

justice *in* EUROPE

Detention without trial

Depriving people of their liberty in the period before trial is supposed to be an exceptional measure, only to be used where absolutely necessary. The arbitrary use of detention before trial should play no part in any country's justice system.

Yet across the EU, people not convicted of any crime are locked up without good reason for months or even years. Many are held in appalling prison conditions, with limited access to a lawyer, making trial preparation impossible.

Europe's over-use of pre-trial detention is ruining lives and costing EU countries billions every year.

Working for a world where every person's right to a fair trial is respected, whatever their nationality, wherever they are accused

Imagine you are arrested on holiday in Spain after a fake €20 note is found in your hotel room. A judge orders your detention. In prison, you hear Spanish law allows up to four years' pre-trial detention.

Many EU countries allow for unacceptably long periods in pre-trial detention: others have no limit at all. Many EU states have no proper system to review pre-trial detention.

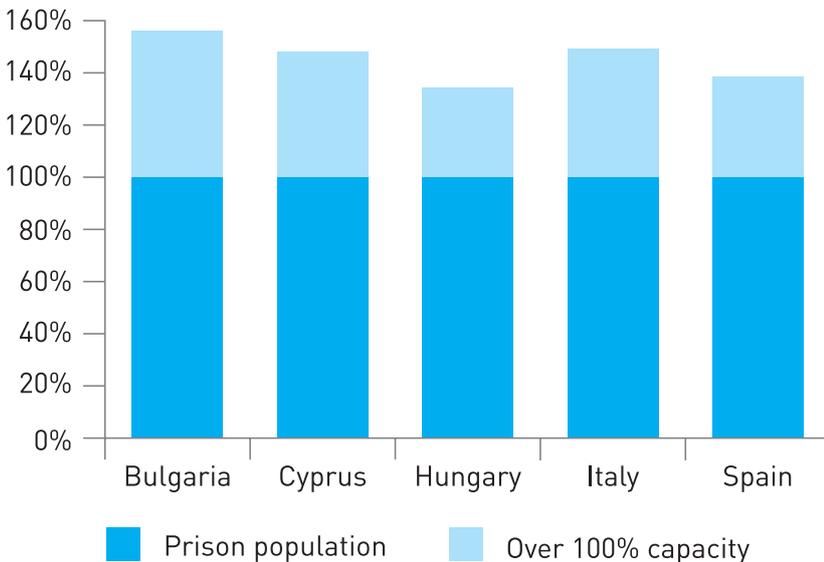
Pre-trial detention

What is pre-trial detention?

All states should protect the right to liberty and not use detention arbitrarily. Clearly, in some cases it is necessary to hold a person in custody for a certain period after arrest, for example, to ensure vital evidence is preserved or key witnesses are protected. But pre-trial detention is only acceptable where necessary and no alternative is available.

Even if pre-trial detention is justified, those held in detention should be given: facilities to prepare a defence; confidential communications with their lawyer; and a regular review of whether detention remains necessary. Conditions must be sanitary, safe and humane.

Prison overcrowding: the EU's worst offenders



Source: International Centre for Prison Studies

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Andrew Symeou

Extradited to Greece and a year-long nightmare

Andrew was a 20 year old student when he was extradited to Greece. He was denied release pending trial on the basis that he was foreign and a "flight risk" and had not shown "remorse". He was held in a filthy, overcrowded cell for almost a year. He was acquitted but is unlikely to be compensated for his ordeal.

"It is a fundamental right to expect swift justice. This has not happened. Andrew's life and the lives of my family have been disrupted in ways we never imagined."

Frank Symeou, Andrew's father, addressing a Parliamentary Committee, February 2011

Corinna Reid

Separated from her baby for 2 ½ years – and still no trial

Corinna's daughter was six months old when Corinna was extradited to Spain and had to be left in the care of family in the UK. She is now three. Though now released from custody, Corinna is forbidden to leave Spain until she is tried or released.

"Even the local detainees didn't know what to expect. All we knew was we could be detained for up to four years."

Corinna Reid, on her pre-trial detention in Tenerife

**C L I F F O R D
C H A N C E**

What needs to change?

Fair Trials International is calling on the EU to stop excessive detention without trial and to require EU countries to make more use of alternatives.

No pre-trial detention if alternatives available	
<p>The Problem Many countries have no effective alternatives to detention. Many routinely deny release pending trial, especially for non-nationals, who are automatically labelled a “flight risk”.</p> <p>The EU’s pre-trial prison population costs nearly €5 billion a year.</p>	<p>The Solution The EU must ensure countries stop using detention when there is an alternative, like tagging. EU countries must also make full use of the European Supervision Order (see over) when it comes into force in December 2012.</p>

EU legislation needed to end arbitrary pre-trial detention	
<p>The Problem Some countries’ laws allow people to be locked up for years before trial, others have no maximum period. Few countries have an adequate review system.</p>	<p>The Solution The EU should introduce laws setting minimum standards on how decisions are made to detain a person pre-trial, to ensure detention is only used when necessary and to require regular reviews.</p>

No extradition until case trial-ready	
<p>The Problem Europe’s fast-track extradition system, the European Arrest Warrant, enables suspects to be extradited far more easily and quickly than before. Thousands are being shipped off to other EU countries every year. Many languish for months in prison, far from home and family, while prosecutors drag their feet.</p>	<p>The Solution There should be no extradition until the requesting state is ready for trial. Until then, supervision conditions should be agreed between the two countries: for example, surrender of passport and regular reporting to local police.</p>



Robert Hörchner

10 months in a Polish jail – trial preparation impossible
Extradited to Poland, Robert was detained for 10 months in horrific conditions, sharing a small cell with convicted murderers and mentally ill prisoners. He was repeatedly attacked. Robert received almost no information about the case and little access to legal advice. He still suffers the mental effects of his ordeal.

26%

Percentage of EU’s pre-trial detainees who were foreign nationals in 2009

The Council of Europe’s Commissioner for Human Rights, Thomas Hammarberg, has highlighted the “harsh consequences for individuals” and called the use of pre-trial detention “systematic and poorly justified”, stating:

“Too little use has been made of more humane and effective alternatives to pre-trial detention.”

For more information on all the cases featured and our proposals for reform visit www.fairtrials.net

Fair Trials International

Why is EU law needed on pre-trial detention?

Although the European Convention on Human Rights prohibits arbitrary detention, in reality, excessive and arbitrary pre-trial detention is common, as are poor conditions and lack of legal advice.

Only clear, enforceable laws setting basic standards on when, and how, pre-trial detention can be used will force countries to stop imposing detention arbitrarily or for longer than is necessary.

EU laws are needed to set consistent standards on the way pre-trial detention is decided. Those standards will then be enforceable across the EU, without the need for lengthy, expensive litigation before the European Court of Human Rights. Any state failing to comply will risk enforcement action by EU institutions.

Without legislation at EU level, the mutual trust between countries that is necessary for streamlined extradition and efficient cross-border investigations will never truly exist. Instead, decisions will be taken on blind faith that rights will be protected in the prosecuting country.

“It could be difficult to develop closer judicial cooperation between Member States unless further efforts are made to improve detention conditions and to promote alternatives to custody.”

European Commission, June 2011

Future Plans

In the coming year, Fair Trials International will:

- Campaign to end the use of excessive or arbitrary pre-trial detention across Europe
- Publish data on 15 EU countries' pre-trial detention systems (in law and practice)
- Hold a debate at the European Parliament about the need for reform
- Publish our clients' first-hand accounts of detention, including video testimony of conditions and their effect on trial preparation

The European Supervision Order

According to the European Commission, 80% of non-national pre-trial detainees in EU prisons come from other EU countries and most do not need to be in prison at all. In force from December 2012, the Supervision Order will enable EU nationals accused in another EU country to return to their home state until trial. The potential cost savings are huge. Prisoner numbers will fall and fewer dependants will be forced to seek state aid in the absence of the main breadwinner.

For this new power to achieve its potential, all countries must use it consistently in appropriate cases. The EU must ensure this happens.

Support Us

At Fair Trials International, we rely on the generosity of our supporters to continue our work. With your support we will continue to fight individual cases of injustice and to campaign for fair trials across the globe. To find out more and how to get involved, visit www.fairtrials.net

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