrizio Gonnella, Catherine Heard, Anhelita Kamenska, Dimitris Koros, Nikolaos Koulouris, Kristīne Laganovska, Barbara Liaras, Ricardo Loureiro, Cécile Marcel, Susanna Marietti, Athanassia Mavromati, Will McMahon, Helen Mills, Michele Miravalle, Mauro Palma, Grazia Parisi, Artur Pietryka, Adam Ploszka, Nuno Pontes, Jose Ignacio Rivera Beiras, Daniela Ronco, Alessio Scandurra, Sofia Spyrea, Giovanni Torrente, Jean-Luc Untereiner, Francesca Vianello, Sofia Vidali, Esme Waterfield.

www.prisonobservatory.org



With financial support from the
Criminal Justice Programme of
the European Union

This publication reflects the views only of the author, and the European Commission cannot be held responsible for any use which may be made of the information contained therein.

INDEX

THE EUROPEAN PRISON OBSERVATORY	7
ALTERNATIVES TO DETENTION IN EUROPE	7
PART ONE. GENERAL DATA.....	9
Imprisonment and alternatives to custody: an overview	9
Probation practices.....	12
Procedural guarantees	17
Staff	18
PART TWO. SPECIFIC PROGRAMS.....	21
Alternatives to pre-trial detention	21
Alternative sanctions.....	22
Alternatives during execution	30

THE EUROPEAN PRISON OBSERVATORY

The European Prison Observatory is a project coordinated by the Italian Ngo Antigone, and developed with financial support from the Criminal Justice Programme of the European Union.

The partner organizations are:

Università degli Studi di Padova - Italy

Observatoire international des prisons - section française - France

Special Account of Democritus University of Thrace Department of Social Administration (EL DUTH) - Greece

Latvian Centre for Human Rights - Latvia

Helsinki Foundation for Human Rights - Poland

ISCTE - Instituto Universitário de Lisboa - Portugal

Observatory of the Penal System and Human Rights - Universidad de Barcelona - Spain

Centre for Crime and Justice Studies – United Kingdom

The European Prison Observatory studies, through quantitative and qualitative analysis, the condition of the national prison systems and the related systems of alternatives to detention, comparing these conditions to the international norms and standards relevant for the protections of detainees' fundamental rights.

The European Prison Observatory highlights to European experts and practitioners 'good practices' existing in the different countries, both for prison management and for the protection of prisoners' fundamental rights.

Finally it promotes the adoption of the CPT standards and of the other international legal instruments on detention as a fundamental reference for the activities of the available national monitoring bodies.

www.prisonobservatory.org

ALTERNATIVES TO DETENTION IN EUROPE

Various international recommendations on community sanctions and measures promote the use of alternatives to imprisonment in order to reduce recidivism and the prison population. At the same time, legislators, academics and public administration members within the EU know that imprisonment is not the only way to balance security needs and social justice, and every Member State has implemented alternatives to imprisonment systems, with their own rules, organisational set-up and procedures.

The “European Observatory on Alternatives to Imprisonment” project aims to create a functional network of partner countries, in order to reduce the disharmony and gaps among the systems.

The main goal of the project is to provide, in a comparative way, a comprehensive picture of alternatives to detention in force within each partner country. These pictures would enable us to identify those alternative measures to detention that have led to:

- a decrease in detention rates
- the application of rehabilitative programs

To do so, starting from historical analysis, the project's objective is to compare the legal framework of the systems, their goals, the contents of the measures and their impact on the penitentiary system as a whole.

PART ONE. GENERAL DATA

Imprisonment and alternatives to custody: an overview

Political climate regarding prison numbers since 2000

The political climate regarding prison numbers since 2000 has been a steady increase in the prison population up to 2010 when a reform of our Penal Code emphasizes the need to continue providing more importance to development of alternatives measures to short sentences imprisonment. The implementation of alternatives measures was, with other, one of the government strategies to reduce or control prison numbers. In order to do it, measures were also introduced to facilitate access to third grade prison and to access to parole.

Reforms to alternatives to detention since 2000

In 1995 our Penal Code introduced as a penalty the Community Service. After the reform proposal by Organic Law 15/2003, the Community Service was consolidated as a way of enforcement experiencing a huge growth as a result of the changes on road safety and crimes against gender violence proposed by Organic Law 15/2007. Stressing that the reform of the Penal Code made in 2010 emphasizes, as I said before, the need to continue providing more importance to the development of alternatives to short sentences imprisonment.

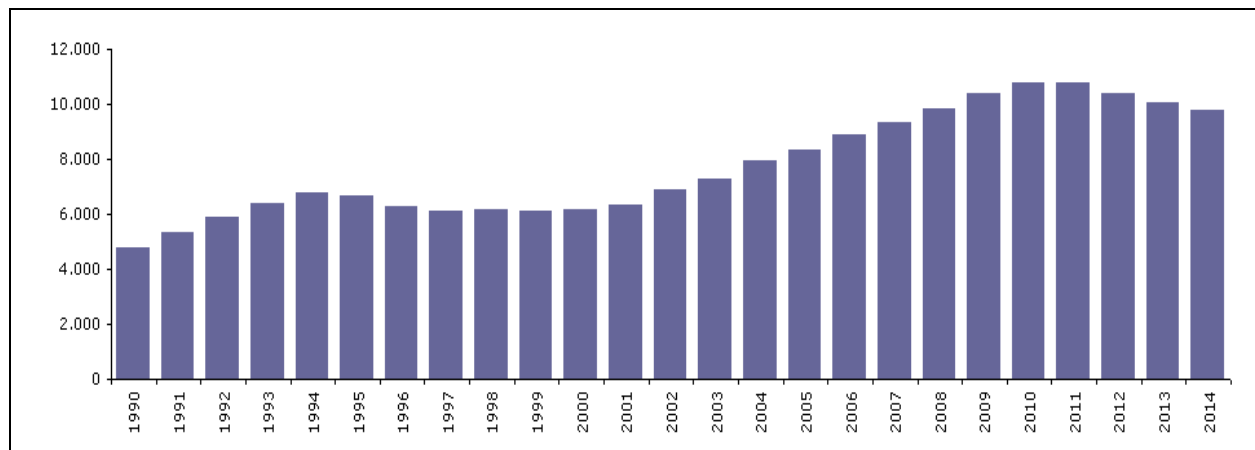
The 1995 reform also changed the measure of Suspension of execution of sentence, increasing its scope to imprisonment up to two years, extending the special mode of drug addicts and alcoholics to 3 years, which has increased to five after the reform made by the Organic Law 15/2003, and finally introducing the figure of the exceptional modality for sentenced seriously ill with incurable diseases, without limitation point to the quantity of the sentence, with the only exclusion of commission of offense during probation granted under this same exceptional mode.

The penalty weekend arrest has been suppressed by the Organic Law 15/2007 of 25 November, replacing it by Permanent Location.

Total prison population (flow and daily rate) between 2000 – 2014: Catalonia

2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
6095	6287	6825	7246	7867	8271	8820	9283	9792	10352	10741	10702	10348	10009	9734

Source: http://www.gencat.cat/justicia/estadistiques_serveis_penitenciaris/1_pob.html

**Total prison population (flow and daily rate) between 2000 – 2014: Spain**

2000	45.104
2001	46.594
2002	50.537
2003	54.497
2004	58.655
2005	60.707
2006	63.248
2007	65.812
2008	70.465
2009	75.774
2010	76.108
2011	72.564
2012	70.126
2013	68.440
2014	65.020

Source: <http://www.institucionpenitenciaria.es/web/portal/administracionPenitenciaria/estadisticas.html>

Prison population rate per 100,000 population (based on the daily rate prison population 2000 – 2014): Catalonia

2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
97,0	100,7	106,4	110,6	118,8	118,7	125,7	130,3	136,5	140,8	140,7	139,9	133,5	113	123,04

Source: http://www.gencat.cat/justicia/estadistiques_serveis_penitenciaris/1_pob.html

Prison population rate per 100,000 population (based on the daily rate prison population 2000 – 2014): Spain

2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
114,5	116,0	123,7	131,2	139,6	142,0	146,4	152,3	163,3	166,9	162,0	147,8	147,8	144	141,16

Number of pre-trial detainees¹ and as a percentage of the prison population (based on the daily rate prison population 2000 – 2014): Catalonia

2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
*	*	1425	1352	1608	1624	1922	2134	2259	2210	1957	1951	1769	1529	1327
		20,44%	18,23%	19,87%	19,55%	21,43%	22,71%	22,48%	21,00%	18,60%	18,56%	17,58%	15,57%	14,28%

Source: http://www.gencat.cat/justicia/estadistiques_serveis_penitenciaris/3_pob.html

Number of pre-trial detainees² and as a percentage of the prison population (based on the daily rate prison population 2000 – 2014): Spain

2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
*	*	*	*	*	*	15.065	16.137	17.849	15.580	13.837	12.148	10.938	9.292	8.595
						25,87%	26,23%	26,40%	22,26%	20,30%	18,64%	17,26%	15,06%	13,22%

Source: <http://www.institucionpenitenciaria.es/web/portal/administracionPenitenciaria/estadisticas.html>

*Not available data

Number and proportion of the total prison population (based on the daily rate prison population 2007 – 2014) by length of sentence (e.g. less than 6 months; 6 months to less than 12 months; 12 months to less than four years; 4 years plus; other)

less than 6 months, 6 months to less than 12 months, no prison: Catalonia

2007	2008	2009	2010	2011	2012	2013	2014
360	462	550	1439	1409	1554	1407	577
4,95%	5,93%	6,55%	14,98%	15,34%	17,27%	15,98%	14,98%

Source: http://www.gencat.cat/justicia/estadistiques_serveis_penitenciaris/2_condemna.html

12 months to less than five years: Catalonia

Years	2007	2008	2009	2010	2011	2012	2013	2014
1-2	468 6,44%	583 7,48%	629 7,49%	705 7,34%	683 7,43%	681 7,57%	760 8,63%	646 16,77%
2-3	778 10,70%	810 10,40%	868 10,34%	998 10,39%	911 9,92%	856 9,51%	824 9,36%	729 18,93%
3-5	1018 14,00%	1078 13,84%	1128 13,44%	2116 22,03%	2038 22,18%	1916 21,29%	1830 20,79%	1899 49,31%

Source: http://www.gencat.cat/justicia/estadistiques_serveis_penitenciaris/2_condemna.html

¹ In this grid, the term “pre-trial” refers to those awaiting for the first instance.

² In this grid, the term “pre-trial” refers to those awaiting for the first instance.

5 years plus: Catalonia

Years	2007	2008	2009	2010	2011	2012	2013	2014
5-10	2936 40,37%	3132 40,21%	3406 40,58%	2592 26,99%	2475 26,94%	2322 25,80%	2314 26,28%	2369 29,72%
10-15	978 13,45%	1018 13,07%	1055 12,57%	998 10,39%	965 10,50%	935 10,39%	930 10,56%	972 12,19%
15-20	377 5,18%	381 4,89%	428 5,10%	435 4,53%	412 4,48%	441 4,90%	456 5,18%	486 6,10%
20-30	251 3,45%	235 3,02%	239 2,85%	245 2,55%	229 2,49%	223 2,48%	222 2,52%	229 2,87%
+ 30	106 1,46%	91 1,17%	90 1,07%	76 0,79%	66 0,72%	71 0,79%	61 0,69%	65 0,82%

Source: http://www.gencat.cat/justicia/estadistiques_serveis_penitenciaris/2_condemna.html

Number and proportion of the total prison population (based on the daily rate prison population 2000 – 2005) by length of sentence (e.g. less than 6 months; 6 months to less than 12 months; 12 months to less than four years; 4 years plus; other): Spain

	2000	2001	2002	2003	2004	2005
6 months-4 years	51.442 52,22%*	51.363 52,49%	53.956 52,88%	61.634 51,37%	62.384 46,53%	48.747 37,80%
4-10 years	1.512 1,53%	1.641 1,67%	1.776 1,44%	1.767 1,47%	1.731 1,29%	1.705 1,32%
10-20 years	159 0,16%	206 0,21%	256 0,25%	269 0,22%	274 0,20%	233 0,18%
20-25 years	24 0,02%	14 0,01%	19 0,01%	17 0,01%	14 0,01%	15 0,01%

Source: <http://www.ine.es/jaxi/menu.do?type=pcaxis&path=/t18/p466&file=inebase>

*Own calculations based on official data

Probation practices

Do alternatives to detention develop skills and social inclusion of the offenders?

All the programs and measures should promote the potentials, capacities and skills punished to increase the level of social competence and improve the quality of life of the convicted. The intervention of the professional work is part of regular coordination with community resources in the immediate environment, because through this same community can support the convicted. The active participation of the community in institutional and human resources is a key element to ensure the proper socialization of the convicted.

In the case of Community Service, the offender is obliged to render assistance unpaid in certain activities of public interest, which may include to repair on the damage caused or to support

victims as well as participation in workshops or education training or retraining, labor, cultural, traffic, sexual and similar (Article 49 of the Penal Code).

Are alternative measures free of stigmatizing features?

Yes

Are probation programs individualized?

Each prisoner has assigned a delegate of implementation of the measure. Responsible for the evaluation and submit it to the competent court is designated a delegate implementing measures in each case, therefore, this professional is not only a transmitter of information, but acts as a interlocutor with the judicial and he can articulate and channel the different demands and he propose changes that allow better suit injunction objectives of the intervention and vice versa.

So, the Work Plan is individualized but we must say that there's a problem before it. The Judge hasn't any legal obligation to demand one technical or expert report that can inform on the most appropriate measure for the subject. Just in exceptional cases this report is demanded by Judge. So, sometimes the measure isn't the best solution to the convicted and it's a real problem for the probation agents who must develop an individualized Work Plan inside the measure decided by the Judge. One example is when the Judge decides one training program for one person who can't understand the language.

Is the progress of the offender evaluated in the course of the measure's implementation?

Programs follow a continuous assessment what is going to inform the judicial authority. The delegate assigned, depending on the assessed risk, will develop an assessment to differing degrees:

- ordinary: every month
- low: every 3 months
- intense: every 15 days

The information to judicial authority is carried out:

- Community Service: just at the beginning and to the end (unless some incident occurs)
- Security Measures: every 6 months

In National level, once the Administration received the warrant or court order execution proceeds to cite the offender to prepare the execution plan performing the assessment of the case to determine the most appropriate activity. However, the Administration will hear the activity that the offender proposed.

The General Department of Punishment and Alternatives Measures has the figure of the "checkers conviction" that handles visits to the entities collaborating with the administration in implementing these penalties. Its work is intended to ensure that the offender is serving the sentence effectively and to inform and to advise to the entities for any questions they may have as

a collaborating entities. They also report any irregularities they observe in the development of their visits.

During the execution of the sentence, the Public Administration or the Private Entity to develop the activity of public utility and which has facilitated the work to the offender it must regularly inform to the General Department of Punishment and Alternatives Measures about the activity that the offender develops and the relevant incidents during development implementation plan and the ending (all in accordance with Art. 7 of RD 840/2011, of June 17).

Is the plan of work reviewed according to this evaluation? Are there possibilities to change its content in the process of implementation?

The Plan of work can be reviewed according to the evaluation but not the Measure because the measure has been pronounced in a judgment by the judge.

The judge cannot incorporate new measures; it will always be a proposal of the delegate and with the voluntariness of the convict.

Is a final evaluation carried out at the end of the supervision period?

Yes.

Do workers in alternatives to detention have the same rights and safeguards as other workers?

Yes, but Community Service is not a formal work activity, so the Administration pays social security costs while the convict develops the activity, but expenses for contributions, pensions are not included. Exclusively occupational risks are covered.

Supervision model adopted in alternative measures (e.g. control-oriented, assistance-oriented...)

It's a combination of control and assistance. Each convicted has designated one Delegate who must:

- Ensure compliance with the appropriate penalties, measures and / or obligations.
- Stay informed the competent judicial (judge / court) on compliance and the evolution of the measure.
- Encouraging social integration of the person who won, by monitoring and socio-educational support.
- Develop a resourcing Socio-suited to the needs of the population served.
- Involve and sensitize the community in the process of implementing alternative penal measures.

Each delegate will take:

- For Community Service: near 75 convicts
- Other measures: up to 50 convicts.

Does the probation system offer aftercare services?

Delegate can suggest programs inside the social public services.

Do foreigners have any limits to serve alternatives to detention? Are there specific provisions for them?

No. The provisions are the same as for nationals. In practice there are issues that hinder measures. For example: To register in the Social Security to a condemned to Community Service it needed one ID card and most of them don't have this document. If you register this convicted an expulsion process begins. Other questions are a problem too: language, social support network....

Are there any gender specific programs?

This is a transversal issue. The criteria established by the Institute for Women oriented bases of the intervention.

Are the victims of crime involved in the alternatives to detention programs? If yes, which is their role in these programs?

No, it is not expected to engage the victim in any way within the scope of the measures, but it will take into account in the possible measures to be taken in such cases of restraining orders, for example.

Do probation services offer, directly or indirectly, support council or information to families of offenders?

The participation of the family will depend on voluntary of the family and it depends on the measure: for Community Service is meaningless, for some security measures (internment in specialized centers) it's important the collaboration of the family.

Are there specific restorative justice programs?

Yes, but it's important to say that there isn't any legal context but there isn't forbidden neither. In Catalonia, the General Sub-Direction maintains a protocol with more than 100 courts, but 95% is done before sentencing, mostly in faults.

Actually, it's been developed one experience inside the Juvenile Prison.

Does the probation service give a systematic feedback about the effectiveness of the alternatives to prison to the general public? How is the information shared?

All the data about the probation service are public data in the web.

Are there systematic research projects concerning the alternatives to imprisonment and, if so, who carries them out?

Yes.

Actually the Catalan Administration is developing a project which wants to update the data about recidivism for Alternatives Measures.

In the Justice Department of Catalonia a research organism exists: Center for Studies and Specialized Training. This organism develops its own researches and it provides financial assistance for research by other external organism. It finances near 2-3 researches every year.

Probation total budget in 2014 and historical series since 2000: Catalonia

Collaborating entity				
ANY	IRES	APIP	INTRESS	Total
2003	629.760,00			629.760,00
2004	696.637,66			696.637,66
2005	1.092.938,07			1.092.938,07
2006	2.299.999,60			2.299.999,60
2007	3.046.974,33			3.046.974,33
2008	4.210.517,62			4.210.517,62
2009	4.522.147,84			4.522.147,84
2010³	2.042.150,33	1.911.259,90	1.269.765,00	5.223.175,23
2011	1.597.920,00	2.287.200,00	1.523.718,00	5.408.838,00
2012⁴	1.486.065,60	2.127.096,00	1.417.057,74	5.030.219,34

For 2013 and 2014 the budget was the same than for 2012.

Probation total budget in 2014: Spain

TOTAL CS	Nº DESTINATIONS ⁵	Nº TASKS ⁶
ENTITIES WITH AGREEMENT	997	11041
ESTITIES WITHOUT AGREEMENT	3047	5234
ONGs./ ENTITIES ⁷ WITH AGREEMENT	478	4534
ONGs./ ENTITIES ⁸ WITHOUT AGREEMENT	3072	4465
Prisons/ADMINISTRATION	172	5169
OTHER PUBLIC ADMINISTRATIONS: NATIONAL AND AUTONOMIC WITH AGREEMENT	117	1553
TOTAL	7883	31996

³ IRES APIP INTRES March – December, + IRES extension Agreement January-February

⁴ contract reduction in 7%

⁵ Collaborating entities.

⁶ They are the different Works to develop by offenders.

⁷ Asociation; Foundations; any private entity with social interest.

⁸ Asociation; Foundations; any private entity with social interest.

Procedural guarantees

Probation agencies should respect the human rights of offenders. All their interventions shall have due regard to the dignity, health, safety and well-being of offenders. Have there been cases of discrimination (sexual, religious, racial, political, etc.)?

No, their actions are guided by the minimum standards on probation of the European Council. Not be Known Allegations of discrimination.

Do probation agencies always seek the offenders cooperation and collect their informed consent?

The informed consent is granted at the time of the judgment. When a Community Service is agreement with an entity, this entity must sign one compromise document with the delegate and the convicted.

In fact, before any alternative measure starts its application the offenders must sign the document so called “ Sheet of acceptance of standards of compliance with the alternative penal measures”. This document contains a description of the obligations and rights.

If probation agencies carry out interventions before the establishment of the offender’s guilt, do they require the offender’s informed consent? Are their interventions without prejudice to the presumption of innocence?

Yes.

Are the task and responsibility of the probation agencies and their relations with the public authorities and other bodies defined by any national law?

The relations between public authorities and other bodies (entities) there isn’t a Law about it, sometimes the Administration has general agreements with the entities and sometimes there’s a particular agreements. When we have a relationship to provide services legislation it is common to that of public procurement.

How is the offenders' privacy guaranteed? How is the data protection of case records guaranteed to the offenders?

Some data of the convicted are reported to the entities where they’re going to develop their programs. The entity must appoint a person who will be the main contact and he/she will be the only person with access to these data. The entity cannot identify the convicted as the person who is developing an alternative measure for the rest of the members. When the measure is finished the entity must destroy the information.

The Administration must save the information for ever but it has different files according to the time elapsed:

- 1) Active file: each unit must save the information up 5 years, then it must move to
- 2) Departament file: during 10 years more or less, then it must move to
- 3) General Archives: for ever

In national level, the data of the offenders are discharged in computer files of the Home Affairs. It was adopted the appropriate measures for their adequate protection under the provisions of Law 15/1999, of December 13, Protection of Personal Data. Likewise, it is informed to the collaborating entities about the confidential nature of the data of the offenders and that is not being able to use them beyond the purpose for which they were supplied (execution of a sentence).

Are there accessible, impartial and effective complaint procedures regarding probation practice?

Complaints are filed with the Inspection Service, a service that is shared with prisons.

Are the probation agencies subjected to regular government inspection and/or independent bodies monitoring?

Parliament can control the activity of the probation agencies at the request of the Commission of Justice or at the request of the Plenary, it's possible parliamentary questions too.

The Probation agencies are subjected to the inspection of the Ombudsman and the Commission of the Council of Europe.

Staff

Number of probation officers in 2014, and the historical series since 2000;

Catalonia: from 2000 to 2003 in the territories of Girona, Lleida, Tarragona and Terres de l'Ebre, technicians open environment juvenile justice alternative measures also led to the ordinary courts. And from 2003 to 2010 the social workers of the Commissions penitentiary assistance did it combining it with other tasks.

Since 2010 to date there are 100 professionals delegates working on alternatives measures (aprox.)

Number of cases followed by each probation agent

Catalonia: For Community Service the cases followed by each probation agent are 75; for Training Programs or Security Measures the cases followed bay each probation agent are near 50, with a maximum of 60.

Recruitment procedures

In Spain, they are the administrative units entrusted with the execution of alternative sentences and measures. They depend organically and functionally on a prison or a Social Insertion Centre. The staff assigned to these units is formed by psychologists, educators, technicians, office staff and social workers. They work in multidisciplinary teams, directed by a Chief of the Service. Up to 2013, there were 55 existing Services.

In Catalonia, the recruitment procedures are based in the recruitment system of public administration, by education level.

The Administration does not directly hire but tender of third sector organizations who manage each part of the program. The Administration just defined profiles.

Initial qualification required and ongoing training

The initial qualification required is a university degree in social studies. Each entity is required to have annual training hours. This training must be pursuant with the Administration.

Relationship between the probation service and the prison service

The relationship between the probation service and the prison service isn't very close because workers of probation service don't participate in any aspect of the imprisonment. The monitoring of parole or final release is done by the penitentiary social services.

There's a relationship just in some security measures as the Psychiatric detention when it's performed in penitentiary institution.

Regarding the possibility of probation after-care, there's a legal confusion because it isn't clear who must assume the monitoring of it.

Relationship between the probation service and the judiciary

The relationship between probation services with the judiciary is of compliance and information, it depends on the measures. This relation is marked by the principle of temporality with a maximum of time specified in the judgment. When the time is over the probation service can't ask for more time to work with the convicted.

Relationship between the probation service and the general social services

The Royal Decree 8402011, which regulates, among other penalties, Community Service, establishes that Community Service will be facilitated by the State, regional or local Administration. To this end, the necessary agreements can be signed among different administrations, or with public or private entities in charge of public utility activities, which have to send a monthly list of the posts that are available in their territory.

This relationship is when the delegate considers necessary a concrete measure and convicted consent but always the delegate will be the person performing the monitoring of the measure.

Is the number and the remuneration of probation officers adequate to their tasks?

About the number, during 2008-2009 a reform of the penal legislation respect crimes against safety road provoked an increase of 300% in the number of claims to run. The Administration decided to contract more workers. Actually, the situation is stabilized after a new reform of these crimes at the end of 2009.

About remuneration, although the recruitment is done directly by the collaborating entities the administration watches over that remuneration is commensurate with the respective collective agreement. The Administration considers that the main problem in this aim is the lack of social recognition, visibility of their work and prestige.

Is the expertise and experience of probation agencies used in developing crime reduction strategies?

No.

PART TWO. SPECIFIC PROGRAMS

Alternatives to pre-trial detention

In Spain there aren't alternatives to pre-trial detention.

Total number of people in pre-trial detention in 2013, historical series since 2000 and rate per 100,000 population

Spain

Year	Total number	Rate per 100.000
2013	9.292	20
2012	10.938	23
2011	12.148	26
2010	13.837	29
2009	15.580	33
2008	17.849	39
2007	16.137	36
2006	15.065	34
2005	13.720	31
2004	13.112	30
2003	12.276	29
2002	11.810	28
2001	*	*
2000	9.084	23

Sources⁹

*No data available

⁹ Spanish Government,

<http://www.institucionpenitenciaria.es/web/portal/documentos/estadisticas.html?r=m&adm=TES&am=2006&mm=12&tm=PREV&tm2=PREV>, visited on 15.11.14

National Statistics Institute: Institute,

<http://www.ine.es/jaxi/menu.do?type=pcaxis&path=%2Ft20%2Fp321&file=inebase&L=0>, visited on 15.11.14

European criminal bar association, "An analysis of minimum standards in pre-trial detention and the grounds for regular review in the Members States of the EU",

<http://www.ecba.org/extdocserv/projects/JusticeForum/Spain180309.pdf>, visited on 15.11.14

International Centre for Prison Studies, <http://www.prisonstudies.org/country/spain>, visited on 15.11.14

Catalonia

Year	Total number	Rate per 100.000
2013	1.529	20
2012	1.769	23
2011	1.951	26
2010	1.957	26
2009	2.210	29
2008	2.259	31
2007	2.134	30
2006	1.922	27
2005	1.624	23
2004	1.608	24
2003	1.352	20
2002	1.415	22
2001	1.255	20
2000	*	*

Source¹⁰

*No data available

Alternative sanctions¹¹Alternative sanctions from the legal point of view

The alternative measures in Spain by the legal point of view are:

Suspension (articles 80 to 87 Penal code + Royal decree 840/2011, 17th June): for sentences up to two years; if it's the first crime and with the possibility of the fulfilment of other obligations. It's possible for an inmate with serious illness with incurable diseases, it isn't necessary to fulfil requirements, and it cannot be used when the inmate has already suspended sentence for the same reason. If the crime was committed because of his dependence on drugs and for sentences up to 5 years, only if the convicted is under detoxification programs.

Substitution (articles 88 and 89 Penal code + Royal decree 840/2011, 17th June):

- 1) FINE: sentences up to 1 year; 1 day prison: 2 shares
- 2) COMMUNITY SERVICE: sentences up to 1 year; 1 day prison: 1 day work
- 3) PERMANENT LOCATION: sentences up to 6 months; 1 day prison: one day location
- 4) For FOREIGNERS: sentences up to 6 years; substitute expulsion or prohibition to come back in 5 to 10 years; It's necessary to be in third degree of treatment and to have completed ¾ of the sentence.

¹⁰ Government of Catalonia,

http://www.gencat.cat/justicia/estadistiques_serveis_penitenciaris/3_pob.html , visited on 15.11.14

Catalonia Statistics Institute: <http://www.idescat.cat/es/> , visited on 15.11.14

¹¹ Those established by the judge as main sanction during the trial

Both in the case of the suspension and substitution (substitution) the sentence can influence the extent of to the fulfilment different rules of conduct. These rules of behavior are:

- Prohibition on going to certain places,
- Prohibition on approaching or communicating with the victim, family members or people who are determined,
- Prohibition on leaving the place of residence,
- Personal appearance in court or police station or,
- Participation in training, employment, cultural programs, driver education, sex, defense of the environment, protection of animals and other like them.

Security Measures: For not indictable persons, the imprisonment will be substituted by the internment in:

- 1) Psychiatric hospital;
- 2) Special education centre;
- 3) Detoxification centre.

Judicial authority responsible for the establishment of the measures

The Judicial authority is the Judge who has given judgment

Alternative measures in detail

Suspension

Content

It is to suspend for a time the fulfilment of certain prison penalties and it's determined to follow a treatment to (addiction to alcohol, toxic drugs, narcotics, psychotropic substances or others that produce similar effects) mental health training programs or other duties.

Purpose or official goal of the measure

The program should promote the potentials, capacities and skills punished to increase their level of social competence and improve their quality of life. The intervention is part of the professional work of regular coordination with community resources in the immediate environment, because through these same community and can support punished. The active participation of the community in institutional and human resources is a key element to ensure the proper socialization punished.

Relations between the public and the private sector in managing the measures

In this case, the Justice Department has community resources, both for the Network psychiatric and mental health of Catalonia as regards the Network of attention in drug addiction. Only the private sector participates in the measure if that the convict can pay it.

Impact of measures on the recidivism rate

Regarding the recidivism rate, only data for Catalonia are available. Tthe data is for 2006 and it was 16%, It is running a study which will be published in late 2015.

Substitution

Content

It aims to avoid internment replacing short-stay prison sentences up to one year to work in community service or a fine (exceptionally also be replaced prison sentences up to two years).

Purpose or official goal of the measure

- 1) Ensure compliance with formal alternative forms of custodial sentences.
- 2) Develop contents of accountability and socialization of the intervention programs of the alternative forms.
- 3) Ensure a positive development if the prisoner is on treatment of detoxification or if he participates in training programs or other.

Relations between the public and the private sector in managing the measures

In this case, the Justice Department has community resources, both for the Network psychiatric and mental health of Catalonia as regards the Network of attention in drug addiction. Only the private sector participates in the measure if that the convict can pay it.

Security Measures

Content

The security measures consist of monitoring and control of the evolution of the person under treatment continues as the resource specialist, offering both a socio-educational support aimed at social integration. The type of treatment should be adapted to the characteristics of the subject, according to the diagnosis delivered by skilled professionals. The treatment must have a therapeutic purpose and promote progressive integration of the subject to the community. They are imposed when certain pathologies or modifying circumstances of the criminal liability concur (non-imputable or semiimputable persons), or in specially qualified offences. In the latter case we are speaking of a specific type of security measure: monitored freedom.

Purpose or official goal of the measure

- 1) Ensure compliance with formal control of security measure with socio content.
- 2) Ensure a positive evolution of the treatment imposed.
- 3) Develop socio content to facilitate the social integration of the person.

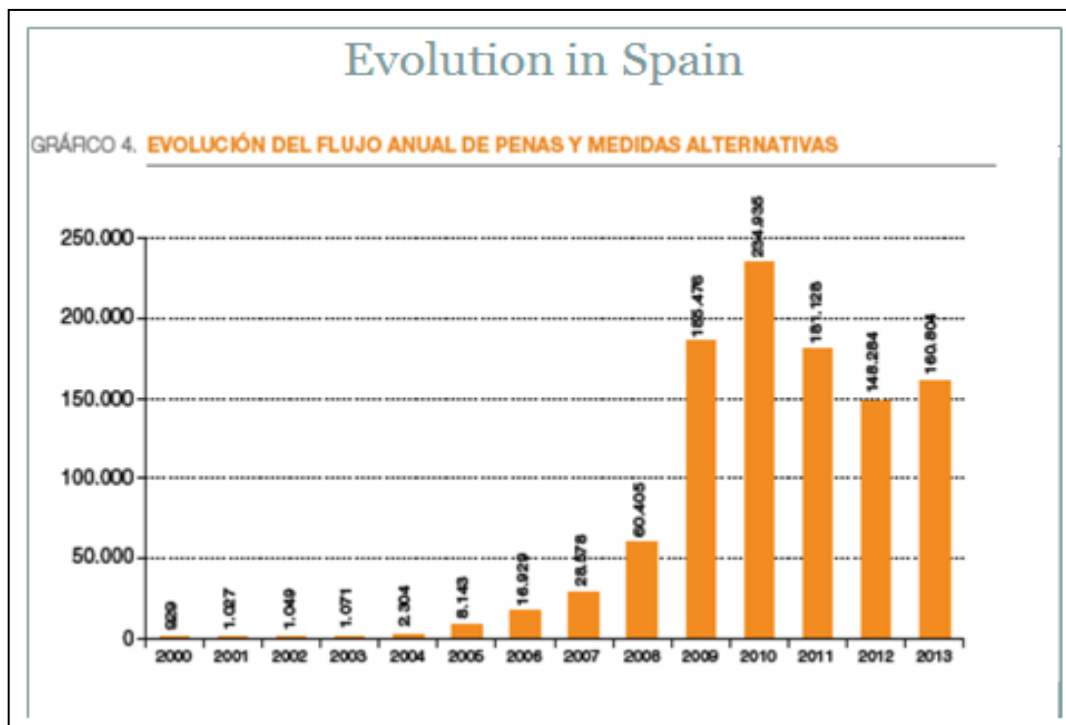
Relations between the public and the private sector in managing the measures

In case that the person has not yet started any treatment, it is the search for suitable resource and referral appropriate to facilitate his incorporation.

Total number of people (flow) serving alternative sanctions in 2014, and historical series since 2000

Spain

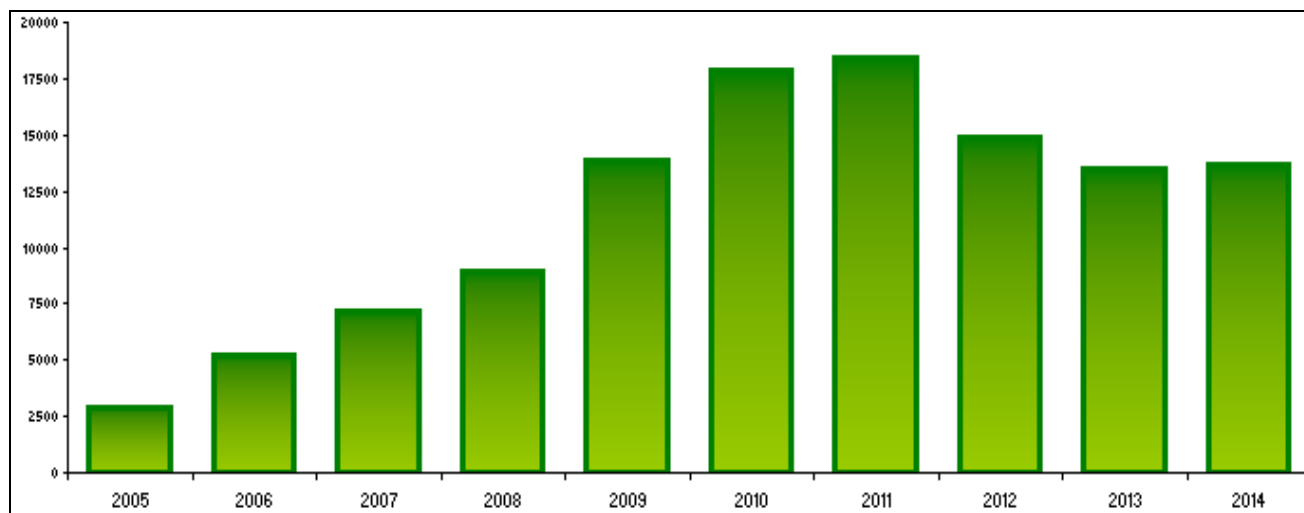
2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
929	1027	1049	1071	2304	8143	16928	25578	60405	183476	234935	181128	148284	160804



Source: Anuario Estadístico del Ministerio de Interior 2013

Catalonia

2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
2.878	5.208	7.194	8.956	13.866	17.895	18.375	14.852	13.483	13.700



Source: http://www.gencat.cat/justicia/estadistiques_mpa/2_pag_MPA.html

The rate per 100,000 population for this period**Spain**

No available data.

Catalonia¹²

2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
29,80	48,33	59,75	68,25	100,38	115,78	91,77	84,29	83,00	89,85

Source: http://www.gencat.cat/justicia/estadistiques_mpa/6_pag_MPA.html

Total number of people (daily rate) in prison serving a final sentence in 2014, historical series since 2000 and rate per 100,000 population for this period**Spain**

Year	Total number	Rate per 100.000
2013	56.103	119
2012	56.109	119
2011	57.440	122
2010	59.251	126
2009	59.518	127
2008	54.746	119
2007	49.943	110
2006	48.073	108
2005	46.368	105
2004	39.133	91
2003	41.940	98
2002	39.451	94
2001	*	*
2000	35.960	89

Sources¹³

*No data available

¹² In Catalonia, all data before 2003 are not computerized. The data between 2003-2005 have not been published.

¹³ Spanish Government:

<http://www.institucionpenitenciaria.es/web/portal/documentos/estadisticas.html?r=m&adm=TES&am=2013&mm=12&tm=EDAD&tm2=EDAD> , visited on 15.11.14

Council of Europe, Annual penal statistics – SPACE I,

http://www.coe.int/t/dghl/standardsetting/prisons/space_i_en.asp , visited on 15.11.14

Catalonia

Year	Total number	Rate per 100.000
2013	8.289	110
2012	8.293	110
2011	8.562	114
2010	8.563	114
2009	8.315	111
2008	7.792	106
2007	7.261	101
2006	7.048	99
2005	6.681	96
2004	6.486	95
2003	6.064	90
2002	5.509	85
2001	5.150	81
2000	*	*

Source¹⁴

*No data available

Daily rate for the period 2000 to 2014, of:**COMMUNITY SERVICE****Spain**

2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
619	615	662	663	1739	6921	13369	22364	46617	161008	209570	156559	121614	134696
66,6% ¹⁵	58,8%	63,1%	61,9%	75,4%	84,9%	78,9%	87,4%	77,1%	87,7%	89,2%	86,4%	82,0%	83,7%

Source: Home Affairs (2014) *Penitentiary System in Spain***Catalonia**

2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
872	1746	2111	2660	5157	6320	4681	4431	4377	4982
30,2%	33,5%	29,3%	29,7%	37,1%	35,3%	25,4%	29,8%	32,4%	36,3%

Source: http://www.gencat.cat/justicia/estadistiques_mpa/10_pag_MPA.html**Revocations distinguishing among technical violation / imprisonment / other**

About revocation in Catalonia the Administration doesn't have these data because the revocation of an alternative measure is competence of the Judge who imposed the measure and he never informs this decision to the administration. There is no legal obligation to make this communication.

There is no information for the rest of Spain.

¹⁴ Catalonia Government, http://www.gencat.cat/justicia/estadistiques_serveis_penitenciaris/3_pob.html, visited on 15.11.14.

¹⁵ For Spain and Catalonia, all the percentages have been made from official data

SUSPENSION AND SUSBTUTION¹⁶

Spain

2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
114	175	217	251	312	789	2787	5184	10281	20718	21746	21569	24987	24865
12,2%	17,0%	20,6%	23,4%	13,5%	9,6%	16,4%	20,2%	17,0%	11,2%	9,2%	11,9%	16,8%	15,4%

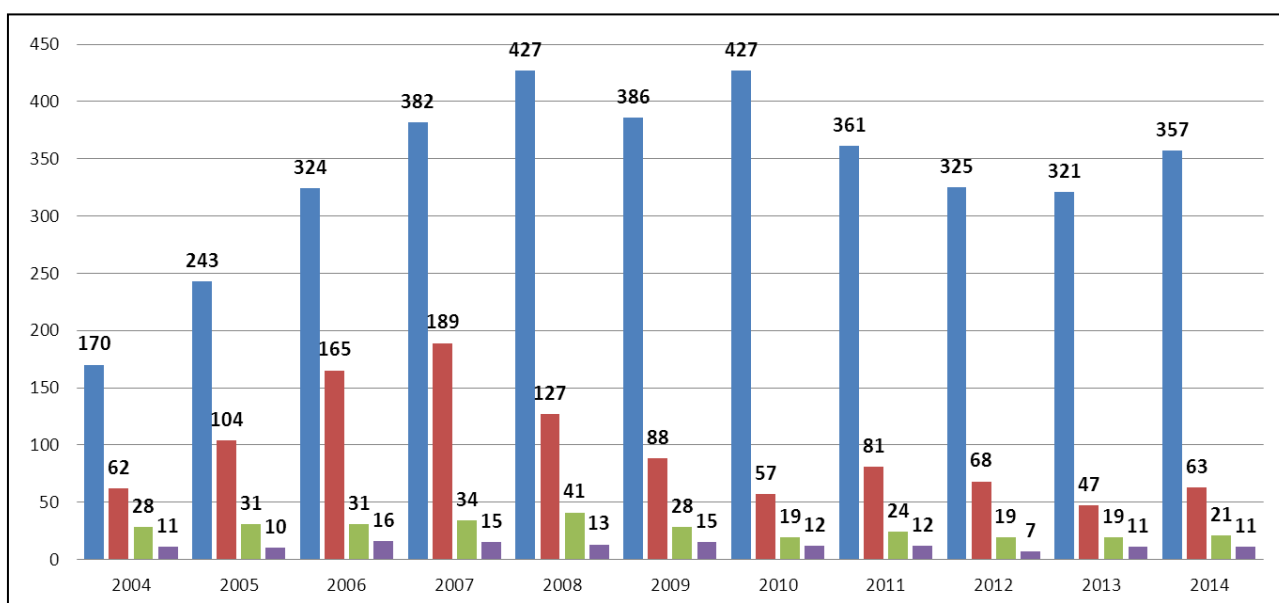
Source: Home Affairs (2014) *Penitentiary System in Spain*

Catalonia

(Obligations)

2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
842	1393	1896	2105	2020	2120	2108	1946	1917	1928
29,2%	26,7%	26,3%	23,5%	14,5%	11,8%	11,4%	13,1%	14,2%	14,0%

Source: http://www.gencat.cat/justicia/estadistiques_mpa/11_pag_MPA.html



Source: Justice Department, Memory 2014

- Obligation: detoxification treatment
- Obligation: fulfillment of duties
- Obligation: appear before the administration
- Obligation: internment for detoxification

¹⁶ Accessible data are sets.

SECURITY MEASURES

Spain

2000-2005: No data available

Year	Men	Women	Total	%
2006	574	38	612	3.6
2007	571	39	610	2.3
2008	598	37	635	1.0
2009	581	38	619	0.3
2010	569	39	608	0.2
2011	560	45	605	3.3
2012	607	48	655	0.4
2013	573	48	621	0.3

Source:

<http://www.institucionpenitenciaria.es/web/portal/documentos/estadisticas.html?r=m&adm=TES&am=2005&mm=12&tm=SITU&tm2=SITU>

Catalonia

2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
471	487	529	520	485	497	437	428	416	350
26,3%	9,3%	7,3%	5,8%	3,4%	2,7%	2,3%	2,8%	3,0%	2,5%

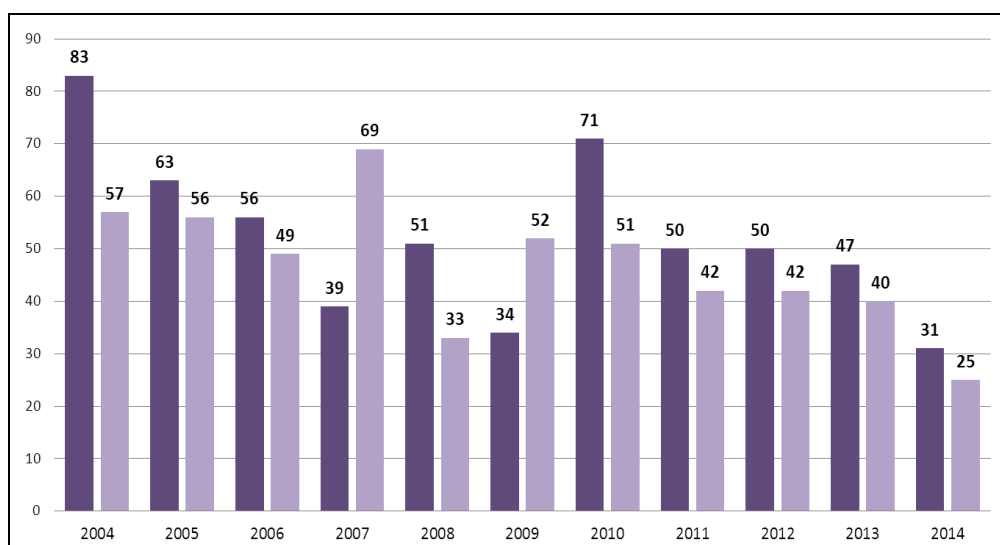
Source: http://www.gencat.cat/justicia/estadistiques_mpa/12_pag_MPA.html

Security Measures: Detoxification Center

Catalonia

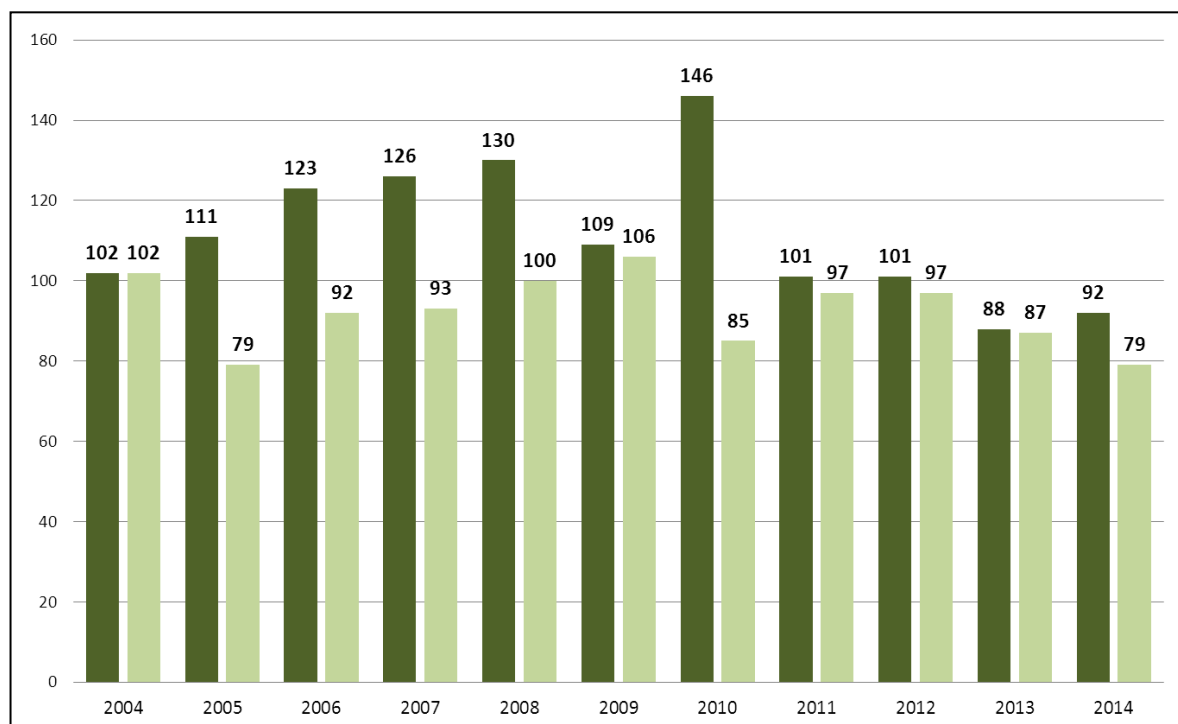
2001	2002	2003
55	68	55

Source: http://www.gencat.cat/justicia/estadistiques_serveis_penitenciaris/9_pob.html



■ Measure: treatment of detoxification

■ Measure: internment in detoxification center



Source: Justice Department, Memory 2014

■ Measure: mental health treatment

■ Measure: internment in psychiatric center

Alternatives during execution¹⁷

Alternatives during execution from the legal point of view

Expulsion (art. 89 Penal Code): For sentences up to 6 years; imprisonment can be substituted for expulsion or prohibition to come back in 5 to 10 years; it's necessary to be in the third degree of treatment and to have completed $\frac{3}{4}$ of the sentence. The expulsion will entail the filing of any administrative procedure for obtaining authorization to reside in Spain. Foreigners may not be returned to Spain within ten years, from the date of his expulsion, and in any case, while it has not prescribed. All this happens except in cases of crimes against the trafficking and exploitation of people. In this last case, foreigners must serve their sentences in Spanish prisons.

Parole: The Criminal Code provides the possibility of processing parole for those sentenced to whom the circumstances set forth in the following articles:

Art.º 90. General Requirements (ranking 3rd. Grade, $\frac{2}{3}$ of the conviction and favorable prognosis of social reintegration).

Art.º 91. Exceptional circumstances to encourage collaboration in the treatment (overtaking possibility of release upon completion of $\frac{2}{3}$ or half of the sentence, in consideration of the merits contracted by participating in continuous and profitable own activities).

Art.º 92. Special circumstances provided for cases of elderly or terminally ill (possible temporary release without prior compliance requirement on humanitarian grounds, difficulty and little

¹⁷ Those established during the execution of the sentence as forms of early release from prison.

danger crime, those punishable by 70 or more years old, as well as seriously ill with incurable diseases).

It is possible to meet parole in the country of origin for foreigners. It is basically a prison initiative, as their only regulation is found in art. 197.1 Penitentiary Regulation. Neither Penal Code nor Penitentiary Organic Law regulate this possibility. Your application will always require the acceptance of foreign national without legal residence and previous ranking third degree treatment. It is usually the standard of conduct set as the prohibition of return prior to completion of the sentence without proper Court approval of the Penitentiary Surveillance and the establish coordination mechanisms between the jurisdiction prison, correctional services and, where appropriate, the forces of security, in order to ensure the effective output Intern National territory. The application is insignificant: During 2008 in Catalonia: 10; Spain: 423

Telematic Control: Art. 86.4 of the Prison Rules allows a specific form of their sentences in open regime, replacing mandatory minimum time staying at the establishment by electronic means or other suitable control systems. The prison administration currently has the following electronic surveillance:

- 1) By bracelets monitoring system for telephone service or via switched network (fixed) or via mobile, through the so-called cell units.
- 2) Voice verification systems, both through fixed telephones on the control sites, or through devices that transmit information using cell lines.
- 3) Continuous monitoring systems internally by GPS technologies that allow the Administration to know the geographical location of the subject at all times, and it establishes areas of mandatory stay or unauthorized access (areas of inclusion or exclusion).
- 4) Mobile monitoring units to control inmates with telematic bracelets in different usual locations (eg the workplace).
- 5) Combined systems of location with telematic systems bracelets with alcohol control remotely.

Judicial authority responsible for the establishment of the measures

Judge Penitentiary Surveillance

Alternative measures in detail

EXPULSION

Content and purpose or official goal of the measure

The replacement of imprisonment by the expulsion from the national territory of non-foreigners legally resident in Spain responds to a criminal policy option that is intended to immigration policy which wants prevent them from staying in Spain or returning to this country who do not have the statutory requirements to legally reside there. But for others authors, their motivation is more for reasons of penitentiary policy - emptying prisons- than a criminal policy aimed at the achievement of a general preventive effect.

PAROLE

Content

Parole is a form of execution of the prison sentence outside the prison, which means the early release of the convicted to fulfill the remaining sentence in the social habitat of belonging.

Thus, on the one hand it verifies the ability of the offender to live in freedom desisting from committing new crimes. And secondly, it is designed as a basic indicator of the effectiveness of penitentiary treatment in the context of implementing a system of scientific individualization oriented rehabilitation and social reintegration.

Purpose or official goal of the measure

This test execution imprisonment in reference environment has two objectives:

- 1) The full reintegration of those who broke the law in the past.
- 2) The contribution to collective security through the certainty derived from favorable prognosis of future behavior.

Relations between the public and the private sector in managing the measures

It is considered a community sentence, insofar as possible the offender access to employment, training and therapeutic activities on an equal conditions as the free citizen, but subject to restrictions on their freedom that are specified in the imposition by Judge of Execution certain conditions (hence its name) and obligations.

TELEMATIC CONTROL

Content

The electronic media are a set of electronic systems Prisons used to control remote presence of people who are in the scope of its powers. All these telematic monitoring systems also enable previously established restrictions on movement that may be appropriate in each case to support social inclusion and citizen security.

Purpose or official goal of the measure

These types of surveillance measures avoid the imprisonment, both inmates in ordinary regime as open regime and for non-dangerous offenders who have not committed serious crime. Also provide that the sentence is fulfilled in the family and social environment, avoiding family breakdown. It also allows the offender to continue their work lives and may well serve the compensation of the victim. The people subject to telematic control not suffer the dissocializing effects of internment in prison.

Total number of people serving alternatives during execution in 2013 and historical series since 2000

Expulsion

Spain

	2006	2007	2008	2009	2010	2011	2012	2013
Replacement judicial deportation of the penalty (less than 6 years' imprisonment. Art. 89.1 of the Penal Code)	1043	803	717	870	930	724	671	579
Judicial expulsion compliance with 3/4 of sentence or third degree (Art. 89.5 of the Penal Code)	52	48	28	59	97	93	143	225
Transfer to country to serving sentence (Strasbourg Convention and other bilateral Agreements)	75	188	192	249	257	181	226	186

Source: Secretaria General de Instituciones Penitenciarias (2013, 2011), *Informe general*

Catalonia

No public data available.

2008: 127 (121 men, 6 women)

Source: http://justicia.gencat.cat/web/.content/documents/arxiu/sc_3_166_10cast.pdf

Parole

Spain

2000	no data
2001	9000 Men: 7673; Women: 1327
2002	6037
2003	5624
2004	5310
2005	5768
2006	5964
2007	no data
2008	no data
2009	no data
2010	no data
2011	8778 Men: 7643; Women: 1135
2012	8387 Men: 7512; Women: 875
2013	7843 Men: 6848; Women: 995

Catalonia

2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
586	629	676	698	800	770	760	846	909	1044	1071	1071

Source: http://www.gencat.cat/justicia/estadistiques_serveis_penitenciaris/9_pob.html

Telematic Control**Spain**

2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
392	847	1386	2114	3215	4868	6669	8636	11002	13690	15889	18121

Source: Secretaria General de Instituciones Penitenciarias (2013), *Informe General*

Catalonia

2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
92	84	99	65	58	58	50	47	22	34	52

Source: http://www.gencat.cat/justicia/estadistiques_serveis_penitenciaris/9_pob.html