

# ***WHY BACK-END SENTENCING DURING EARLY RELEASE IS A RELEVANT TOPIC FOR COMPARATIVE RESEARCH: THE CASE OF SPAIN***

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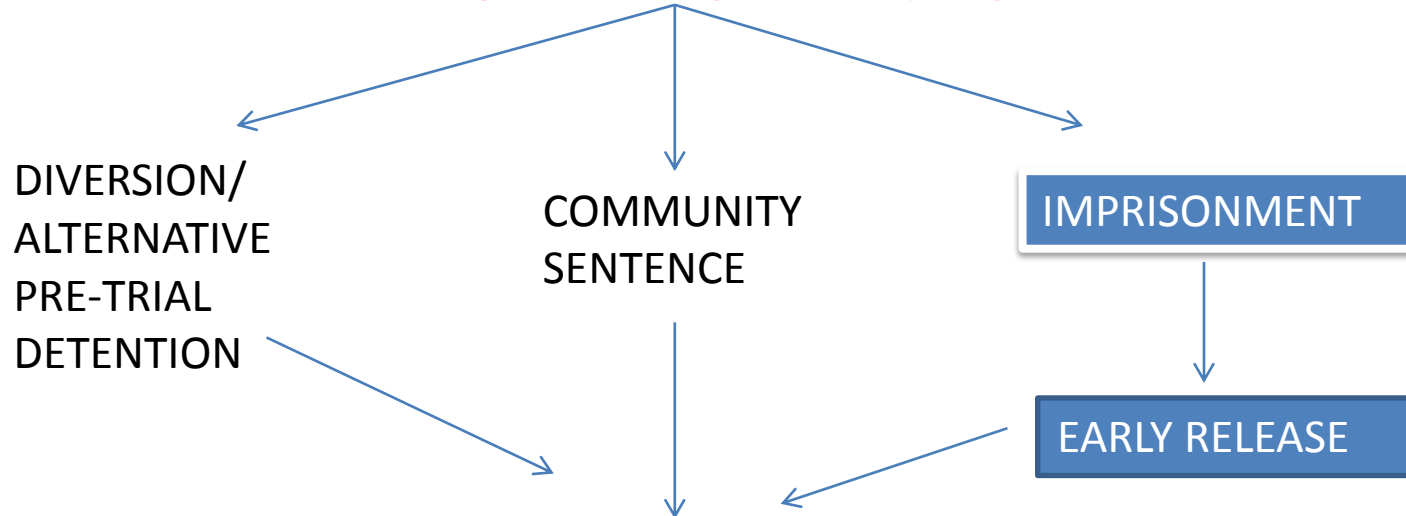
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## FRONT-END SENTENCING



**COMMUNITY SUPERVISION**

**NON COMPLIANCE WITH THE  
REQUIREMENTS OF THE ORDER**

## BACK-END SENTENCING

ALTERNATIVE MEASURE  
MAINTAINING SUPERVISION IN  
THE COMMUNITY

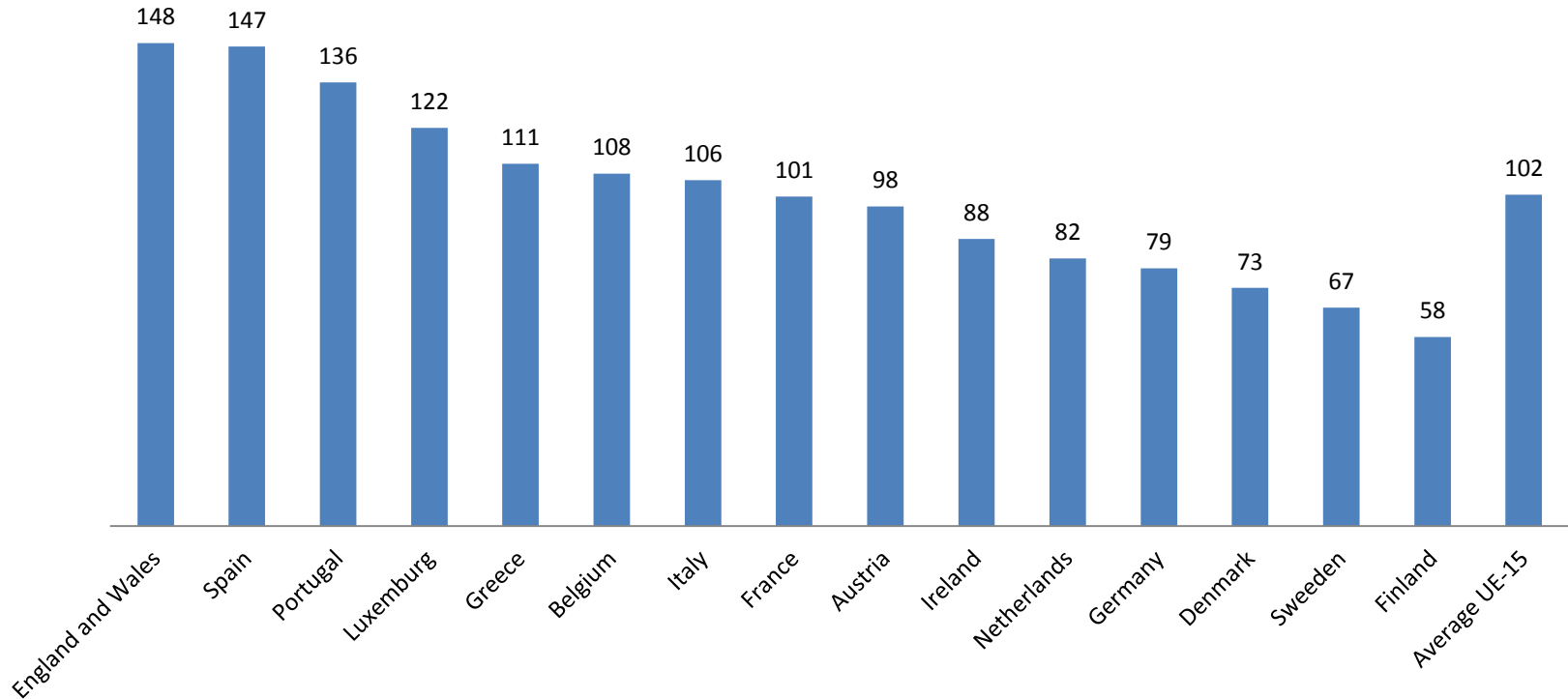
**IMPRISONMENT**

# WHY BACK-END SENTENCING DURING EARLY RELEASE IS A RELEVANT TOPIC?

1. Impact on incarceration rates
2. Impact on rates of supervision after a prison sentence
3. Impact on processes of desistance
4. Impact on legitimacy

# Impact on incarceration rates

Prison population per 100,000 inhabitants. EU-15 (2013)



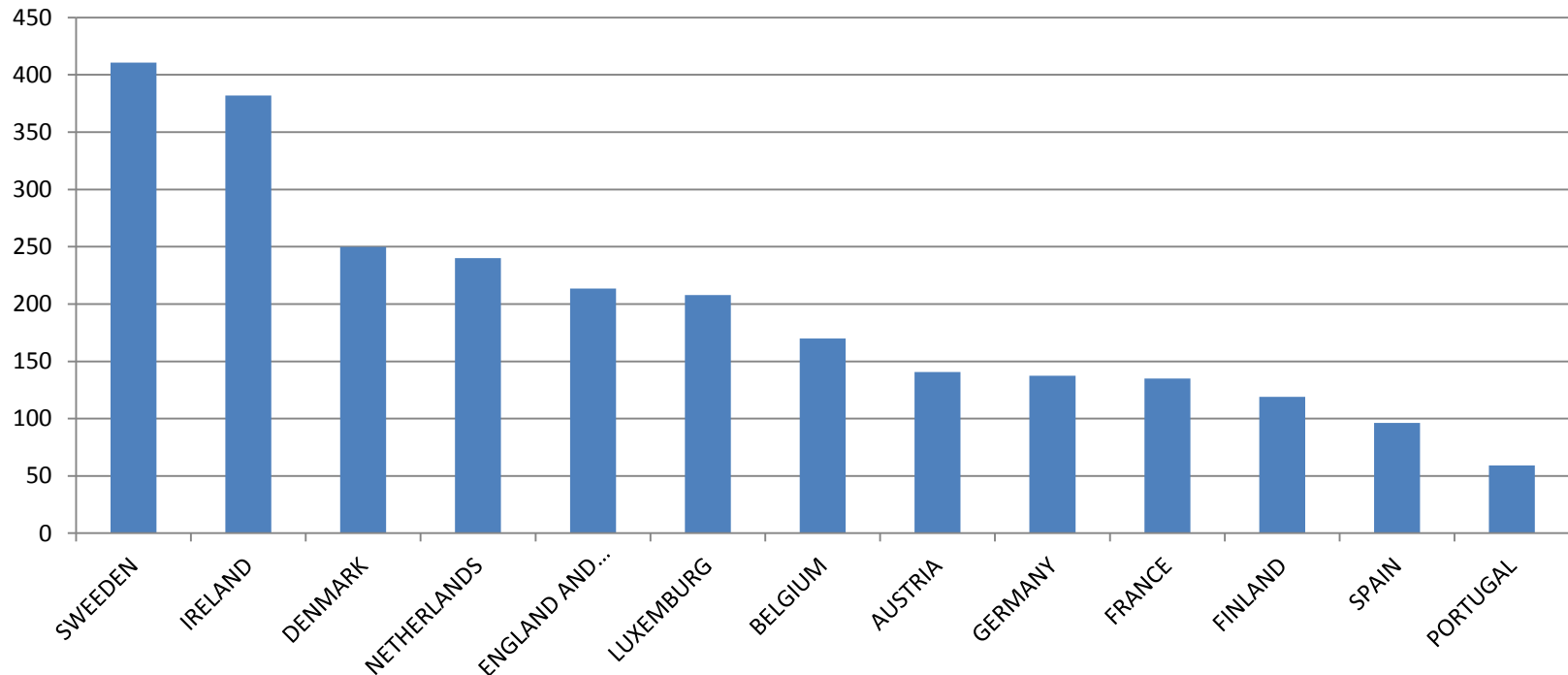
Source: International Centre for Prison Studies

[http://www.prisonstudies.org/info/worldbrief/wpb\\_country.php?country=166](http://www.prisonstudies.org/info/worldbrief/wpb_country.php?country=166)

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# Impact on incarceration rates

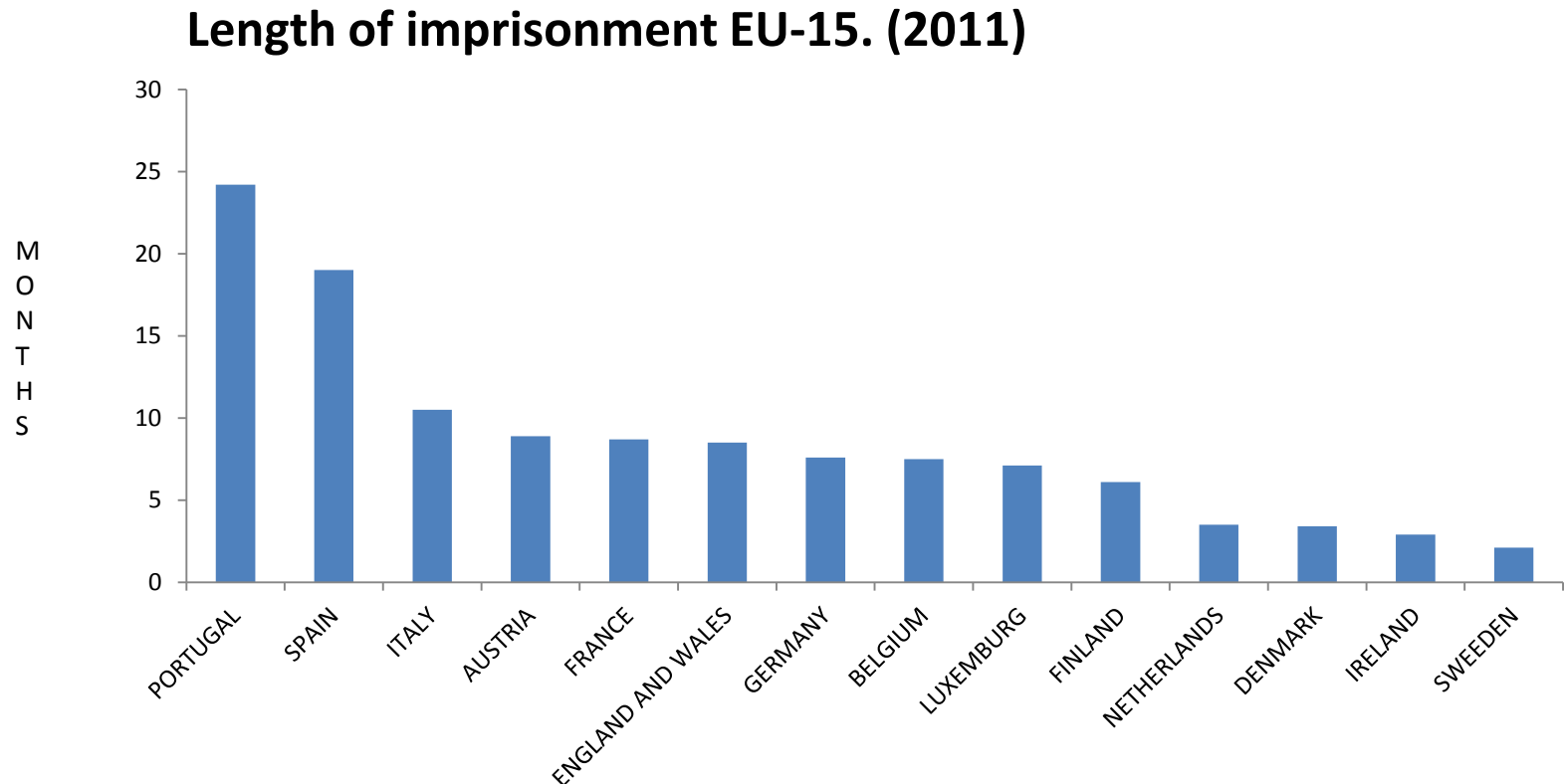
**Prison admissions per 100,000 inhabitants. EU-15 (2011)**



**Source:** European Sourcebook of Crime and Criminal Justice Statistics 2014 (Data 2011)

[http://www.heuni.fi/material/attachments/heuni/reports/grMWoCVTF/HEUNI\\_report\\_80\\_European\\_Sourcebook.pdf](http://www.heuni.fi/material/attachments/heuni/reports/grMWoCVTF/HEUNI_report_80_European_Sourcebook.pdf)

# Impact on incarceration rates



**Source:** European Sourcebook of Crime and Criminal Justice Statistics 2014 (Data: 2011)

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# Impact on incarceration rates

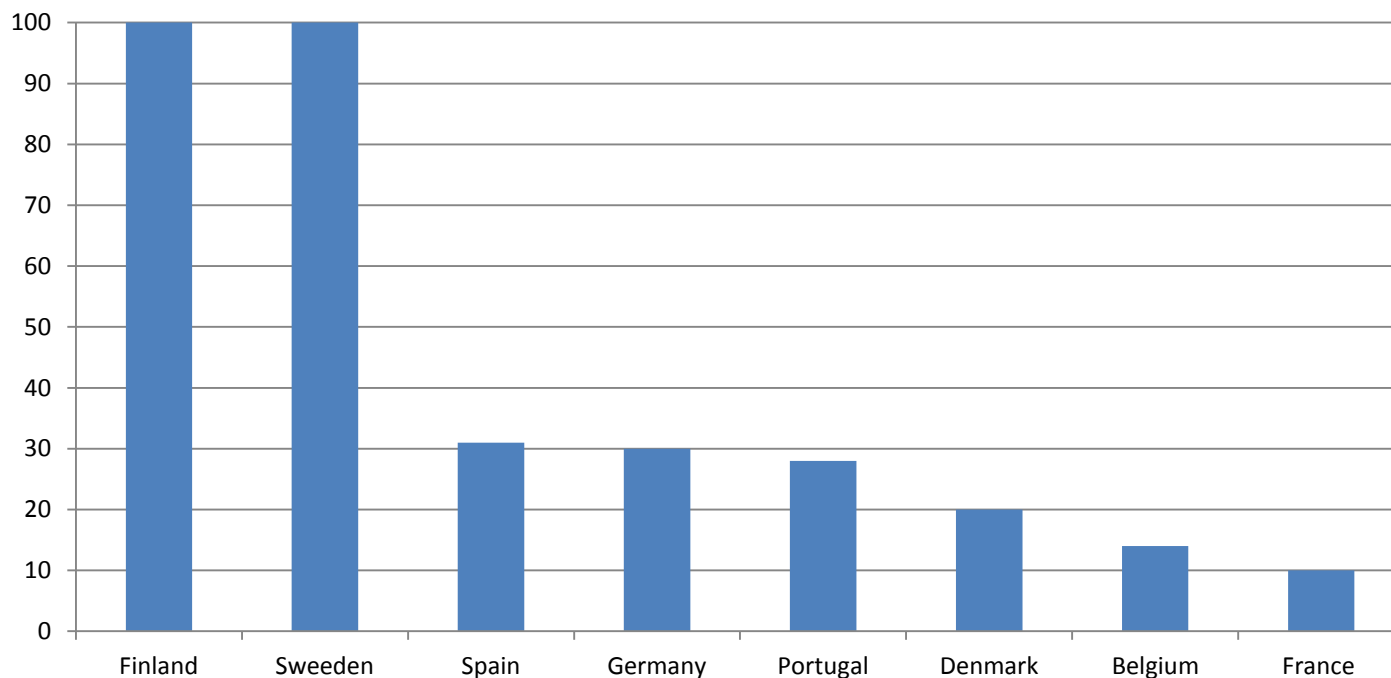
**Type of release after being recalled from open regime.  
Catalonia. Prisoners recalled in 2004 and 2005.**

	N	%
MAX PRISON	20	2,0
ORDINARY REGIME	686	67,9
OPEN REGIME	166	16,4
<b>PAROLE</b>	<b>130</b>	<b>12,9</b>
OTHER	9	0,9
TOTAL	1.001	100

Source: Catalan Prison Administration (Unpublished data)

# Impact on rates of supervision after a prison sentence

Prisoners released on parole. EU-15 (1999)



Source: Tubex and Tournier (2003). Different data for the country reports in: Padfield, Van Zyl Smit and Dünkel (eds) (2010).



# Impact on rates of supervision after a prison sentence

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# Impact on processes of desistance

- Progressive systems may increase the feeling of self-efficacy that has been linked –Maruna, 2001- with successful desistance (Cid and Martí, 2012).
- Recall to prison for breach may reduce the motivation to change and favor derailments in desistance (Cid and Tébar, 2014)

# Impact on legitimacy

- Back-end sentencing during early-release is usually a procedure in which rights of defendants are diminished with respect to rights of defendants in criminal trials.
- Theorists of legitimacy have argued that being treated fairly by authorities is relevant for obedience to the law (Tyler, 1990).

# Impact on legitimacy

- Research in Spain about perception of having been treated fairly in cases of recall to prison of prisoners in open regime

Fair treatment: 35.19% (n=14)

Not fair treatment: 64.1% (n=25)

(Cid and Tébar, 2014)

# IMPORTANCE OF COMPARATIVE RESEARCH

- Different systems of early release
- Different procedures to decide the response to non compliance
- Presence of desistance-based approaches?

# Different systems of early-release

- Countries with automatic systems (Sweden, Finland), with discretionary systems (Germany, Spain) and with both systems (England, Scotland).
- Countries in which supervision as a part of the prison sentence is the rule (Sweden, Finland) and other in which supervision as a part of the prison sentence is the exception (Spain, Belgium).
- How automatic systems of early release deal with breach during supervision?

(Padfield, van Zyl Smit and Dünkel, 2010)

# Different procedures for recall

- Differences within countries with respect to the systems of recall (i.e. Spain: fair procedures in parole but less fair procedures in open regime)
- Differences across countries with respect to the procedures for recall (i.e. Parole: fair procedures in Germany and in Spain but less fair in England)

# Presence of desistance-based approaches

- Research in Spain has found desistance-based approaches to breach when dealing with use of drugs while in supervision (Cid and Tébar, 2014).
- Are desistance-based approaches to deal with non compliance during early release prevalent in Europe?



# References

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- Cid, J & Tébar, B (2014). La revocación del régimen abierto: ¿Una práctica legítima?. *Cuadernos de política criminal*, 114, [Recall from open regime and legitimacy]
- Maruna, S.(2001). *Making Good. How ex-Convicts Reform and Rebuild their Lives*. Washington: American Psychological Association.
- Padfield, N; van Zyl Smit & Dünkel, F. (2010). *Release from prison. European policy and practice*. Cullompton: Willan.
- Tubex H. & Tournier P.V. (2003) *Etude sur la libération conditionnelle dans les Etats membres. Analyse des réponses au questionnaire général*, Council of Europe, Council for Penological Co-operation PC-CP (2003) 4, Addendum.
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