



Next Steps for Correctional Industries

Study on economic activities in the penitentiary system of the Republic of Moldova



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Reliability and consistency of data:

This report uses data from official Moldovan sources, international prison administrations and organisations involved in correctional industries. Additionally, photographic evidence was gathered during the field visits, to evidence the present state of prison industries at Moldovan penitentiaries to serve as aide memoire and visual aid for research and presentation purposes. Great care was taken not to identify any prisoners or members of staff in the penitentiaries. All data gathered has been supplied by the National Prison Administration of the Republic of Moldova and by way of Freedom of Information (FOI) access requests to the international prison administrations and ministries of justice, mentioned in this report and evidence in the footnote references and appendices. The report attempted a consistent comparative approach of international correctional industries' data and standards. Whenever data is presented in the report, the source is clearly stated. That said, the authors bear no responsibility beyond that of checking that the source can be deemed trustworthy.

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Abbreviations and Acronyms

ANOFM	National Agency for Labour Occupancy
CI	Correctional Industries
CPI	Consumer Price Index
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
ECHR	European Convention for Human Rights
EU	European Union
FEZ	Free Economic Zone
FPI	Federal Prison Industries
GD	Government Decision
GIZ	Gesellschaft für internationale Zusammenarbeit
MEPA	Economic policy advice to the Moldovan Government Project
NAP	National Administration of Penitentiaries
NBS	National Bureau of Statistics
PES	Prison Enterprise Partnership
PFI	Private Finance Initiative
PPA	Public Procurement Agency
PPP	Public-Private Partnership
PWD	People with disabilities
SOE	State Owned Enterprise
UN	United Nations
VAT	Value-Added Tax
VET	Vocational Education and Training
YOI	Young Offender Institution

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Executive Summary

Finding a way of earning a living is one of the most important elements of a prisoner's ability to reintegrate into society upon release from prison. For many convicted prisoners their time in prison may be the first opportunity that they have had to develop vocational skills and to do regular work. The main purpose of requiring prisoners to work is to prepare them for a normal working life on their release from prison and to run factories for the benefit of other parts of public authorities run by the state. Of course, prisoner employment or 'correctional labour' is only one element of social rehabilitation. A full response to reducing recidivism and prisoners' reoffending requires opportunities to develop all the skills needed to return to society; for many prisoners this also includes education, social and vocational skills training. Several research studies in the UK and USA have established that inmates who worked in 'real' work situations in correctional industries were found to be significantly more successful in post-release employment in the open labour market. That is to say, they became tax-paying citizens quicker and remained in that status longer than those who had not engaged in meaningful employment whilst serving a prison sentence. Additionally, post-release prisoners were more successful in staying away from crime, due to the fact they had savings accrued from their wages inside prisons, and were found to have slower and reduced recidivism, as measured by arrest, conviction and re-incarceration, than those post-releasees who had not worked inside.¹

This study firstly defined and analysed the present economic activities, including prisoner labour, in the penitentiary system of the Republic of Moldova, as administered by the National Administration of Penitentiaries (NAP). The research looked specifically at the state of prison industries in four penitentiaries, so-called State-Owned Enterprises (SOEs); these were the female prison Rusca (nr 7) and the male adult prison institutions of Branesti (nr 18), Cricova (nr 4) and Soroca (nr 6). Furthermore, the study looked into the existing incentives for private businesses to contract-in prison labour as well as possible constraints. Similarly, the study examined the motivation of prison management to engage prisoners in economic activities. The study established that low prisoner employment in Moldovan penitentiaries – at around 15% of prisoner population at the time of writing the study – has led to negative consequences, particularly, the so-called 'wasted years' leading to low savings, violence among prisoners and proliferation of the gang culture.

Secondly, the study aimed to formulate public policy options and recommendations for the future of Moldovan prison industries, based on international comparisons and best practice of 'what works' in other countries. Specifically, a number of binding constraints have to be addressed irrespective of the selected policy option, such as: a) unresolved ownership of existing SOEs; b) a current gap in legislation appropriate to deal with the internal market of the penitentiaries (e.g. tendering; licensing; procurement etc); c) impossibility to lease factory workshop space for more than one year; d) physical infrastructure of prison factories; and e) insufficient motivation from the prison management to engage in economic activities. Upon resolving these immediate concerns, decision makers may select from a range of policy options aiming to strengthen CI in Moldova, opting for either a decentralised style of CI management based on self-management of penitentiaries, or for having a centralised body in charge of CI under NAP with strategic development potential.

The overall objective of the policy proposal was to increase prisoner employment in the penitentiary system of Moldova to 25% by 2025 and 40% by 2030, to reduce prisoner boredom, prisoner-on-prisoner violence, self-harm and suicides, by increasing time out of cell

¹ U.S. Department of Justice (2006) 'Correctional Industries Preparing Inmates for Re-entry'.

to engage in realistic work coupled with vocational and education training (VET). The ultimate result being the increase of inmates' resocialisation skills, reintegration into the community, ultimately leading to a reduced recidivism rate.

Today, all prison administrations (usually part of Ministries of Justice) in Western Europe and the USA are keen to bring the message across, that industrial production in prison does not mean the exploitation of prisoners by using them as a cheap labour force, but an increasing awareness that goods produced in prison by a skilled workforce may also be attractive to the external market and giving the prisoner a better chance upon release to find work. Prison work coupled with vocational education and training (VET) are statutorily compulsory as part of a sentenced convicted prisoner in most if not all countries in the world (except for France). Correctional Industries (CI) in a number of large, long-term training prisons are now 'big business' and many administrations, such as, for example, the Federal Prison Industries (FPI) in the USA, Germany, France or The Netherlands' CIs are either partly or completely run by private contractors under private finance initiatives (PFI) or joint ventures, subject to freedom-restricting measures. The ultimate goal of all prison administrations, which were covered in this study, is to facilitate the prisoners' reintegration into society and to reduce reoffending.

Drawing on international best practices and building on a thorough understanding of the causes of low prisoners' employment in the Republic of Moldova, the study recommends a number of policy measures which should be part of any solution space. In particular this refers to:

- Resolving the ownership of the existing SOEs so that effective decision-making by NAP can be reinstated;
- Drafting legislation that fills the gap to deal with the internal market of penitentiaries;
- Removing unnecessary hurdles to private contractors which impede leasing arrangements beyond one year;
- Incentivising private funding initiatives by making capital investment by third parties in the prison factory infrastructure tax-deductible;
- Adopting self-management regulation for the penitentiaries to enable them to reinvest CI profits into the development of physical infrastructure.

Over and above these essential recommendations – without which there will be ultimately no success - the study presents two contrasting alternative models:

- a decentralised CI model enables penitentiaries to develop economic activities independently of one another and diversify production risks. Alternatively,
- a dedicated central body, subordinated to NAP, may be created in order to coordinate production for the internal market, develop economies of scale and explore opportunities in the external market.

Both policy options outperform the policy objective and exhibit high Net Present Values (NPV) due to increased prisoners' savings, reduced violence and lower reoffending rate. A qualitative impact assessment confirms that in spite of additional costs associated with hiring and training deputy directors in charge of economic activities, public spending on the penitentiaries is expected to decrease. The economic and social outcomes of the proposed policy options are vastly superior to those of doing nothing to address the status quo.

Introduction

The situation of most prisoners in terms of access to the labour market makes them one of the most disadvantaged social groups.² Prisoners often leave prison, totally lacking in certified education and vocational skills, as some of the main obstacles to access the labour market. The scope of this study presented here is limited to producing a baseline measure of the state of prison or correctional industries in the Moldovan penitentiary system over a course of three months (September – November 2020). As far as employment and access to the labour market in the Republic of Moldova are concerned, inequalities continue to exist. Whilst some public policy measures and related statistics have improved over recent years – such as employment of people with disabilities – these measures may well have had a lock-in effect, keeping the few who are employed in low-quality, low-income jobs, insufficient to break out of poverty, instead of bridging the gap into the open labour market. The Moldovan Government has tackled some of these issues, such as providing training schemes to prisoners shortly before release from prison, though such programmes have been rather patchy and inconsistent. One recent development includes the signing of a 5-year cooperation agreement between the National Agency for Employment (ANOFM) and National Prison Administration (NAP) in October 2019. As part of the agreement the ANOFM must provide information and professional counselling services for prisoners, as well as employment intermediation and training.

This scoping study includes qualitative and quantitative research in close collaboration between the international expert on correctional labour and prison industries (Ursula Smartt) and local public policy expert (Sorin Hadârcă), who is experienced in working in the Republic of Moldova, the Western Balkans, Central Asia and the Caucasus. To this end, Smartt and Hadârcă reviewed the academic literature in respect of ‘what works’ in Correctional Industries (CI),³ conducted the fieldwork and data collection in Moldova, and obtained recent data from international prison administrations and ministries of justice, intended to improve the current employment situation for serving and released prisoners and ultimately reduce the recidivism rate. It should be noted that many specific issues covered here require in-depth follow up research in the future, for example: the existing subculture among prisoners⁴; prisoner-on-prisoner violence⁵; the cost of removal and liquidation of machinery assets, and the introduction of a new prison industries enterprise agency which we have called Department of Correctional Industries (DCI).⁶

² The term ‘prisoner’ is the official term used in the English language, whereas ‘inmate’ is the US-term. Both terms are used and interchanged in this report.

³ Cf. Smartt, U. (2004) ‘What works in prison industries?’, pp. 9-13.

⁴ While prisoner subculture assists in producing order, it is described in this study as a decentralised system of norms that is internalised and acted on without compulsion. Breaching these norms is not met with predictable punishments but may lead to ostracism. In contrast, ‘prison gangs’ have been identified in many prison systems, such as the USA and the UK. These are centralised, bounded and hierarchical entities, engaged in criminal activity in the prison, that monitor and enforce clear sets of informal rules. The collectivist camp system found in Moldovan penitentiaries dates back to the Soviet Gulag system, where a fraternity of professional criminals dominated. Cf. Irwin, J. and Cressey, D. R. (1962) pp.142-155.

⁵ Cf. Smartt, U. and Kury, H. (2002) ‘Prisoner-on-prisoner violence’, pp. 411-437; see also: Smartt U. und Kury, H. (2002) ‚Gewalt an Strafgefangenen: Ergebnisse aus dem anglo-amerikanischen und deutschen Strafvollzug‘ (‘Violence amongst prisoners: research results from Anglo-American and German findings’), pp. 323 – 339.

⁶ See: Smartt, U. (1997) *European Prison Industries 1996: A Report to the European Prison Industries Forum Based on the ‘European Prison Industries Questionnaire’*, HM Prison Service, London.

General Background and Definitions

Correctional Industries: the birth of the industrial prison

Since the early 1900s, prison labour has been justified as morally improving, a means of preventing idle prisoners from corrupting others, and a way of defraying costs. In practice, however, there was also strong adherence to the idea that prison labour should have some punitive elements. By the 1960s much of this had changed, largely through a process of neglect in most European penal institutions. Britain still had the death penalty until 1965 and prisoners were sentenced to 'penal servitude'. Work in prisons was largely menial and often meaningless, such as, rag-stripping, mat-making, and at the very most mail-bag-sewing. This would occupy about half the prison population.⁷ The remainder were mainly employed in the maintenance of the institution (cleaning, painting and glazing, gardening, orderlies, etc.). The 7% who were unemployed comprised those who had just entered or were about to be released, or in hospital or under punishment.⁸

In the 1960s industrial sociologists such as Blauner (1964) and Halmos (1965) advocated the introduction of contemporary industrial processes in prisons, partly because of their profitability and partly because they would also require prisoners to be more psychologically involved in their own rehabilitation. Two developments flowed from this perspective. In 1972 prison industries were given a corporate identity in the English prison system ('Prindus'), and re-organised to concentrate on a small number of industries (clothing and textiles, weaving and knitting, engineering, woodwork, laundering, light engineering and assembly, electrical and mechanical production, plastic injection mouldings).

And slightly earlier, in 1969, the first and only 'industrial prison', HMP Coldingley, had been opened with modern manufacturing workshops in paint-dipping, engineering, laundry services, and sign-making, supported by vocational training.⁹ The original intention was to operate the prison like a business, and its staff included a management consultant. Prison officers supervising the workshops at Coldingley never wore uniforms, so as to imitate the world of work outside. Works managers were recruited from the civilian sector to make the prison industries work, regarding the governor as their chief executive. And the prison employed marketing staff and sales representatives who succeeded in getting a variety of prestigious orders; for example, the whole of the German Army of the Rhine had their shields and royal arms made at the prison, intricate silk screen printing work produced to high quality. However, the business aims were compromised by the special demands of the prison environment. It was not possible to operate workshops efficiently because other activities, such as exercise and education, had to be incorporated into the working day; staff unions resisted proposals for shift arrangements that would have solved such problems; and since Coldingley was a category B prison with a high security element, security considerations sometimes supervened. Moreover, unemployment remained a problem for the prison's management just as it was on the outside.¹⁰

While the English/ Welsh and Scottish prison services largely neglected prison labour issues in the 1980s and early 1990s, political attention was once again being focused on it from the mid-1990s onwards, introduced once again into the industrial 'training' prisons for long-term prisoners as the 'Workshop Expansion Scheme'. Legislative arrangements were made to

⁷ Cf. Morris and Morris (1963), p. 24.

⁸ Cf. Vagg, J. and Smartt, U. (1999) p. 47.

⁹ Ibid. p. 48.

¹⁰ Cf. Smartt, U. (2000) Contracting-out of prison industries under PFI. HMP Coldingley. Home Office. UK.

increase the pay of a few selected prisoners very substantially who worked in the 'Prison Enterprise Partnerships' (PES) scheme. The *Prisoners Earnings Act 1996* facilitated paying the prisoners realistic wages for 'real work' done inside the prison or correctional industries – as they started to be called – enabling the prison governors to make deductions from prisoners' wages for 'board and lodging', savings and victim reparation.

The PES partnerships amounted to a concerted attempt to obtain outside contracts. Prison governors were given their own budgets, sales and marketing teams in order to secure local contracts with external contractors. The advantages to third party private businesses were claimed to be flexibility, short production runs, and short supply chains; the advantages to the prison were the opportunities for prisoners to learn new skills and apply them in more flexible ways, enhanced job opportunities after release, and additional revenue to the prisons. The scheme most often mentioned as an illustration of a successful contract was a designer label tailoring operation (a contract with the Red or Dead company) at HMP Full Sutton maximum security (dispersal) prison near York. The partnerships or joint-ventures were subsequently re-named the 'Pathfinder' scheme by the new Director General of the HM Prison Service, Derek Lewis, an entrepreneur and senior business manager of Ford Motor Company whose aim was by the mid-1990s to involve as many prisoners in 'enhanced work' in correctional industries (CI). By 1998, some 25% of the total English/ Welsh prison population was engaged in CI, were paid higher than normal wages in return for productivity approaching that of normal commercial operations.¹¹

Models of Correctional Industries

Given the relatively narrow range of industries that are most suitable for CI, this raises some serious difficulties for prison managers in selecting industries to accommodate the growth in the prisoner population across the western world, since many goods and services appropriate for prison production have experienced relatively slow growth over the past 25 years. Correctional work industries are designed to provide realistic work experiences for inmates while they are incarcerated. Those who participate in correctional work industry programmes are significantly less likely to recidivate than those who do not participate.

There are usually two models of correctional industries (CI). Prison work in CI can be partly remunerated and managed by the prison administration or partly managed by a private business or organisation or contracted out completely under Private Finance Initiative (PFI)¹² or joint ventures. Prison work in highly industrial CIs involves the production of goods and services, either manually or using specialised machinery in workshop areas, resembling a normal factory floor. CIs tend to supply both the state (internal market) as well as outside 'contracted-in' work (external market), such as manufacturing, furniture, processing of components on a production line ('piecework'), recycling, industrial cleaning, garment production (tailoring), car mechanics, welding, data processing and others.

These goods and services are then sold or supplied to the external market and many CIs now have sophisticated websites where prison-made-goods are being sold online to the public, such as the 'Party Grill' – the stainless-steel barbeque in Lower Saxony, Northern Germany or the 'in-made' labelled goods in The Netherlands. Some CIs produce everything for state

¹¹ Ibid.

¹² A private finance initiative (PFI) is a way of financing public sector projects through the private sector. PFIs alleviate the government and taxpayers of the immediate burden of coming up with the capital for these projects. When New Labour came to power in the UK 1997 under Prime Minister Tony Blair, large parts of the criminal justice system were privatised under PFI. This included 5 prisons, the court and prisoner transport service and some prison industries.

institutions, such as public administration or local authorities, which is the case in the United States. In all cases prisoner labour and CIs have an economic value.

Latest developments in CI include the setting up of social enterprises, own label productions and business-oriented joint venture models, including building-bridges to the private sector to secure employment for prisoners after release. The USA Federal Prison Industries (FPI)¹³ strongly believe in public and social involvement, which includes the marketing of prison-made goods in outside shops open to the public and available extensively online. As part of this process, the public is encouraged to actively engage with UNICOR¹⁴ and has community representations on FPI board meetings.

Definition of external and internal market

Internal market

By *internal* market is generally meant correctional (prison) industries' production for the state or the prison estate's own consumption.¹⁵ These in-house operations in prison factories generally comprise traditional industries, such as cell furniture production, metal processing and welding (cell window grids and bars), motor vehicle maintenance (USA state school buses), printing and offset-litho (for Ministry of Justice court papers; sentencing forms for Probation etc.), agriculture and horticulture (prison gardens in the UK), food production and catering (farms and gardens, horticulture in the UK; asparagus and wine in Germany), bakeries (USA; Belgium; France), meat and sausage production (Bavaria, Germany).

The research established that work provision for the *internal* prison market varied considerably among the countries which were approached for the purpose of this study. In the UK this comprises mainly engineering services, such as welding of grids, grills, security doors etc., prison farms and gardens (horticulture), the supply of vegetables, eggs, milk and food stuffs for prison kitchens, woodwork plants providing all prison cell furniture as well as office furniture for the Ministry of Justice, and tailoring services provide prisoners' and prison officers' uniforms, as well as bed and table linen, provided by 21 CI laundries.

In-house operations and productions in some industrial training prisons use state-of-the-art machinery and IT systems, particularly in the vocational training of young (14 – 18) and young adult offenders (18 – 21), such as tool manufacturing at JVAs Straubing (Bavaria), Heimsheim (Baden-Württemberg) or Celle (Lower Saxony) and HMP Glen Parva, Leicestershire, England. The prisoners are employed under the guidance of experienced master craftsmen (*Meister*) in their trade (e.g., printing; welding; carpentry) – and all internal CIs will have civilian instructors who are not part of the prisoner officer cohort (i.e. those employed by the state authorities to 'guard' and perform state security functions). In the USA, for example, all federal and state prisons *must* sell to 'tax supported entities' (i.e., the *internal* state public authorities), such as the US armed forces, department of homeland security, schools etc.

More recently prison management in Germany, US federal prisons and the UK have sought to produce goods and services in fast growing fields, such as data processing, and to provide for all CIs to expand and also to provide inmates with skills that will be helpful for them in obtaining employment when they are released. For example, the manufacturing sector inside

¹³ FPI is a wholly owned US government corporation, created in 1934 as a prison labour programme for inmates within the Federal Bureau of Prisons. FPI is a component of the Department of Justice, headquartered in Washington DC.

¹⁴ UNICOR is the label under which Federal Prison Industries, Inc. have marketed prison-made goods and services since 1977.

¹⁵ Known as *Eigenbetriebe* in Germany.

state and federal prisons in the USA is still the largest employer of prisoners globally to date. However, the problem is that nationally, some of the industries inside correctional facilities are declining on the outside, particularly in the heavy metal and manufacturing industries.

CIs operate as a revolving fund and do not receive an annual appropriation. The majority of revenues are derived from the sale of products and services to other state departments, agencies, and bureaus (e.g., furniture production in the UK and US to courts and Ministries of Justice). Operating expenses such as the cost of raw materials and supplies, inmate wages and staff salaries are applied against these revenues resulting in operating income or loss, which is reapplied toward operating costs for future production. Each prison director or the central Prison Enterprise Service (or Department of Correctional Industries) can decide on their own capital investments in improving their prison buildings, machinery, sports equipment, kitchens, laundries etc.

External market

By external market is meant contracting-in prisoner labour or whole industries via contracts with private companies from the outside.¹⁶ The focus is generally on the prison authority being a partner to the private contractor rather than a competitor, usually to the prison authority's macroeconomic and societal tasks (prisoner reintegration and reduced offending). The external market is an 'extended workbench' for the private sector where work is contracted into the prison factories (or CIs). This means that contract work is carried out by prisoners with private sector equipment. For short-term and remand prisoners this usually amounts to assembly or piecework, such as sorting, packing, assembly work, inserting, folding, soldering, cardboard packing etc. Entrepreneurial businesses from private companies are set up in all penal institutions CIs, usually with medium to long-term lease agreements (USA between 5 – 10 years renewably for up to 30 years; Germany 10 – 15 – 25 years).

Factories are operated by supervisors, instructors, quality controllers and managers from the private companies to ensure profitability, high production levels and quality of the goods produced. They are trained by the companies jointly with the prison administration to oversee the work of inmates but *not* to guard. They do not have security or state supervision functions of prisoners.

The range of goods and services produced in prison factories (CIs) varies from country to country, ranging from industrial laundries (Sweden; UK) to tailoring and textiles, waste management and recycling, furniture manufacturing, data processing (UK census), call centres (USA) and outside catering (France).

For prisoners who are employed by external private contractors, the same regulations apply as on the open labour market with real or 'realistic' wages mostly adherent to the national minimum wage (Italy; France; USA).

Productivity and prisoner pay

The reasons why CIs tend to have lower labour productivity, compared with similar industries outside the prison walls, are generally:

¹⁶ Known in Germany as *Unternehmerbetriebe* and in France *concessionnaires*.

- Prison managers (or directors) have incentives to encourage ‘featherbedding’¹⁷ because of the need to reduce inmate idleness, and, in part, to show ‘higher authorities’ (prison administrations) that more prisoners are working.
- CIs tend to have a lower level of mechanisation, partly due to a lack of investment and partly due to the lack of desire to offer expensive targets for sabotage to dissatisfied inmates.
- Prisoners usually have less training compared with workers outside the prison walls; high prisoner labour turnover exacerbates this problem.
- CIs have special security requirements; this includes not only prison officers or security guards but also, for instance, that particular procedures that must be followed for prisoner workers to obtain sharp tools, which takes time that could be used for production. Security checks in and out of the prison workshops also take time and therefore reduce productivity rates.
- There are few incentives for inmates in CI to work very hard and productively (low wages; few non-monetary incentives).

One factor to incentivise increased production is enhanced wages for prisoners as well as non-monetary incentives, such as ‘good time’,¹⁸ better cell facilities (‘room with a view’ in UK prisons), or increased family and conjugal visits (Sweden). As far as possible, the work provided shall maintain or increase prisoners’ ability to earn a living after release, to contribute to a successful resettlement and ultimately reduce re-offending.

Vocational and Education Training (VET) and purposeful activities

The terms ‘training’ and ‘education’ possibly need re-defining for each country. ‘Education’ in the English system refers to teaching of school subjects. Due to the high level of illiteracy and learning difficulties in prisons, the English National Prisoner Education Syllabus system is built around a core curriculum of basic educational skills (reading, writing and arithmetic), life and social skills, and IT-skills. Repeated studies by the Ministry of Justice for England/ Wales found that a third of people (34%) assessed in prison reported that they had a learning disability or difficulty; 7% of people in contact with the criminal justice system were found to have a learning disability, compared with only 2% of the general population in England/Wales.¹⁹ Subjects which make up the education syllabus are then chosen to be the most useful to the greatest number of prisoners in getting them into work and away from crime. Private contractors deliver education in prisons. In England prison education and physical education (P.E.) became a substitute for work during the 1980s, partly because it was cheaper to run as an activity, partly due to increased industrial action by the Prison Officers’ Association (POA) which opposed

¹⁷ ‘Featherbedding’ is the practice of hiring more workers than are needed to perform a given job, or to adopt work procedures which appear pointless, complex and time-consuming merely to employ additional workers. It is also used to provide someone with excessively favourable economic or working conditions. The term ‘make-work’ is sometimes used as a synonym for featherbedding. On the outside, there is often a statutory requirement of an employer, usually under labour law agreed with trade unions, to hire more employees than are needed or to limit production.

¹⁸ ‘Good time’ is an early release procedure under determinate sentencing regimes, e.g., in the USA. Inmates receive an automatic reduction in sentence for every day they spend without being written up for a violation of prison rules and for having worked in CI. They may also earn reduced time by participating in educational programmes, community service projects, or medical experiments (see international comparisons). The idea is that model prisoners are less likely to re-offend, and that prisoners will behave better if they have an incentive not to cause trouble. Some prisoners will not be eligible for good time, due to the nature of their offences. Each state and country will have its own good time legislation.

¹⁹ Ministry of Justice (2018) Education and Employment Strategy. London. HM Stationery Office.

shift patterns which would accommodate the prison factory and keeping a plant open at all times, including weekends. This practice continued with substantial capital investment in gyms, in- and outdoor sports facilities, similar to US prisons.

'Vocational training' comprises schemes which are usually certificated by outside professional bodies and recognised by employers outside the prison walls, such as the apprenticeship scheme in Germany or National Vocational Qualifications (NVQs) in the UK. Belgian prison authorities provide extensive training via the Bruxelles Formation (a national vocational training agency) in bricklaying, computer skills, printing, bakery, car maintenance etc. to young and young adult offenders (to the age of 21) in prison, resulting in national certification and qualification. Training programmes include Dutch, English and French.²⁰ Whilst these courses are particularly fostered in the UK in Young Offender Institutions (YOIs – aged 12 - 18), concepts of vocational training in Germany, France and Sweden focus more on adult (16+) vocational training and less on reading, writing or arithmetic skills. Each prison administration will have different ways of investing in and developing some of these skills. Vocational training in prison includes training for a particular profession or trade in each country, such as welding, forklift truck driving licence or the European Computer Driving Licence (EDCL)²¹ (see Lower Saxony below).

More recently governments have adopted the term 'purposeful activity' which includes education, work and other activities to aid rehabilitation and reduce the reoffending rate upon release from prison. Latest proposals from the MOJ in the UK include increasing the use of release on temporary licence, giving prison governors statutory powers to commission further education in their prisons, including university education, expanding vocational training opportunities (NVQ and BTEch) and improving employment outcomes on release.

²⁰ See: <https://www.bruxellesformation.brussels>

²¹ The ECDL (European Computer Driving License) certification is a highly recognised qualification, it offers key recognition of computer literacy skills and is designed for novices or casual computer users. The ECDL Certification is the fastest growing IT user qualification in over 125 countries, with many UK companies setting the ECDL as a mandatory requirement, such as the National Health Service in the UK or the Police Service of Northern Ireland: http://www.ecdluk.co.uk/ecdl_curriculum.html

Prisoner Employment in the Republic of Moldova

The current Moldovan National Employment Strategy 2017-2021²² recognises the inequalities in the labour market, and provides for certain measures to improve the situation, such as adopting subsidies or assisted employment measures for persons with disabilities or putting in place an action plan to support the Roma population.²³ Arguably, these measures are not ambitious enough to efficiently tackle the structural, social and economic factors determining the identified inequalities. The adoption of several structural reforms of the labour market lags behind, while others are implemented in a fragmented way, such as legislation on the social inclusion of people with disabilities. After careful analysis of unemployment trends and inequality issues in the labour market, the economic policy advice to the Moldovan Government Project (MEPA), implemented by the *Gesellschaft für internationale Zusammenarbeit* (GIZ), identified the following as the main target groups: the Roma ethnicity; people with disabilities (PWD) and prisoners (currently serving and released).

A snapshot of the Moldovan penitentiary system

The Moldovan penitentiary system comprises 17 prison establishments, including 4 criminal investigation isolators and one hospital penitentiary in Pruncul. The penitentiaries are administered by the National Administration of Penitentiaries (NAP), formerly known as Department of Penitentiary Institutions (DIP). This is a government agency subordinate to the Ministry of Justice. Law nr. 300/2017 mandates NAP to *exercise its functions and implement state policy in the execution of criminal punishment of deprivation of liberty, preventive detention measures, misdemeanour sanctions detention and security measures, applied to persons deprived of their liberty.*²⁴

There are 6,735 prisoner places, and in October 2020 6,497 were occupied, which means prisons were not overcrowded.²⁵ Of the total number of prisoners, 404 were adult women (296 convicted female prisoners were detained at Penitentiary nr.7 Rusca and 108 in psychiatric units) and 54 were adolescents²⁶ (27 convicted boys, detained at Penitentiary nr. 10 Goian, and 3 convicted girls, detained at Rusca Penitentiary). There are three main types of prison regimes – closed, semi-closed and open plus a special regime for young offenders. The closed regime is reserved for serious and repeat offenders, requiring more intensive supervision and security escorts. The current prison regime stipulates that ‘closed regime’ prisoners do not leave the prison compound. The semi-closed regime could allow for prisoners shortly before release to ‘work out’ under day release. Electronic tagging and supervision is currently under review. Open regime prisoners are on parole, accommodated in ‘half-way houses’, adjacent to the prison compound; they can move freely without prison officer escorts. 1,035 prisoners are on preventive detention at the four isolators, awaiting further investigation.

²² GD1473/2016 regarding the adoption of the National Employment Strategy 2017-2021.

²³ GD734/2016 regarding the adoption of the Action Plan to support the Roma ethnic population 2016-2020.

²⁴ L300/2017 regarding the system of administration of penitentiaries, art. 9.

²⁵ NAP, October 2020.

²⁶ The age of criminal responsibility in Moldova is 14; adulthood begins at 16; young adults are 16 – 21.

During 2020, 1146 prisoners²⁷ were employed (17,6% of the total prison population). From these, 740 prisoners (11,4%) performed menial work, such as cooking, librarian, cleaner, carpenter etc. and 406 prisoners performed contract work (6,2%). Wages for menial labour in prison ('housework') are funded by the state budget, based on work approved by the NAP within the approximate ceiling of 10% of the total prisoner population in each penitentiary.

Nelson Mandela Rules²⁸ are enshrined in the national legislation which regards to prison labour as supporting the social reintegration of offenders and preventing recidivism. In particular, the Execution Code (Law nr. 443/2004) provides that *the main means of correcting the behaviour of convicted criminals are: the manner and conditions of sentence planning, socially meaningful work, education and vocational training, and positive influence exerted by society.*²⁹ Moreover, Law nr. 300/2017 stipulates that NAP creates paid or unpaid employment opportunities in order to resocialise prisoners.³⁰ Unpaid labour is limited to 2 hours of work per day (maximum 10 hours per week), whereas paid labour has to be compliant with general Moldovan labour legislation.³¹ Paid work in prison is remunerated by the Moldovan minimum wage³² for menial jobs (currently 1,100 Moldovan Lei or 55 Euro) or minimum 'real sector' wage³³ (2,775 Moldovan Lei, or 139 Euro) for 'real work' contracted-in by outside businesses or prison SOEs.

Contracted-in work is demand-driven – either from State-Owned Enterprises (SOEs), founded by NAP or from private contractors. In this case, prisoner work is financed via a service agreement between the prison establishment and the contractor. Service agreements stipulate, for instance, general conditions of employment, such as working hours, the number of prisoners to be employed and prisoner wages (fixed at the average monthly salary in Moldova). Prisoner pay, either from menial or contracted jobs, is deposited in a dedicated Penitentiary Book-keeping Account (*cont de peculiu*). Up to 75% of savings can be used for 'damage repairs', or transferred to family members, or used for purchasing items for personal use from the prison kiosk. A minimum of 25% must be saved.³⁴ Generally, employment is in high demand among prisoners, especially since two days worked entitles the prisoner to a reduction of his or her sentence by three days.³⁵ Upon reaching pensionable age, prisoners are entitled to their state pension.³⁶ Deductions for the Health and Social Fund insurances are retained by the penitentiaries and transferred to the state budget.³⁷

²⁷ According to more recent data from NAP, the number of employed prisoners decreased to 945 as at 01.10.2020

²⁸ United Nations Standard Minimum Rules for the Treatment of Prisoners, 2015: <https://undocs.org/A/RES/70/175>

²⁹ C443/2004 Execution Code, art. 168.

³⁰ L300/2017 regarding the system of administration of penitentiaries, art. 12.

³¹ C443/2004 Execution Code, art. 253-254.

³² GD550/2014 regarding the minimum wage establishes the 1000 Moldovan Lei minimum salary. According to NAP administrative data, the salaries for menial jobs vary between 1100 and 1200 Lei.

³³ GD165/2010 regarding the minimum wage in the real sector (last revision in 2019) establishes 2775 Moldova Lei minimum wage for real economy, applicable to private businesses and SOEs but not for menial jobs inside the prison.

³⁴ C443/2004 Execution Code, art. 255.

³⁵ C443/2004 Execution Code, art. 257: One day of work in harsh conditions (e.g. in an underground mine) equates to three days of a prison sentence; two 2 days of 'easy' work equates to three days of a prison sentence.

³⁶ Currently, the standard pensionable age is 63 years for men and 59 years for women. By 2028 the pensionable age will be 63 for both men and women (L156/1998 'the public pension system').

³⁷ C443/2004 Execution Code, art. 258.

Soviet Legacy

From the point of view of prisoner employment, Moldovan prisoners have seen worse and better days. To put things into a perspective, one must consider the historical legacy and long shadows cast from the Soviet prison system:

- Occasionally, such legacy manifests itself as a **social stigma**, according to which prisoners are seen as outcasts who “don’t deserve better”. Although the Moldovan penitentiary administration³⁸ does not share these stereotypical beliefs, it has been difficult to justify capital spending on improving living and working conditions in prisons;
- Associated with the above is the fact that **prison compounds** were built in the 1950s (some by World War II prisoners of war), while factory equipment and machinery were installed in the 1960s and ‘70s. The depreciation of such assets expired long ago, however the writing-off of used assets is problematic, and purchase of new equipment is currently out of the question because of the lack of investment funds;
- Moreover, in line with the Soviet legacy is the existing **prisoner subculture**, comprising members of informal hierarchical structures which are hard to uproot. In its most decent form, the subculture functions as a syndicate, imposing tough conditions on their ‘employers’.³⁹ Since the existing Moldovan penitentiary system uses barrack-style dormitory accommodation, this is then highly conducive to the perpetuation and continuance of the existing prisoner subculture.⁴⁰ The construction of single or double cell accommodation comes at tremendous economic costs and therefore amounts to unaffordable capital investment.

Since gaining independence from the Soviet Union in 1991, the Republic of Moldova embarked on the road towards democratisation and a market economy. Yet the economic turmoil of the 1990s left its mark on prisoners and prison staff. Electricity blackouts and bad food were the order of the day. Up until the new millennium prisons were overcrowded so that a succession of amnesties was deemed necessary by the government in order to improve the prison conditions (substantial amnesties took place in 1996, 1999 and 2004).⁴¹ An important milestone was achieved in 2011, when investment in prison infrastructure was acknowledged as one of the pillars of the overarching Justice Sector Reform Strategy for 2011-2016, and EU funding became available for the Goian and Rusca Penitentiaries. Prison reforms were not only about physical infrastructure – with support from the Council of Europe – but Moldova also made progress by implementing individual correctional (or sentence) plans for prisoners, offering vocational education, psychological support and recreational activities.

³⁸ By ‘prison administration’ is meant the prison director, the deputy director and the chief accountant. The term prison management will also be used in this context.

³⁹ Conditions impose that for each 4 employees there is 1 gang representative, called ‘seer’ who is just there to watch and do nothing.

⁴⁰ The informal institution of prisoner subculture is generally enforced and policed by a small group of prisoners who hold positions at the top of a hierarchy. These norms and practices produce mainly undesirable outcomes, including violations of formal prison rules. They also reduce the predictability and enforceability of these formal rules and procedures. In short, prisoner subculture, in this report, is an informal governance by prisoners that structures prison order and regulates social interaction. This definition does not necessarily assume that prisoner subculture is an automatic and straightforward cause of violence.

⁴¹ According to a datasheet provided by NAP at the time of the study.

Labour lost in transition

Before year 2000 the economic activity within the penitentiaries was managed by the prison administration. Based on the audit and recommendations by the Court of Accounts (*Curtea de Conturi*), the management of penitentiaries and the management of enterprises were then separated. Following this decision, each prison founded a SOE which offered employment to prisoners. The statutory objective of the SOEs was to provide more jobs and contracted-in prison labour services. As an owner, NAP was overseeing the economic performance and was taking decisions regarding staffing and management of SOEs. Income from the economic activity of the SOEs was partially used for improving the prison infrastructure (e.g., prison security, working and living conditions of prisoners) and partially (at least 25%) used for reinvestment in SOEs. However, pursuing the objective of increased prisoner employment was often at the expense of profitability.

In terms of contracting-in prison labour, collaboration with the private shoe manufacturer, Zorile, stands out as a good example of meeting prisoner employment targets and earning a stable cashflow. Zorile was sub-contracting manufacturing capacities in a number of prisons in order to fill-in international orders for Adidas and Rieker footwear. Since 2008 Zorile is part of New Century Holdings and has shifted its strategy to develop a premium local brand and phased-out collaboration with the penitentiaries. Although, other manufactures showed some interest, the volume of production and the level of employment never matched that of Zorile.

Before 2015, public procurement provided stable demand for SOEs. Along with a number of other 'special enterprises'⁴², prison SOEs were allowed a 20% quota outside the tendering process. After the adoption of Law nr.131/2015 on public procurement, prison SOEs came in direct competition with other private suppliers, and production declined and alongside the number of employed prisoners. Moreover, standard Value-Added Tax (VAT) of 20% was introduced for SOEs in 2013, so that competitive pricing became more difficult.

There appears to be a limited cooperation between the penitentiaries and the SOE management, since the main financial incentives for prisoner employment were abolished. Previously, until 2018, the prison management was permitted to earn additional budgetary revenues (i.e., through dividends or retained contributions for employed prisoners), which, in turn, resulted in a higher motivation to collaborate with SOEs and other employers (i.e. by contracting-in and out of prisoner labour). Additional revenues were subsequently used for capital investments. The only remaining incentive now is the fact that keeping prisoners busy means fewer discipline problems for the prison administration, while still requiring resources for oversight.

The final act for prison SOEs was the transfer of their ownership to the Public Property Agency (PPA) in 2018 (not yet fully completed).⁴³ The transfer of ownership was part of a larger reform which (inadvertently) touched upon prison SOEs. The aim of this reform was to reorganise or liquidate unprofitable state assets. Out of 12 SOEs which belonged to NAP only 4 remained on their books in 2020.

Remaining SOEs and private contractors

The remaining four State Owned Enterprises (SOEs) are at Rusca, Branesti and Soroca penitentiaries, as well as one SOE, specialising in receiving purchase orders from prisoners

⁴² Such as the 'Society for Persons with Visual and Hearing Impairment'.

⁴³ L29/2018 'delimitation of public property'.

and organising weekly sales of permitted items to prisoners. The latter does not provide jobs for prisoners and, for this reason, was not part of the analysis for the purpose of this study. Three establishments with SOEs were visited as part of the study in October 2020 in order to assess their viability for prisoner employment opportunities with prison industries. Additionally, Cricova Penitentiary nr. 4 was visited for the purpose of this study. Cricova had made agreements with private contractors. A summary of key findings from each penitentiary is presented below:

Rusca (Penitentiary nr. 7)

This is the only female prison in Moldova, housing all security categories of convicted prisoners (closed, semi-closed and open regimes). The total number of prisoners at the time of the visit was 296, of whom 95 were employed by Rusca SOE (see pictures 1-4 in Annex 1). Rusca specialises in textiles. Additionally, about a dozen prisoners were employed in seasonal agricultural work outside the prison walls; they were electronically tagged accompanied by one supervisor. 34 prisoners were employed in domestic duties (e.g. cooking, cleaning). In total, 129 prisoners were employed, amounting to 44% of the female prisoner population, which is remarkable. Rusca has designated factory space for contracting-in a private firm, intending to install a shoemaking factory line for 50 prisoner employees (this would be in addition to the current prisoners employed). There is also a contract with a VET school, offering specialised training in tailoring and sewing, cooking and plastering. It was established that the SOE is well-managed, well-equipped and profitable. The production includes uniforms, bedlinen etc. by using digital blueprint patterns which are copied on to fabrics. Rusca SOE was the first to request certification for the production of anti-COVID masks in early 2020; their extensive buyers are from the corporate sector. Sales are driven by public acquisitions, achieved via an open online tendering process.

Soroca (Penitentiary nr. 6)

This closed prison regime accommodates mainly convicted prisoners with long prison sentences, having committed very serious crimes (e.g., grievous bodily harm, homicide). Long-term sentences also reflect the fact that these are repeat offenders with average sentences of 15 years. SOE Soroca (see pictures 5-9 in Annex 1) employed only 13 out of 742 prisoners for non-menial jobs at the time of the visit. The prison management mentioned that contracting out of prison labour to outside contractors is very difficult, as 20 working prisoners would require at least 6 supervising officers, which makes outside work impractical due to both high cost and general understaffing of the penitentiary. Considering the high security category and sentence length, the likelihood of prison escapes is relatively high. Working conditions in the existing prison workshops are very poor.

The main work in one workshop comprises mending barbed wire, making prison locks and producing the occasional metalwork. Recently, SOE Soroca won a tender by NAP (being the only supplier in Moldova of barbed wire) and has now relatively good production volumes. Although, the prison has other workshops (seven or eight of them have a capacity to provide work for about 300 prisoners), all are in a dilapidated state, in desperate need of repair and require major capital investment (e.g. fixing leaking roofs). At the time of the visit, 99 prisoners were employed in menial jobs, so that in total 112 men (15%) were employed. In the past, there was a shoemaking factory line for 260 prisoners. During the visit there was a group of technical experts from the Free Economic Zone (FEZ) Balti,⁴⁴ who were implementing a

⁴⁴ Second largest city in Moldova.

programme of developing local suppliers for the production of automotive parts.⁴⁵ According to the FEZ experts, potential contractors view stable and inexpensive labour as an enormous advantage, however they regarded the prison regime (currently not allowing for non-stop production) and the working conditions as an immense draw-back. SOE Soroca is marginally profitable leaving its management in a rather passive role: the SOE director is a former factory foreman with great technical knowledge and a positive attitude towards working prisoners. There may, however, be room for improvement in terms of salesmanship and know-how. At the time of the visit, prisoner living conditions were satisfactory: dining rooms and bathrooms were clean, dormitories were in good condition and food portions were meeting quality standards.

Cricova (Penitentiary nr. 4)

The prison regime is semi-closed, accommodating less serious crimes, such as property crime, and common assault with shorter sentence lengths. There were 790 prisoners in total. The SOE Bagos, belonging to Cricova Penitentiary, was transferred to PPA and subsequently liquidated. We established that the prison administration is open to contracting-in private businesses. Currently there are two private companies employing a total of 94 prisoners in the prison workshops. One company is making wooden boxes for fruits and vegetables as well as wooden pallets (see picture 10 in Annex 1). The working conditions are acceptable.

According to private contractors, one major advantage for any private business is the free rent of workshop space in the production hall, enhanced by its location: Cricova is close to the capital Chisinau. There appeared to be no major complaints from the prisoner workers. The disadvantages are the logistics, such as transportation of goods in and out of the premises, extensive security checks and special security regimes, i.e., mobile phones are not permitted in prisons making communication with the prison factories impossible. The other outside contractor engages in a recycling business (see picture 11 in Annex 1). Prison workers are mainly employed in piece- and assembly work, such as sorting and pressing plastic bags by using specialised machinery and equipment. The sorted and pressed plastics are then sent to an outside factory in the neighbouring village for further recycling into plastic granules ready for export. The company had offered special work overalls (uniforms) for prisoner employees, but the inmates preferred to work in their regular clothes.⁴⁶ The bad smell in that workshop was deemed to be safe. There are further plans to contract-in another private company, intending to produce 'eco-containers' (wooden boxes); but due to the COVID-19 pandemic, production plans were postponed. This leaves some 98 prisoners, employed in menial jobs, totalling 192 employed prisoners (24% of the prison population). Living conditions were adequate and the bathrooms were clean.

Branesti (Penitentiary nr.18)

This penitentiary is a semi-closed institution, with an average sentence length of three years. The convicted prisoners are said to be unruly, generally wanting to establish their 'reputation' within the criminal hierarchical culture of that prison. The official total number of employed prisoners was recorded by NAP as 161 out of a total of 687 male prisoners (23% of the total prisoner population).

⁴⁵ The FEZ Balti represents the most sophisticated form of preferential customs regimes in the Republic of Moldova. Legislation provides for the importation of goods into the FEZ on national territory for their subsequent processing and sale on to third-party markets without the application of tariffs and non-tariff customs limitations, compared to the national territory.

⁴⁶ All prisoners in Moldovan prisons wear their own clothes.

The prison operates a limestone mine (see picture 12 in Annex 1) in Branesti village where NAP records 104 prisoners as 'employed' in the mine. On the day of the field visit, only 55 prisoners were actually working. This was due to the fact that there were 11 brigades working on 11 limestone cutting machines, each brigade comprising 5 men. The cost of production is high at approx. 450 Moldovan lei (~23 Euro) per cubic meter, and the sales price of 525 lei (~26 Euro) is not sufficient to cover the administrative costs. The SOE is therefore making a loss and accumulating fiscal arrears, leaving the management powerless.

Before 2012, all Moldovan prison SOEs were VAT exempt and had a 20% quota on public acquisitions. Since VAT was introduced in 2013, the SOE Branesti has accumulated fiscal arrears and is subject to enforced tax collections which is aggravating the present economic situation. Besides prisoner employment in the limestone mine, there were 57 prisoners performing menial jobs.

Insufficient prison officer numbers required to guard the mine-prison workers could be a reason for tension between the penitentiary and SOE administrations, considering a recent attempted escape by one prisoner who had hidden in the mine overnight, creating heightened security issues. The prisoner living conditions were adequate and there was a new sports stadium which had been refurnished by prisoners. There is ongoing investment by a private shoe manufacturer for about 50 prisoner jobs. An ultra-modern footwear production line is already installed, and the working conditions in the factory are good; due to COVID-19, the production had not yet started (see pictures 13-14 in Annex 1).

Problem definition: low prisoner employment

Missing out on prisoner employment is both a lost opportunity and a cost to society. Currently, out of the total number of 6,497 prisoners in Moldovan penitentiaries, 80% are convicted with the ability and eligibility to work inside CIs. In real terms, only 945 prisoners (15% of the total prison population) are currently employed, including 10% doing menial jobs within the prison's compound.⁴⁷ Even after discounting the number of remand prisoners (1,035 in total), the percentage of employed prisoners is still low at 17%. Compared with Western European countries, Moldova ranks low in prisoner employment: the benchmark indicator for prisoner employment in CIs being 25-35%.

Taking into account that budgetary regulations allow for penitentiaries to employ up to 10% of prisoners for menial jobs, the number of prisoners having 'real' jobs in Moldovan prison industries makes for rather grim statistics. Currently, only 5% of prisoners work either for a private contractor or for an SOE. And it is not a question of prisoners not wanting to work – on the contrary, the current system incentivises correctional labour by providing reductions in prison sentences ('good time'). This means that prisoners are highly motivated. The simple fact remains: there are not enough jobs available for prisoners in the Moldovan penitentiary workshops.

Based on this evidence, it can be concluded that the core problem is **insufficient employment opportunities for prisoners in Moldovan penitentiaries**.

The consequences of the core problem are far-reaching:

- First and foremost, the lack of employment opportunities inside the penitentiaries is a major problem for serving convicted prisoners. **Time spent in prison amounts to 'wasted years' for prisoners**, unless they are able to develop and maintain their own employability and vocational skills, engage in some savings in order to support their families, or make use of some start-up capital upon release. This, in turn, becomes a problem for society into which prisoners are ultimately discharged: with no or little savings and skills, the prisoners join the ranks of the unemployed, living on state benefit, and might well be seduced back into re-committing crimes – the so-called 'revolving door' syndrome of recidivism.
- Secondly, the **lack of meaningful activities leaves prisoners with too much free time**. Consumed by either guilt or boredom (or both), a large majority of inmates are involved in gambling. This, in turn, gives rise to debts owed by prisoners to prisoners, this leads to increased conflict situations, in turn to prisoner-on-prisoner violence or self-inflicted harm and suicides. During the first half of 2020, there were 558 incidents of physical prisoner on prisoner bodily injuries. NAP accounted for 199 incidences of physical violence, 341 cases of self-harm, 7 suicide attempts and 3 suicides in its penitentiary system.⁴⁸ Requests for self-isolation for self-protection from prisoners exceeded the cell capacity. This poses a serious problem for both the prison administration and for inmates for whom violence becomes the default way of solving conflict. The Moldovan prison administration has insufficient means to ensure the personal safety of its prisoners. The overall result is that prisoners are left with low

⁴⁷ NAP data, October 2020.

⁴⁸ NAP 2020 Half Year Annual Report.

resocialisation skills and increased likelihood to reoffend, ultimately leading to released prisoners' alienation from society.

- Thirdly, **meaningful work is acknowledged as being critical for correcting criminal behaviour.**⁴⁹ Apart from prison labour, there are also other activities prescribed by individual correctional (sentence) plans for prisoners,⁵⁰ such as VET, recreational activities and group therapy meetings (socio-therapeutic). Yet, when prison employment is unavailable, the proliferation of a gang subculture is undoing much of the efforts spent on correcting criminal behaviour. From a 'gang' perspective, prison provides an 'opportunity' for new recruits to 'prove character', demonstrate skills and establish networks. Correctional sub-culture if left uncontrolled and unoccupied, leads to prisoner-on-prisoner violence, inmate unrest and or at worst, riots, which can only be described as 'warehousing violence'.⁵¹ Linked to this is high reoffending and an increase in the national recidivism rate. According to NAP prison statistics, the number of reconvicted offenders with second and third convictions represents 51% of the total prison population. Leaving aside some gender specific factors, it is worth mentioning the inverse relationship between employment and recidivism, i.e., **low prisoner employment means high recidivism, high prisoner employment means low recidivism.** In the only women's prison (Rusca), female inmates have better employment opportunities than their male equivalent (44% compared with 13% on average in male prison CIs). Women are less likely to be involved in gangs and their recidivism rate is slightly lower (40% with second and third convictions, compared with 52% of males). Ultimately, by failing to correct criminal behaviour, society faces greater harm, associated with higher crime rates and higher cost to maintain law and order.⁵²

Considering the effects outlined above, it is of great importance to find a solution to the core problem and to create more employment opportunities for prisoners in Moldovan penitentiaries. In order to do so, it is equally important to understand what limits the number of job opportunities in Moldovan CI. It has been established by this study, that prisoners in Moldovan prisons want to work, that the prison management is interested in keeping the prisoners occupied, and that outside contractors are incentivised by free rent of factory workshops inside the penitentiaries. The fundamental question then is: why are there only 5% of prisoners employed in Moldovan prison industries when the percentage could be much higher?

Having assessed the current situation during the prison field-visits, discussions with NAP officials and by gathering data from NAP statistics and financial reports, we have identified three main sub-causes of the problem, namely:

- (i) over the years the economic performance of SOEs, founded by NAP, has been deteriorating, and NAP has failed to keep the SOEs afloat while creating enough prisoner jobs (except for SOE Rusca);
- (ii) incentives to private contractors have been curtailed by unintended disincentives which, in turn, have reduced the demand for prisoner labour;

⁴⁹ Cf. Ramsbrock, A. (2020) *Geschlossene Gesellschaft*.

⁵⁰ NAP Policy is to implement individual correctional (sentence) plans for all prisoners. 1,089 individual sentence plans were adopted in 2019, and in the first half of 2020, 656. NAP 2020 Half Year Annual Report.

⁵¹ Fleisher, M. (1989) pp. 45-50.

⁵² In 2020, NAP budgeted 87.1 thousand Moldovan lei (~4.5 thousand Euro) per prisoner in current spending. In comparison: the Chisinau Municipality's annual spend per school pupil is 10 times lower.

(iii) lack of financial motivation and limited manpower prevented the prison management from playing a more proactive role in prisoner job creation.

The identified root causes of the problem are:

Low performance of State-Owned Enterprises

SOEs came into existence in the early 2000s, when the Court of Accounts (*Curtea de Conturi*) recommended the separation of economic activities of the penitentiaries from prison management.⁵³ Thereafter, a dozen of SOEs were founded by NAP each having the dual objective of creating employment opportunities for prisoners and making a profit. Neither of these two objectives was ever fully met, although historically prison labour used to represent a much larger percentage of the total Moldovan prison population. Economic performance was secondary and, given favourable treatment in public procurement and exemption from VAT, managing a prison factory required fewer salesmanship skills and more bureaucratic experience. Understanding that private companies' output would outperform the public one in most of the cases, the underlying policy of the Moldovan Government since 2018 was to centralise ownership and sell-off unwanted assets. Thus, 8 out of 12 prison SOEs were transferred to PPA and are in the process of being liquidated.

Out of the remaining 4 SOEs, there are only 3 that provide realistic prisoner employment (Rusca, Branesti and Sorooca). Examining the profit and loss accounts⁵⁴ of these SOEs we have noticed a great variation:

- Rusca is successful in maintaining sales margins between 15 and 25% in excess of the costs of goods sold, while fully covering the administrative expenses (overheads) and creating employment for 32% of the female prisoner population. During the last 5 years the prison factory consistently generated profits, yielding in 2019 a return on assets (ROA) of 6,7%, and a return on equity (ROE) of 8,7%. Its debt-to-equity ratio (D/E) decreased from 86% in 2014 to 25,2% in 2019.
- In spite of providing employment for 15% of prisoners, Branesti is underperforming from an economic standpoint. Not only is it suffocated by tax arrears from previous years, but also its sales margin of 5 to 10% is not sufficient to cover the administrative expenses. The prison CI has negative profit margins, accumulating losses year on year. In an attempt to settle historical debt, its capital turned negative in 2018 and its D/E ratio is unsustainable.
- Sorooca is rather unique: it has the highest sales margins – between 20 and 50% in excess of the cost of goods sold. However, for three consecutive years (2015-2017) it had increased administrative expenses, so that the profit margins were nil. Judging by the last 2 years when this practice was discontinued – the overhead stabilised at 20% and the profit margin became 6,7%. The D/E ratio is the lowest (12,6% in 2019) on the account of current payables. On the other hand, Sorooca provides employment for only 2% of prisoners.

⁵³ Formerly, a deputy director of the prison was in charge of SOE in prisons.

⁵⁴ Financial reports of Rusca, Branesti and Sorooca SOEs, 2015-2019.

Figure 1 Economic performance of the SOEs from 2015 to 2019



The variable performance of SOEs is largely explained by the following root-causes:

- Poor public sector oversight of the economic performance of SOEs led to variable and largely negative economic results.** Formerly this was due to conflicting objectives of SOEs: should their directors strive to achieve maximum employment for prisoners, or should employment of prisoners be dependent upon economic rationale? Public sector oversight diminished further from 2018 onwards. Partial transfer of ownership to PPA in 2018 allowed the government to cut losses, but, in the process, it also liquidated jobs for prisoners. For the remaining three SOEs, public sector oversight is now virtually non-existent. *De facto* Rusca, Branesti and Soroca SOEs are on the books of NAP, although *de jure* all SOEs must come under PPA jurisdiction by 2022. Due to the provisory status of ownership, NAP is incapable of exercising its rights as an owner of SOEs, for example, change the management, suggest downsizing personnel, reducing administrative costs and so on. It is therefore highly likely that after turning these remaining SOEs over to PPA, NAP will maintain some theoretical oversight by acting as a board member. However, it is unclear if board membership will be enough to secure timely and strong governance.

- **Management of SOEs is a critical factor that underpins performance.** Rusca, for example, was found to have an experienced manager-director, who understands the CI business, actively participates in public tenders and thereby manages prison labour as a human resource effectively. Due to his entrepreneurial initiative, Rusca SOE was awarded the contract, producing hygienic face masks during the COVID-19 pandemic in 2020, given the increased demand from the open market. The Soroca SOE, while financially sound, could create more prisoner jobs and increase employment opportunities with a more proactive outward market-seeking initiative. Branesti SOE is seen to be beyond recovery, unless the government decides to re-capitalise the SOE by way of a clemency over tax arrears and initiate a rather thorough transformation. As it is considered an unlikely scenario – more prison jobs are likely to be lost when Branesti SOE gets liquidated.
- **Outdated machinery and equipment and dilapidated workshops are constraining economic performance and prisoner job creation** by the SOEs. Except for Rusca SOE, which has relatively modern equipment and well-conditioned workspaces, the remaining prison factories still use Soviet equipment and machinery, dating back more than 50 years. The workshops at Soroca are dilapidated and unsuitable to be rented out to external private contractors. Writing-off of outdated equipment (old enough to have mere museum value) is a systemic problem, known to many Moldovan public institutions. The bureaucratic hurdles prevent the prison management (or NAP) from taking any action in this regard. Theoretically, the workshop spaces in Soroca may be reconditioned out of the profit margins, but in order to take such a decision the owner's involvement is required. In Branesti, investment in modern cutting machinery can significantly reduce costs of goods sold, but considering that the SOE is facing significant financial distress, capital investment is a luxury few would dare to commit to.
- Distinct from the sub-causes mentioned above is that **public procurement regulations prevent an optimal use of existing production capacity and labour utilisation.** The public procurement legislation does not differentiate between internal and external market. The penitentiaries use security installations, such as fences and locks, furniture, bedlinen and food, which need to be procured through open tendering (i.e. from the external market), whereas the capacity to produce the aforementioned goods (i.e. internal market) is left unused.

Low demand for prison labour from private contractors

High concentration of labour and stability in the number of prisoner employees is a natural advantage to many manufacturers and outside contractors. This was highlighted by the two private contractors renting workspace and hiring prisoners in the Cricova penitentiary. This was also acknowledged by the visiting experts from FEZ in Balti who considered investment in the capacity of the local suppliers to FEZ residents that produce automotive parts. No doubt, the lack of qualifications and low initial productivity could be a problem, yet this problem is solvable. All penitentiaries have contracts with VET schools which provide on-demand training to prisoners. For instance, Rusca penitentiary organises training for tailors and seamstresses, who, in turn, are employed in textile manufacturing. Similarly, Soroca penitentiary provides training for welders and carpenters. In addition, the private contractors expect a learning curve: whilst the initial productivity is usually low, this is resolved as soon as prisoner workers gain more hands-on experience.

So, if this is the case, why isn't there more demand for contracting-in prison labour? We have identified a number of factors which turn away private contractors:

- **Inflexible prison regimes discourage potential contractors.** According to penitentiary regulations, the prisoners have a rigid daily institutional routine schedule, including three roll calls, meal breaks and, more importantly, lockdown of prison barracks during the night-time hours. Contrary to that, private contractors have suggested three production shifts, so that prisoners can work overnight, and time is not lost to kick-starting machinery, while ensuring its near-full utilization.⁵⁵ After some thorough negotiation with Rusca penitentiary, Fujikura declined investment in a new production hall in 2019. The same suggestions were made to Soroca penitentiary by potential FEZ Balti investors. Moreover, the use of electronic communications (mobile phones) is restricted which prevents supervisors from timely coordination of supplies and deliveries. Finally, mandatory security checks have to be considered when entering and exiting the prison compound ('goods-in' and 'goods-out'). Just-in-time production and deliveries are compromised unless there is a proper and constant coordination between prison and factory management.
- **One-year rent agreements between the prison administration and private contractors increase uncertainty over installation of new equipment.** From a business perspective, investment in new equipment, such as production lines, is breaking even over medium to long term perspective. However, renting of prison workspace is presently only possible for one-year. Law nr. L121/2007 explicitly stipulates that unused SOE assets may be rented out for a maximum one year⁵⁶ and although penitentiaries are not SOEs as such, ambiguous legal provisions discourage them from entering into longer term agreements⁵⁷. Theoretically, an alternative form of public-private cooperation is a concession agreement, which may have a maximum duration of 50 years.⁵⁸ However, this requires more legal sophistication which the prison administrations usually lack.
- **Physical infrastructure of production halls is dilapidated and in desperate need of capital repairs.** All workshops within the prison compounds require serious restoration in order to offer adequate working conditions (e.g. roofs are leaking in the Soroca prison factory). Capital investment from the budgetary funds is unrealistic – the state has many unmet demands already. Capital investment by the prospective private contractors is feasible, however, they are unwilling to take on great risks if they are only permitted to lease prison factory space for a maximum of one year. For this reason, the private contractor may be more willing to undertake capital repairs if they enter into a long-term leasing or rent agreement which the current legislation prohibits. Furthermore, such capital investment is not tax deductible under current legislation.⁵⁹ This, in turn, prevents the private contractor to monetise the benefits except from future income. It should be mentioned that there are other, more sophisticated forms of cooperation between the prison administration and private contractors, such as public-private partnerships⁶⁰ (PPP), under which capital investment is tax deductible.⁶¹

⁵⁵ This is achieved by having 3 shifts per day; overtime and weekend work must have increased overtime payment with one day-off required by legislation.

⁵⁶ L121/2007 on administration and denationalisation of public property, Art. 17 (5).

⁵⁷ The superseding Art. 17 (1) of L121/2007 refers to public institutions as well.

⁵⁸ L121/2007 on administration and denationalisation of public property, Art. 15.

⁵⁹ CF Fiscal Code, Art. 24.

⁶⁰ L179/2008 on public-private partnership (PPP).

⁶¹ CF Fiscal Code, Art. 24 (23).

Similar to what has already been mentioned above, the prison administrations usually lack legal expertise necessary to initiate a PPP.

- **The Coronavirus pandemic is taking its toll on CI.** Currently, there are two private contractors who had previously installed production lines (eco-boxes in the Cricova penitentiary and footwear in Branesti penitentiary). However, they did not start manufacturing because of decreased demand from the external markets due to the 2020 pandemic. These production lines could have potentially provided employment for approx. 100 prisoners. Due to the delay, the prison management is considering whether it is worthwhile extending the current contracts for the next year (2021-22).

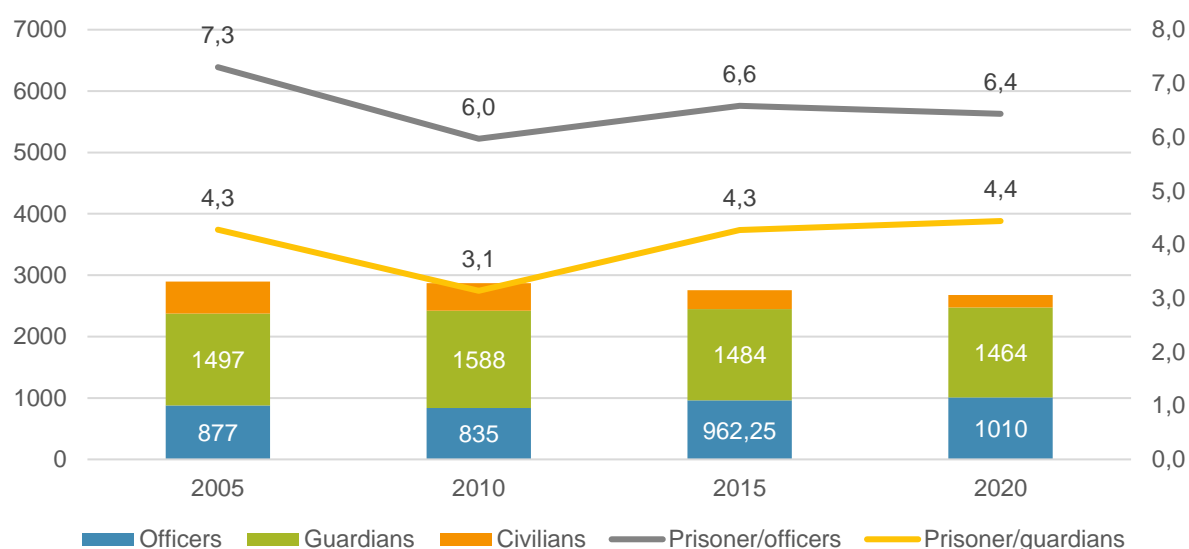
Reluctance of management to contract-out prison labour

The prevailing culture in the prison administration, especially NAP, is that a prison sentence is not a matter of punishment alone and keeping convicted inmates away from law-abiding citizens (a rather archaic approach not compliant with human rights legislation). At the same time, it is seen as a means of correcting criminal behaviour. Meaningful work is understood to be a critical element of addressing criminal behaviour and repeat offending. Yet, besides the practical lessons learned, that occupied prisoners are a lesser problem for prison officers, there are few incentives to proactively pursue job creation. Besides, providing work at the SOEs or by a private contractor within the prison walls, there is also a possibility to contract-out prison labour to private contractors outside the prison walls, especially in the case of open prison regimes. However, this possibility is underutilised due to the following reasons:

- **The prison management lacks the motivation to contract-out prisoners.** Before a budgetary reclassification took place in 2015, the penitentiaries were allowed to accumulate surpluses from the income earned through economic activities and use such balances to improve prison infrastructure. At that time, it made sense for prison directors to make an extra effort in order to create more jobs and earn more income. Under the current system, all prison expenditure is funded from the state budget, and all income earned through rent or profit sharing is transferred to the state budget directly. Indeed, there is an understanding that the Ministry of Finance would have approved additional budgetary requests within the amounts transferred to the state budgets from the penitentiaries, however, it never happened in practice because additional justification of such requests is necessary.
- **Contracting out prison labour requires additional manpower for guarding and supervising prisoners.** Starting in 2010, staffing of the penitentiaries deteriorated. The IMF recommendation to the Government of Moldova was to pursue an austerity programme by cutting the salary expenditure of prison officers. Correspondingly, the number of filled jobs in the budgetary sector, including the penitentiaries was reduced significantly. Furthermore, the prisoners-to-supervisors and prisoners-to-officers ratios increased from 6 to 6.4 and from 3.1 to 4.4 respectively. This is not unmanageable for routine tasks (higher ratios existed in 2005) but it is limiting the possibilities for contracting out prisoners were legislation prescribes 5 supervisors and 1 escort for a group of 20 prisoners.⁶²

⁶² NAP and NBS statistics.

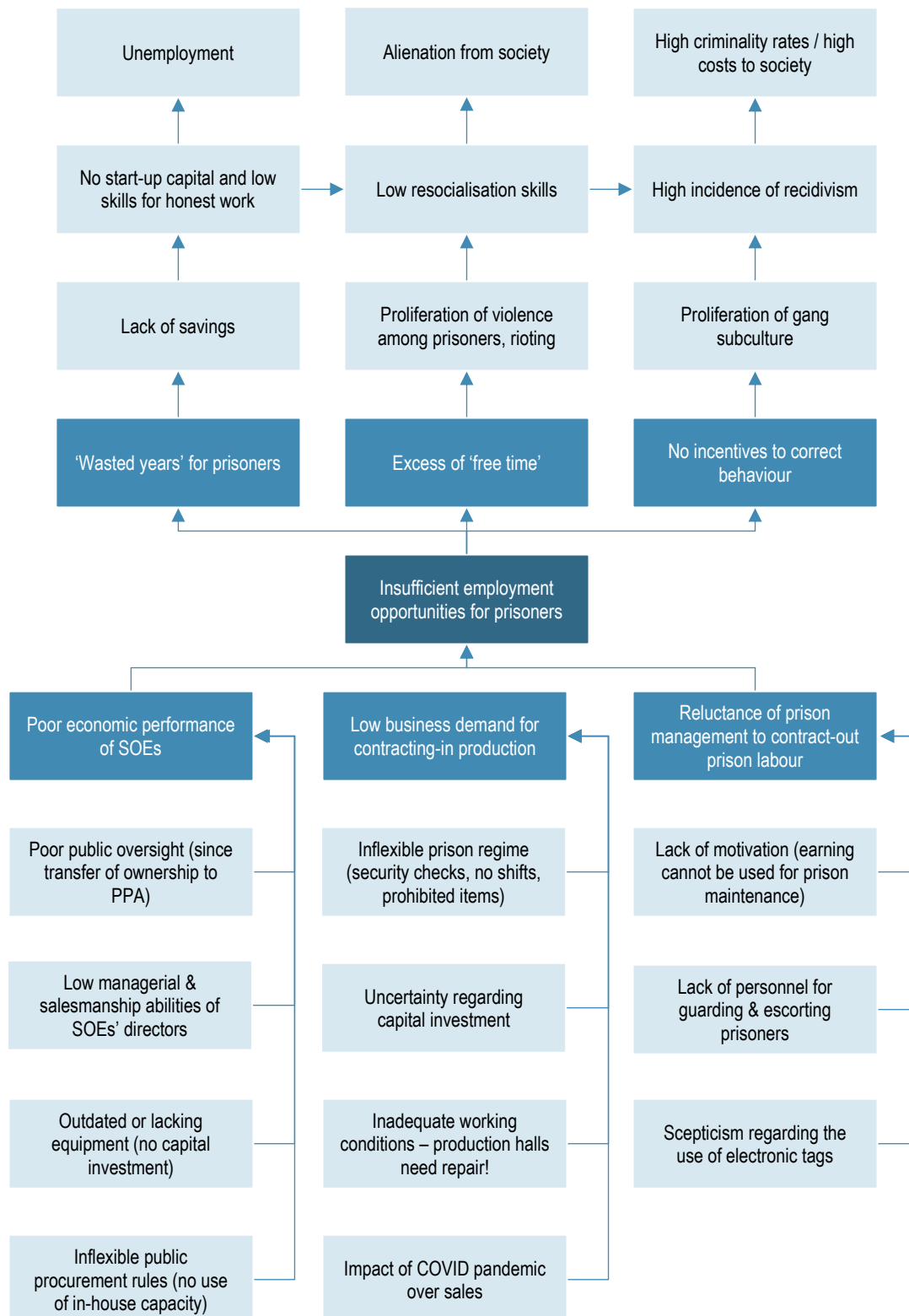
Figure 2 Staffing of prison administration in selected years (2005-2020)



- The prison management is sceptical regarding the use of electronic tags.** The use of electronic monitoring is relatively new in the Republic of Moldova. Electronic tagging was introduced by the Probation Office in 2016 and was piloted in several penitentiaries. It is believed that by using electronic tags, the attempts of prisoners to escape would dramatically decrease, thus requiring less manpower to guard and supervise prisoners. However, the technology to monitor signals from the electronic tags exists only within the Probation Service and not in the prisons as such. Therefore, alerting the prison management when the prisoner is out of the signal area is deemed impractical.

The problem tree on the following page (Figure 3) illustrates the causal linkages between the core problem, its root-causes and effects.

Figure 3 Problem tree: causes and effects of low prisoner employment



Policy objective: Increasing job opportunities for prisoners

The overarching aim of the policy proposal is to contribute to correctional behaviour of the prisoners in Moldovan penitentiaries by enabling new job creation and employment in correctional industries (CI).

General objective: Achieve prisoner employment of at least 25% of the total prisoner population in the Moldovan penitentiaries by the end of 2025 and 40% by the end of 2030.

Specific objectives:

1. Resolving of ownership of the existing SOEs by allowing NAP to maintain effective oversight over the economic performance of CI and prisoner employment by the end of 2021.
2. Amending the existing national legislation (or passing of new legislation) to enable NAP to use goods produced by the internal market outside of the tendering process.
3. Amending the existing national legislation to enable long-term contractual relations between third party private contractors and the prison administration (up to 5 years), and provision of tax incentives for capital repairs.
4. Adopting self-management regulation for the penitentiaries, enabling them to keep income generated by economic activities and use such income for improving the physical infrastructure of prisons and prison factories.

Cross-country comparisons: What works in Correctional Industries

The rehabilitative ideal of the 1960s⁶³ and 70s⁶⁴ to use work inside prisons as a means to having a better chance after release from prison manifested itself in Britain and Germany in the emergence of the 'industrial' prison, such as Her Majesty's Prison (HMP) Coldingley, HMP Woking, Surrey, and HMP Featherstone, Birmingham.⁶⁵ In Germany these were (and still are) *Justizvollzugsanstalt* (JVA) Straubing, Bavaria; JVA Celle, Lower Saxony; JVA Freiburg, Baden Württemberg. Training prisons with highly sophisticated CI are to be found across Western Europe and the United States (federal and state prisons) and tend to be more suitable for the long-term sentenced prisoners (usually over four years).

International legislation governing prison labour

While convicted prisoners are required to work by law in nearly every country (except France), English common law states that prisoners are not 'employees' of the prison,⁶⁶ nor is there a master-servant relationship.⁶⁷ Consequently various employee rights and employer obligations, such as invalidity benefits, pension rights, access to industrial tribunals, health insurance requirements, etc., should be contained in legislation such as the British *Health and Safety at Work Act 1974* or extensive labour industrial relations legislation in France or Italy, which provides prisoners with a 'real work' situation inside its CIs. In most countries, prisoners can litigate for injuries sustained at work, but only on the basis that the prison owes them a general duty of care and that they are able to demonstrate that the prison was negligent. The European Convention (ECHR) provides another safeguard in human rights law for all subscribing 47 member states to the Convention, including Moldova.⁶⁸

Conditions in prisons in countries, signed up to the Convention, are regularly inspected by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). However, the Committee does not generally inspect correctional industries (e.g., under Article 3 ECHR 'prevention from torture and inhuman and degrading treatment'). That said there is no sanction or disciplinary action available to the CPT for mistakes or

⁶³ The 1959 UK Government White Paper categorically stated that work inside prisons "must always be in some ways the basis of training". Cf. Home Office White Paper *Penal Practice in a Changing Society*, 1959.

⁶⁴ The subsequent 1969 UK Government White Paper *People in Prison* stressed the importance of the economic use of prison labour and the "inculcation of the habit of regular and purposeful work at a tempo and in conditions as close as possible to those of the outside industry." Cf. White Paper *People in Prison*, 1969, paras 45 and 46.

⁶⁵ By 1996 Enterprise Services (part of the HM Prison Service England/ Wales) was able to measure each job (time & motion; productivity rate) in, for example, tailoring, weaving, printing or welding in all 135 prisons. The productivity rate increased from 25 to 60% in nine industrial prisons under the so-called 'Workshop Expansion Scheme' (later known as 'Pathfinder'). The 'Workshop Expansion Scheme' prisons with increased work activity as of April 1997 were: HMPs Kirkham, Wymott, Ashwell and Featherstone in the North, Channings Wood, Littlehey, Camp Hill, Albany and Maidstone in the South. These prisons were chosen by Operational Directors on the basis that they were all low security category (Cat. C and D) adult male prisons and could achieve the increased labour time of 35 hours per week and productivity rate of 60%. Cf. U. Smartt (1997) *European Prison Industries 1996: A Report to the European Prison Industries Forum Based on the 'European Prison Industries Questionnaire'*, HM Prison Service, London.

⁶⁶ See: *Pullen v. The Prison Commissioners* [1957] 3 All ER 470.

⁶⁷ See: *Davis v. The Prison Commissioners*, *The Times*, 21 November 1963.

⁶⁸ The general principle that the prison authorities owe a duty of care to prisoners was established in *Ellis v. Home Office* [1953] 2 QB 135.

breaches of management deficiencies, such as prisoner-on-prisoner violence, or inhuman or degrading treatment, as well as unsafe and unhealthy conditions in prison industries.

Germany

With a total prison population of 57,600⁶⁹, Germany has a long-standing tradition of prison 'factories' (workshop), linked to trades and master craftsmanship in German industry, with vocational training and apprenticeships provided by civilian instructors.⁷⁰ The *internal* market (*Eigenbetriebe*) supplies and produces for all prisons and public authorities for each *Land*. *Eigenbetriebe* generally cover production areas, such as furniture, metal processing and tool manufacturing, electronics, motor vehicle maintenance, printing and offset litho, agriculture (farms and gardens; horticulture; asparagus; wine), bakeries, meat and sausage production. Internal operations and productions in industrial training prisons (such as JVAs Straubing, Heimsheim or Celle) use state-of-the-art machinery and IT systems. The prisoners are employed under the guidance of experienced master craftsmen (*Meister*) in their trade (e.g. printing; welding; carpentry).

The state company, *Vollzugliches Arbeitswesen* (VAW) (German Federal Prison Industries) for each *Land*, provides numerous services for its own penal institutions as well as all other public services; each VAW differs from *Land* to *Land*. Each *Land* VAW has its own entrepreneurial activity as a *Land*-owned company with its own CEO who can shape the entrepreneurial business within the correctional industries of his or her *Land*.⁷¹ This means that prison industries are devolved within the federal system to each of the 16 *Länder* (federal states).

VAW also contracts with private companies for the *external* market (*Unternehmerbetriebe*). The corporate VAW objective is focused on being a partner rather than a competitor to the private sector due to its macroeconomic and societal tasks. In most German CIs this then becomes a joint venture. Each *Land* VAW business model operates as an 'extended workbench' for the private sector where work is contracted-in to CI. This means that contract work is carried out by prisoners with the employer's equipment. For short-term, including remand prisoners, this generally amounts to piece or light assembly work (*Stückarbeit*), such as sorting, packing, assembly work, inserting, folding, soldering, cardboard packing, sewing and recycling. These entrepreneurial businesses are set up in all penal institutions throughout the Federal Republic of Germany and differ from *Land* to *Land*, so that close proximity to customers can be guaranteed on a regular basis, for example in the areas such as catering, laundry services and supply, contract cleaning etc.

Many *Länder* VAWs have signed up to the ISO.⁷² For example, eight Baden-Württemberg prisons are ISO qualified, certified according to ISO 9001/2000,⁷³ many more prison CI are

⁶⁹ As of 30.6.2020, Federal Statistical Office.

⁷⁰ The Federal Republic of Germany comprises 16 states (*Länder*), each *Land* (state) with its own Ministry of Justice and Prison Administration (*Vollzugliches Arbeitswesen* [VAW]). CI examples were provided by the *Länder* of Baden-Württemberg, Niedersachsen and Bayern: <https://www.vaw.de/de>

⁷¹ For example, Patrick Herrling, VAW Hauptgeschäftsführer (CEO) Baden-Württemberg.

⁷² The *International Organisation for Standardization* (ISO) is an international standard-setting body, composed of representatives from various national standards organisations. Founded on 23 February 1947, the organisation promotes worldwide proprietary, industrial, and commercial standards.

⁷³ ISO 9001 'family' sets out the criteria for a quality management system and is the only standard in the family that can be certified. It can be used by any organisation, large or small, regardless of its field of activity. In fact, there are over one million companies and organisations in over 170 countries certified to ISO 9001.

aiming to follow suit, according to Patrick Herrling, Managing Director.⁷⁴ North Rhine-Westphalia (Nordrhein Westfalen) has ISO certification in business accounting.

Alongside prisoners' employment in the industries, prisoners can complete apprenticeships in trades or crafts which generally takes three years to qualify and is therefore only offered to long-term inmates. Short term qualifications and vocational training such as the 'European Computer Driving Licence' (ECDL) are also offered as well as further and higher education (Distance Learning via the *Fernuniversität in Hagen*⁷⁵), such as 'setting up your own business', accounting and bookkeeping practices, alongside courses to advanced CV and interview skills, aimed to improving inmates' chances of professional integration after their release and to reduce reoffending.

It is remarkable to find that of the total average daily number of approx. 11,000 prisoners in the German state of Bavaria, nearly 6,000 took part in some form of VET activity in 2019 (433 acquired national vocational qualifications; 1,549 received general vocational training alongside their employment and 3,820 completed high school, further and higher education qualifications).⁷⁶

Since the early 1990s German CI have developed into high-turnover commercial enterprises with sophisticated marketing of prison-made products. Most VAW correctional industries have their own websites and online shops, some with popular 'hit' products, such as the *Justizvollzugsanstalt (JVA*⁷⁷) Hamburg-Fuhlsbüttel with its own trade mark, 'Santa Fu'.⁷⁸ Hamburg prison sells its own branded clothing and accessories to the outside, particularly popular with young people who proudly wear the Santa Fu label.

Bavaria (Bayern)⁷⁹

Table 1 Prisoner employment in Bavaria

Total prison population Bavaria	11,174	%
Total prisoners employed in CI	6,104	54.62%
Internal Market (Eigenbetriebe)		18.40%
External Market (Unternehmerbetriebe)		33.63%

Additionally, Bavaria offers socio-therapeutic work therapy (*Arbeitstherapie*) to categories of prisoners who are not able to work in CIs due to being 'not fit for work' due to lack of mental capacity (psychological assessment). 2.06% were in *Arbeitstherapie* in 2019 (handling of and working with materials such as wood, ceramics and stone masonry).

⁷⁴ FOI request to the Ministry of Justice Baden-Württemberg. Response by VAW Hauptgeschäftsführer (CEO) Baden-Württemberg, Patrick Herrling. 12 October 2020.

⁷⁵ The distance learning university of Hagen offers extensive opportunities to all prisoners in the federal republic where degrees can be taken whilst serving a prison sentence: https://www.fernuni-hagen.de/studium/fernuni_fuer_alle/inhaftierte.shtml

⁷⁶ FOI request to the Ministry of Justice of Bavaria (Bayerisches Justizministerium). Response by Ministerialrat Schlosser and Cornelia Jahrstorfer, 13 November 2020. F2 - 4520E - VIIa - 12151/2020.

⁷⁷ JVA - German term for 'prison institution of the Ministry of Justice'.

⁷⁸ A play on words, referring to the notorious Santa Fe penitentiary of New Mexico, a men's maximum-security prison, which has been adopted by JVA Hamburg Fuhlsbüttel prison, known locally as 'Santa Fu'.

⁷⁹ Source: Bayerisches Staatsministerium der Justiz, as at 13 November 2020.

During the year 2019, an average 1.97% of *Freigänger* were employed in the open external market (*Unternehmerbetriebe*), i.e., they are accommodated in open prison conditions (e.g., JVA Straubing Annexe) and ‘work out’ during the day.

Prisoner pay rates and deductions from wages etc. (Bavaria)

All prisoner pay rates, deductions and contributions are fixed by legislation for Land Bayern; here the *Bayerisches Strafvollzugsgesetz (BayStVollzG)*, ‘Bavarian Prisons Act’. Each convicted prisoner must work, as per § 46(2) 38 BayStVollzG ‘duty to work’. Remand prisoners’ work is regulated under §12 (3(2) *Bayerisches Untersuchungshaftvollzugsgesetz (BayUVollzG)* - ‘Bavarian pre-trial detention Act’.

Prisoner remuneration and wages are regulated as per § 200 *Strafvollzugsgesetz des Bundes (StVollzG)* – ‘Federal Prison Act’, and prisoner pay rates specifically are regulated under § 18 *Sozialgesetzbuch – Viertes Buch – (SGB IV)* – ‘Fourth book of the Social Law Act’.

All prisoners have to engage in menial prison work for the first two months (*Pflichtarbeit*); only thereafter can they apply to work in prison industries (CI).

Statutory prisoner pay rates (Bavaria)

The Bavarian Prison Administration paid 3,364.20 € in total prisoner wages, amounting to an average daily pay rate of 13.46 €. ⁸⁰

Table 2 Hourly pay rates in the Bavarian Prison Administration

Pay level	Hourly rate
I	1.26 €
II	1.48 €
III	1.68 €
IV	1.88 €
V	2.10 €

Table 3 Statutory prisoner pay rates in the highest security category (*Sicherungsverwahrte*)

Pay level	Hourly rate
II	2.63 €
III	2.99 €
IV	3.35 €
V	3.74 €

Compulsory savings (*Überbrückungsgeld*) amounted to 1.25% from the gross prisoner’s earnings (2019) – sufficient for one month’s earnings upon release.⁸¹ Additionally, 4/7th of

⁸⁰ Art. 46 Abs. 2 Satz 3 BayStVollzG, Art. 12 Abs. 3 Satz 1 BayUVollzG, § 43 Abs. 2 Satz 3 StVollzG.

⁸¹ Art. 51 BayStVollzG, Art. 42 BaySvVollzG, § 51 StVollzG.

the total earnings are deducted for board and lodging; the remaining 3/7th are left for Hausgeld (pocket money for shopping). All prisoners' savings are deposited into prisoners' accounts under the care of the prison governor. Upon request from the prisoner, the prison governor may invest prisoners' savings in an interest-earning deposit account over the amount of 100 € (quarterly earnings).

The Bavarian State Ministry of Justice issued a decree on 2 October 2012 whereby each prisoner is assisted upon release by the Bavarian State Employment Agency (*Bundesagentur für Arbeit* (BA)). Apart from local employment agencies, the larger prison establishments have employment agency staff working inside the establishments with regular office and consultation hours to assist prisoners in the finding of work and work placements, plus CV and interview training. Each 'employment agency' at the prison facilitates online access, linked directly to the BA and all job vacancies outside the prison walls.

Niedersachsen (Lower Saxony)⁸²

With a total prison population of 4,723 in the north German federal state, 3,294 prisoners are employed in CI (69.75%).⁸³

Table 4 Prisoner employment in Lower Saxony

Total prison population Lower Saxony	4,723	%
Total prisoners employed in CI	3,294	69.75%
Internal Market (<i>Eigenbetriebe</i>)	345	8.3%
External Market (<i>Unternehmerbetriebe</i>)	1,173	35.6%

Prisoner pay rates and deductions from wages etc. (Niedersachsen)

All prisoner pay rates, deductions and contributions are fixed by legislation for each Land; here the *Niedersächsisches Justizvollzugsgesetz* (NJVollzG) 'Lower Saxony Prisons Act'.⁸⁴ Each convicted prisoner must work, as per § 38 NJVollzG 'duty to work'. Prisoner remuneration and wages are regulated as per § 40 NJVollzG.

Pay rates as at 1.1. 2020 (for convicted and unconvicted/ remand prisoners):

Basic rate of pay per hour: 1.73 €,
Prisoners in the highest security category (*Sicherungsverwahrte*⁸⁵) 3.08 €

⁸² FOI request to the Ministry of Justice of Lower Saxony and correspondence received from Prisons Minister Staatssekretär Dr. Hett, 3 November 2020 (Correspondence Nr: 4400 E - 302. 1/2020 5243).

⁸³ Ministry of Justice Lower Saxony data as at 31 December 2019.

⁸⁴ *Niedersächsisches Justizvollzugsgesetz* (NJVollzG) in der Fassung vom 8. April 2014.

⁸⁵ 'Preventive detention' is a form of criminal sanction as an additional sentencing measure where convicted prisoners are kept in prison beyond their basic sentence because they pose an exceptionally high risk to society if released. On 31 March 2020 there were a total of 593 *Sicherungsverwahrte* in the Federal Republic of Germany.

Deductions 2.4%: social security/ unemployment contributions according to the Social Code (§ 26 Abs. 1 Nr. 4 *Sozialgesetzbuch* (SGB) III).

Compulsory savings: at least 10% (goes straight to the prisoner's account – *Überbrückungsgeld*).

The Netherlands

With the increase of the Dutch prison population (currently 10,000 prisoners),⁸⁶ the Dutch government changed its penal policy from 1994 onwards, announcing a similar policy to that of the then British Conservative Home Secretary, Michael Howard's 'Prison Works' (1993). The Dutch Government White Paper, *Werkzame Detentie* ('Effective Detention', 1994),⁸⁷ led to the introduction of a new Penitentiary Procedural Code (*Penitentiaire Beginselen Wet – PBW*) in 1998. The legislation introduced that all convicted prisoners not only *had* to work, but there was a duty to work for a minimum of 26 hours per week before prisoners were permitted to take part in any other prison regime or 'purposeful activity'. Work and vocational training became an incentive like never before. One trend which concerns the government is that 44% of the total prison population are on remand awaiting trial and there is not enough work in CIs to keep prisoners occupied.⁸⁸

Correctional industries (CI) are a sub-division of the *Dienst Justitiële Inrichtingen* (DJI), the Dutch 'Custodial Institutions Agency', and therein part of the Ministry of Justice. In September 2020 an average 6,700 prisoners were working each week in CI, representing approx. 75% of the total prison population. Prisoners now work a minimum of 20 hours a week in CI, including remand and convicted inmates. The Ministry of Justice reported that there are pilot schemes at five prisons where a 32-hour working week is being trialled at CIs in long-term training prisons.⁸⁹ Similar to the French correctional labour market (see below), outside businesses have their goods manufactured in Dutch prison industries. The main operations are in the area of recycling, cleaning and catering.

Every prisoner receives unemployment benefit if there is no work available in CI; sick pay is only paid if the prisoner is certified by a doctor. Each prisoner has to pay social security and tax contributions, deducted from their wages. Long term prisoners who have worked certain number of hours are entitled by statute to one day a month off work (not to be spent outside the prison but seen as a normal paid rest day). Open prisons only work with private contractors and prisoners receive 40 per cent of their wages directly from the private contractor.

'In-Made' goods and joint ventures

From 2019 the DJI has operated devolved budgets, i.e. all managerial responsibility now rests with prison governors or cluster unit managers (24 prison establishments with CI production of 'In-Made' goods). Prison made goods ('In-Made') are the main supplier to all Dutch state agencies. Goods for the internal market (the 'In-Made' label) are exclusively contracted-in from external contractors and suppliers. The government programme 'Purchase with Impact' encourages all suppliers to spend 5-10% of the purchase value with

⁸⁶ As of 1.09.2020, Centraal Bureau van Statistiek.

⁸⁷ Cf. Ministerie van Justitie *Werkzame detentie: Beleidsnota voor het gevangeniswezen*. Parliamentary Paper No. 22.999, 1994, The Hague.

⁸⁸ CBS: 'More prisoners in 2019': <https://www.cbs.nl/en-gb/news/2020/33/more-prisoners-in-2019> accessed 15 October 2020.

⁸⁹ Source: Nelleke Goldberg, Medewerker projectondersteuning In-Made/ Ex-Made ('In-made' brochure about prison made goods), Ministerie van Justitie en Veiligheid, Dienst Justitiële Inrichtingen, Turfmarkt 147, 2511 DP, Den Haag, Postbus 30132, 2500 GC, The Netherlands, 13.10.2020.

'In-Made', making these joint ventures (PPP). Quality and pricing are economically competitive with the outside market. CIs do not have to compete with suppliers but become part of the supply chain. This partnership in favour of 'In-Made' goods benefits Dutch CIs, saves on acquisition and purchasing and the DJI does not have to make any capital investment in either factory machinery, equipment or 'know how'.

France

France, having a total prison population of 58,695,⁹⁰ is probably the most advanced prison administration in Europe as far as PFI and an independent inmate labour market is concerned. The penitentiary administration (*Ministère de la Justice* - Ministry of Justice) is responsible for the management, the surveillance, the registry (follow-up of imprisonment), probation and re-integration. The private sector is responsible for the day-to-day operations in 58 out of the 91 prisons and this generally includes kitchen, catering and food services, accommodations, vocational training, prison maintenance and family visits.⁹¹

The nature and type of work activities inside French CIs vary from region to region and département to département.⁹² Whilst the regional prison administration retains statutory responsibility for the management of the establishment, such as prisoners' custody and sentence plan, reintegration upon release and the remuneration of all prison officers, the day-to-day management inside each establishment is left to the private contractors, including cleaning, maintenance and upkeep of the prison premises and all catering functions. Education and vocational training is also provided by private contractors.

Today, the correctional labour market inside all penitentiaries is largely managed by private contractors, reflecting 'real work' conditions and a competitive labour market inside prison walls. The oversight of correctional industries' is undertaken by the 'enterprise agency', the *Régie industrielle des établissements pénitentiaires* or RIEP. The RIEP and its industrial management of CI in the penitentiary establishments has existed since 1951. Since 1998, it has been managed by the penitentiary employment service (*Service de l'Emploi Pénitentiaire* - SEP), an agency of the Ministry of Justice with national jurisdiction. Prisoners can contract themselves 'out' via the RIEP as self-employed to third party private contractors (*concessionnaire*).⁹³ The SEP organises delivery of goods and services and ensures the marketing of all prison-made goods.

The open and competitive labour market inside French prison industries includes prisoners applying for job vacancies with an appropriate CV (*résumé*) which is part of their vocational training. The RIEP administration provides free industrial premises to the *concessionnaires* and prisoners are assigned work according to criteria formulated by the private company.⁹⁴ Of the

⁹⁰ As at 1.7.2020, French Ministry of Justice.

⁹¹ The French company, Sodexo, a food and facilities company headquartered in Issy-les-Moulineaux near Paris, has operated in French prisons since the early 1990s. Sodexo Justice Services now operates in 122 prisons in eight countries, including prisoner kitchens, transport and electronic tag supervision. It runs 5 private prisons in the UK (2020).

⁹² The territory of France is administered on four levels: the Nation, Region, Department and Commune. There are 102 departments, grouped into 18 Regions. Every Region is divided into communes, with a commune roughly equating to a township. Ninety-six departments are in metropolitan France, and five are overseas departments, which are also classified as overseas regions.

⁹³ Décret n° 2018-1098 du 7 décembre 2018 portant création d'un service à compétence nationale dénommé, 'Agence du travail d'intérêt général et de l'insertion professionnelle des personnes placées sous-main de justice'. (Decree n° 2018-1098 of December 7, 2018 creating a service with national competence called 'Agency for work of general interest and professional integration of persons placed under the control of justice').

⁹⁴ Source: Ministère de la Justice (2019) 'L'agence du travail d'intérêt général et de l'insertion professionnelle des personnes placées sous-main de justice', Avril 2019.

191 penal establishments (*établissements pénitentiaires*), there is at least one prison per département with CI.⁹⁵

What are the benefits for the *concessionnaires*? Private companies adopt the ‘citizen’s approach’ by providing prisoner labour and having their goods manufactured in CI. This is regarded as a ‘responsible social business project’ by assisting the reintegration of prisoners back into society, as well as helping reduce reoffending upon release. French private companies proudly advertise that some of their goods are made in CIs and that they are prison employing inmates. The benefits are generally seen as:

- (i) facilitating prisoners’ social reintegration, thereby reducing recidivism;
- (ii) providing an income that allows for victim compensation by the prisoner;
- (iii) facilitating prisoners’ family financial support by prisoners’ savings.

United States

Table 5 Total adult inmates working in CI in the USA as at 1 March 2020

	Total inmates	Total inmates working (eligible)	Total percentage working in CI
<i>Total prison population</i>	1,358,760	258,293	24%
<i>State prisons</i>	738,400	52,439	7%
<i>Federal Prisons</i>	620,360	17,505 (UNICOR)	31%

The USA has a total prison population of 1,358,760.⁹⁶ There are two types of prisons in the United States, federal prisons and state prisons. Federal prisons house persons convicted of breaking federal law. In general, a crime is federal when it violates US federal legal codes or when the individual carries the criminal activity over multiple states such as commercial fraud, organised crime and drug trafficking. Prisoners who have committed violent and homicide crimes are more likely to be in state prisons (county and municipal jails). State prisons are often considered to be less safe than federal ones because more violent criminals live in them.

This study concentrated in the main on Federal Prison Industries (FPI).⁹⁷ UNICOR is its tradename and provides goods and services to a state and private large sector in the USA.⁹⁸ UNICOR are primarily located in the slow growing sectors, such as manufacturing. The reality remains that prison industries in the USA produce only a tiny percentage of the goods and

⁹⁵ Source: Ministère de la Justice, prisons et réinsertion: <http://www.justice.gouv.fr/prison-et-reinsertion-10036/> accessed 15 October 2020.

⁹⁶ As at 1.3.2020 Federal Bureau of Prisons, USA.

⁹⁷ Federal Prison Industries (FPI) and its trade name UNICOR (www.unicor.gov) provided detailed information via FOI requests concerning FPI’s recent business practices and operations, agreed by the FPI’s Board of Directors to provide detailed comments and information directly to the Board of Directors and therefore to this GIZ study. Smartt, U. October 2020. Federal Prison Industries, 400 First Street, N.W., Washington, D.C. 20534.

⁹⁸ 18 U.S.C.A. (United States Code Annotated Currentness) § 4121 to § 4129 (‘Prisoner Employment’). Title 18. Crimes and Criminal Procedure (Rets & Annos) e Part 11I. Prisons and Prisoners.

services in the total gross national product of the USA.⁹⁹ Because manufacturing has been growing relatively slowly and these prison industries have been primarily centred in this sector, their overall prospects for a rapid growth in demand for their production is limited unless they can find fast growing niche industries or feasible services to produce.

Federal and state prisons: external market¹⁰⁰

Federal Prison Industries (FPI) have more flexibility than the state prison industries,¹⁰¹ in terms of their own procurement, production and sales for the *external* market. Provided it is a *Prison Industry Enhancement Certification Program* (PIECP) (see Annex 3) which, in turn, is controlled by the Federal US Government, inmate-made products can then be shipped and sold interstate. Two of these operations are in Arizona (see below); both make trailers to haul cars and trucks. Call centres, farming operations and bakery products cannot be sold interstate. Inmates are paid the prevailing state-national wage for that civilian job classification.

State CIs are autonomous and vary considerably according to state legislation. Some can and some cannot sell directly to the *external* (private) market.¹⁰² The California Prison Industry Authority (CALIPA), for example, *must* sell only to 'tax supported entities', i.e. the *internal* market; CALIPA does not allow private sector sales (*external* market). If an agency can buy from CALIPA, but is not mandated to, CALIPA competes with private companies for this business based on buyer procurement regulations (see Annex 3).

Prisoner employment in Federal Prison Industries (FPI)

By way of background, FPI is a wholly owned US government corporation, established by Congress in 1934. FPI is authorised to operate CIs in federal penal and correctional institutions. The Director of the Federal Bureau of Prisons (BOP)¹⁰³, who has jurisdiction over all federal correctional institutions, is the Commissioner of FPI. General management of FPI is provided by the Chief Executive Officer who also serves as an Assistant Director for the BOP.¹⁰⁴ FPI's mission is to:

- employ and provide job skills training to the greatest practicable number of inmates confined within the Federal Bureau of Prisons;
- contribute to the safety and security of US correctional facilities by keeping inmates constructively occupied;
- produce market-priced quality goods and services for sale to the Federal US Government;
- operate in a self-sustaining manner;
- minimise FPI's impact on private business and labour.

⁹⁹ Cf. F. L. Pryor (2005) 'Industries Behind Bars: An Economic Perspective on the Production of Goods and Services by U.S. Prison Industries.' In: *Review of Industrial Organization*, August 2005, Vol. 27, No. 1 (August 2005), pp. 1-16. Springer.

¹⁰⁰ Source: Gina Honeycutt, Secretary General of the National American Correctional Industries Association (NCIA), and Brian Radecki, Arizona Correctional Industries, CEO/Assistant Director All information was provided by Smartt seeking FOI requests via a standard questionnaire. 27.10.2020.

¹⁰¹ For the purpose of this study, we only included state prison industries not local or county jails where no prisoner labour is offered.

¹⁰² Arizona Correctional Industries, 3279 East Harbour Drive, Phoenix, AZ, 85034, US, <https://aci.az.gov>

¹⁰³ Kathleen Hawk Sawyer in 2019-20.

¹⁰⁴ Patrick T O'Connor in 2019-2020.

FPI employed 17,505 inmates in the fiscal year 2019-20, surpassing its planned annual employment of 17,205 inmates by nearly 2%. FPI's current goal is that 30% of inmates working in UNICOR will be within 3 years of release. For fiscal year 2019-20, 31% of FPI inmates were within 3 years of their release, exceeding the target rate of 30%. The inmate annual employment goal for fiscal year 2020-21 is 19,255, a 10% increase over fiscal year 2019.

Substantial growth in prisoner employment available to FPI has come about with recent criminal justice legislation, known as the *Next Step Act*.¹⁰⁵ The Bill, introduced and sponsored by Senator Cory A Booker (D- NJ) on 3 July 2019, joined Democrats and Republicans together to pass a landmark bipartisan criminal justice reform legislation, which, among many things, effectively banned juvenile solitary confinement, reformed the way women are treated behind bars, and made eligible for release over 2,000 incarcerated individuals who were serving sentences for non-violent drug offences. The act came into force on 7 March 2019 and brought about substantial prison reform including re-entry of prisoners into society after release.¹⁰⁶

As a result of the *Next Step Act*, a significant inmate re-classification effort is underway. The effects these re-classification efforts will have on the UNICOR inmate population is unknown at this time. This balances the number of inmates closer to release, who can more quickly utilise UNICOR's recidivism reduction benefits, with a reasonable turnover rate for operational effectiveness. By fiscal year 2022, the *Next Step Act* requires the Attorney General to report on efforts to enable 75% of the eligible minimum- and low-risk offenders to have the opportunity to participate in a prison work programmes for not less than 20 hours per week. UNICOR is expected to grow substantially in order to provide a significant number of these opportunities.

England/Wales

England and Wales have a total prison population of 73,000,¹⁰⁷ which is classified by the following security categorisation (important for placement and employment in prison industries):

- *Category A*: prisoners whose escape would be highly dangerous to the public or the police or the security of the state, no matter how unlikely that escape might be, and for whom the aim of the HM Prison Service must be to make escape impossible.
- *Category B*: prisoners for whom the very highest conditions of security are not necessary, but for who escape must be made very difficult.
- *Category C*: prisoners who cannot be trusted in open conditions, but who do not have the resources or the will to make a determined escape attempt. Semi-open prisons.
- *Category D*: prisoners who can be reasonably trusted in open conditions. Open prisons.
- *Remand prisoners* identified as Category A. All remand prisoners are reviewed if and when sentenced and allocated to the appropriate Category A-D above.

¹⁰⁵ The Next Step Act (s. 697) was passed by the 116th Congress (2018-19), signed by President Trump in December 2018.

¹⁰⁶ Most relevant for the management of prison industries (FPI and UNICOR) are the following sections of the act: 'Division A: Ending Mass Incarceration'; Title III: The Smarter Sentencing Act'; 'Division B: Prison Reform'; 'Division C Title VII: Fair Chance Act').

¹⁰⁷ As at 1.10.2020, Her Majesty's Prison and Probation Service (HMPPS)

Table 6 Prisoner employment in England and Wales

<i>Total prison population</i>	73,000	%
<i>Total prisoners employed (CI)</i>	12,758	18.00%
<i>Internal Market</i>	12,000	18.00%
<i>External Market</i>	8,517	8.57%

The CI for England, Wales and Northern Ireland are called *Public Sector Prison Industries* (PSPI) and are state-run.¹⁰⁹ PSPI is a state department which manufactures and supplies a range of goods whilst providing employment and purposeful activity for prisons, enabling on the job training and personal development in preparation for release. The purpose of PSPI is to help reduce the potential for prisoners to reoffend and to help public sector prisons deliver decent regimes and conditions. There are two main aims: (i) to provide employment for prisoners, enabling them to experience real work, ‘on the job training’, and life skills in the preparation for their release, and (ii) to produce high quality goods and services.

Across all prison industry related activities there are 12,758 (October 2020). PSPI employs approx. 12,000 prisoners a day across 465 factory workshops (England/Wales). There are approximately 73,000 prisoners in adult prisons in England and Wales,¹¹⁰ so this would be around 18% employed in CI. 8,517 out of 12,758 prisoners in prison industry related work, are employed by Public Sector Prison Industries (PSPI). PSPI hold approximately 6.2 million items in their storage and distribution hub, moving approximately 720,000 items a month in clothing and equipment.¹¹¹

PSPI industries manufacture and produce for the *external* market, include engineering, plastic moulding,¹¹² laundries, printing, tailoring and textiles, waste management, recycling, woodwork/ carpentry/ furniture manufacturing, data processing (UK census), call centres and outside catering.¹¹³ Each of these industries manufacture goods for the *internal* prison market,

¹⁰⁸ Source: FOI response by L. Picton, HMPPS Briefing & Correspondence Team, 20 November 2020.

¹⁰⁹ Formerly known as Prison Service Enterprises (PSE).

¹¹⁰ All UK information was supplied via FOI access requests: Disclosure Team Ministry of Justice 102 Petty France London SW1H 9AJ. data.access@justice.gsi.gov.uk, October 2020

¹¹¹ Note: This information was provided by HMPPS on a discretionary basis (outside FOI). The data was extracted from records held centrally by HMPPS and reflects those contracts where notification has been provided by public sector prisons in England and Wales. Additionally, the data has been drawn from administrative IT systems, which, as with any large-scale recording system are subject to possible errors with data entry and processing.

¹¹² This includes the supply of plastic granules, polycarbonate, polypropylene and flame-retardant materials. Main sites are: HMPs Ford, Garth, Gartree, Moorlands, Ranby and HMYOI Glen Parva.

¹¹³ The *Clink Restaurant* charity operates in a number of prisons, such as HMPs Brixton, Sutton and Frankland. Meals are cooked and served on site in air conditioned ‘prison’ restaurants where the public can ‘dine in’. During the Covid pandemic, outside catering services have been offered for food delivery to local homes. Prisoners receive on the job food and hygiene training, working towards their City & Guilds NVQs in Food and Beverage Service, Professional Cookery and Food Hygiene certification. The Clink Restaurant at HMP Brixton has held the top 10 spot on TripAdvisor each year for food excellence and service.

these range from prison clothing, laundry services and bedding,¹¹⁴ plastic cutlery to in-cell furniture. There are 6 plastics workshops across the prison estate producing items used by prisoners including cell chairs, knives/spoons/forks, toothbrushes in addition to work for external customers.

Procurement (England/Wales)

The majority of goods and services provided by CI (HMPPS) are for *internal* use and consumption. All CIs within prisons work with the central Contract and Commercial Management Directorate (CCMD), within HMPPS, to procure goods and services as required. CCMD carry out any necessary procurement and tender procedures. There is no requirement for prison industries to compete (engage in competitive tendering) in manufacturing goods for the *internal market* if they are able to fulfil orders and meet demand through internal manufacture. CI (HMPPS) currently do not have the capability to manufacture *all* goods for the internal market. For those goods prison industries cannot manufacture internally, they are purchased via the central CCMD.

Excess stock is offered to the *external market* with reference to commercial market rates, which include the recovery of direct costs. Where outside contractors and businesses choose to set up production within CI prison workshops, they provide valuable work opportunities for prisoners. These prisoners benefit from the opportunity to learn new skills and prepare for employment on release. Any outside business can express an interest in being considered to set up industries in prison workshops, and therefore tendering is not generally required.

Scotland

Scotland has a total prison population of 7,004.¹¹⁵ Employment relationships are regulated by *Part 9 of The Prisons and Young Offender Institutions (Scotland) Rules 2011*. There are no individual labour contracts for prisoner. Work and earnings comply with the *SPS Prisoner Wage Earning Policy* which specifies the rates at which prisoners should be paid for various forms of purposeful activity. This ranges from £5 per week at the lower end of the pay scale to £18 - £21 for those working in more demanding roles in CI for the external market. There are also bonus schemes, while those who refuse to work or 'who by their own actions make themselves unemployable receive no payments (SPS 2020).

Prison-based employment, education and vocational training in Scotland are all part of a wider programme of purposeful activity which includes work and education of any kind, including physical education, counselling and other rehabilitation programmes, vocational training, work placements outside the prison, and any activity which is designed to assist the prisoner's reintegration into the community following release.

¹¹⁴ There are 32 industrial laundries across the prison estate operating washer-extractors from 7 kg up to 200 kg, plus 8 continuous tunnel washers. The laundry workshops provide clean clothes and bedding for 80 000 prisoners every week, plus some external customers. Processing over 8 000 000 kg of laundry per year, this is an essential service to the prisons.

¹¹⁵ As at 1.07.2020, Scottish Prison Service (SPS).

Northern Ireland

Northern Ireland has a total prison population of 1,484 and follows the same security categorisation as England/ Wales (see above).¹¹⁶ Contractual prisoner employment relationships are regulated by an agreement signed by both the employer and the prison establishment. If a prisoner is employed directly by an outside contractor, the wage is retained 100% by the prisoner; the employer makes the usual deductions for national insurance, tax, pension etc. There are no additional non-monetary incentives for prisoners and the NI government (Stormont Assembly) has created tax incentives for employers who employ inmates and former prisoners.

Ireland

Having a total prison population of 3, 714,¹¹⁷ the *Irish Prison Rules 2007* (as amended),¹¹⁸ allow for serving prisoners to be engaged in *external* employment, approved by the prison governor. In practice, this only takes place in two open prisons out of the total of 14 prisons in the Republic.¹¹⁹ 25 serving prisoners were working in the two open prisons in paid external employment (2019). The contract of employment is made directly between the outside employer and the prisoner but must be approved by the prison governor. There is no standard contract format used by the Irish Prison Service. Prisoner wages are paid by the employer to the prison's central account under the control of the governor. Income tax and national insurance contributions are deducted at source by the employer before paying the net amount into the prison account, controlled by the governor. Prisoner wages are paid in full by the governor directly to the prisoner without making any further deductions. There are no additional benefits such as non-monetary incentives for employed prisoners.¹²⁰

¹¹⁶ As at 1.7.2020, Northern Ireland Prison Service (NIPS).

¹¹⁷ As at 30.09.2020, Irish Prison Service.

¹¹⁸ Statutory Instrument No. 252 of 2007. S.I. 11/2013. Prison Rules (Amendment) 2013.

¹¹⁹ One is classed as a 'semi-open' prison (The Training Unit) and two prisons are classed as 'open' (Loughan House and Shelton Abbey).

¹²⁰ The CPT Report of November 2020 noted that local prisons were overcrowded where some prisoners had to sleep on mattresses on the floor in multiple occupancy cells not all equipped with toilet facilities; i.e. some prisoners still had to "slop out". This should be completely eradicated from Irish prisons. There had been prisoner complaints that a small number of prison officers were inclined to use more physical force than is necessary and to verbally abuse prisoners. The Committee reiterates to prison officers that no more force than is strictly necessary should be used in bringing an agitated or aggressive prisoner under control. CF. CPT/Inf (2020).

Lithuania

Lithuania has a total prison population of 6, 018.¹²¹ Prison work and labour regulations are set out in *Lithuanian Penitentiary Code 2002* (as amended 2020).¹²² All 9 prisons are supervised by the Lithuanian Prison Department (Ministry of Justice).¹²³

There are 11 penal institutions, and the Prison Department enforces pre-trial detention sanctions and custodial sentences imposed by the courts. There are five county probation services that are responsible for the execution community sentences and the supervision of released prisoners on parole and life licence. Classification of prisoners are: 'high security', correctional work colonies (normal security) and colonies-resettlements (semi-open). Prisoners are assigned to 'easy' (or 'common'), 'usual' ('strengthened') and 'discipline' ('strict') groups, and are allowed to engage in work and other purposeful activities (mostly allocated to 'usual' and 'easy' groups).

State prison enterprises exist in some penitentiary institution called *Mūsų amatai* ('our crafts'). Convicted prisoners are employed in these enterprises, producing furniture, electric fittings, various metal mouldings, door and window binding, bedding, work clothes, work footwear as well as vehicle repair shops. The production by inmates is of the identical quality as that produced by ordinary enterprises, though in the majority of cases it is less expensive.

The CPT Report of the European 'torture commission' (2018) noted 'truly extraordinary levels of inter-prisoner violence' at Alytus, Marijampolė and Pravieniškės prisons. The Committee also observed intimidation and exploitation among prisoners.¹²⁴ The CPT had the strong impression that the main detention areas in these three prisons were unsafe for inmates, and that the only parts of the establishments under full control of the administration were the punishment blocks which were frequently used and constantly filled to capacity, mostly by inmates seeking protection from other prisoners and being punished for refusing to stay in their ordinary units. Following the CPT's request, the Lithuanian authorities provided the Committee with an Action Plan to combat drug trafficking in prison, inter-prisoner violence, and to address the problem of the spread of HIV and hepatitis C in prisons. The delegation also noted that there had been 58 new HIV infection cases in Alytus Prison in the course of 2017 when, in comparison, there had been 21 new cases in the period from January 2015 to September 2016

Prisoners who work for outside contractors sign an inmate-employer labour contract. Wages are paid 100% to the inmate, and medical and social security deductions are made at source by the employer. Prisoners engaged in 'real' industrial contracted-in work can receive early conditional release with transfer to a half-way house. There are no tax benefits or incentives to outside employers or businesses who employ inmates and former inmates

¹²¹ As of April 2020, Ministry of Justice Prison Department.

¹²² Lietuvos Respublikos bausmių vykdymo kodekso patvirtinimo įstatymas. Bausmių vykdymo kodeksas (*Law on the Approval of the Penitentiary Code of the Republic of Lithuania. Penitentiary Code*).

¹²³ Lithuanian Prison Department: <http://www.kalejimudepartamentas.lt/en/prison-department/organization-and-contacts/history.html>

¹²⁴ Cf. CPT/Inf (2019) 18 Lithuania.

Finland

Finland has the most liberal regime as far as prison management is concerned. The prison population has been consistently low, currently standing at 2,910 inmates.¹²⁵ A prisoner in an open prison has a normal employment contract with the outside employer. The prison department organises all other prisoner work activities inside the prisons. Prisoner wages are the same, working for an outside contractor in CI, commensurate with payrates on the outside. If work is contracted-in (external contractors), the prison governor negotiates a rate of pay for goods made inside with the private contractor; the prison then pays a 'prisoner wage' which is not taxed. There are no additional non-monetary incentives for prisoners who work. There are no tax benefits for outside employers who employ day-release prisoners or released prisoners. There are various schemes supported by The Ministry of Labour that encouraged post-release prisoners to (re)enter the employment market. Ex-prisoners are on an equal footing with other citizens in terms of employment support measures and status.

Slovak Republic

The total prison population comprises 10,705 inmates in the Slovak Republic.¹²⁶ Every convicted prisoner has to work by law and the prisoner is directly employed by the prison governor. Prisoners either work for the internal market which includes general prison services or for prison enterprise centres for private contractors (or both). In case the inmate is working for one of the private enterprise centres, s/he is legally contracted directly with the private company. There are separate contracts for remand and convicted prisoners, setting out the conditions under which pre-trial detainees or convicted prisoners shall work. In accordance with § 42 (2) *Prison Sentence Execution Act* the special contractual relationship between the prison and the prisoner is set out. Pre-trial detainees ('remands') and convicted prisoners in Slovak CI have the right to work remuneration, stipulated by the *Government Decree of the Slovak Republic No. 384/2006 Coll.* on the amount and type of work done.

The prison governor makes deductions for social and health insurance from the gross earnings of an inmates' wages; further deductions are made for 'reparation' costs to the prison ('board and lodging'). Each employed prisoner has to pay reparation costs (between 45 and 55 % deductions from wages, based on the prison governor's decision). The Slovak social and health insurance companies are responsible for paying prisoners' sick pay and old-age pension benefits (only for prisoners who are engaged in prison employment).

Non-monetary incentives include the right to a higher food standard ('diet for the working inmate'). There is no good time system. Institutions or businesses that employ former inmates have no tax benefits in Slovakia.

Italy

Italy has a prison population of 53,821 inmates.¹²⁷ All prison labour is regulated under §20 *Penitentiary Act 1975* (as amended).¹²⁸ Prisoners have the right to work for the prison

¹²⁵ As at 1.4.2020, Criminal Sanctions Agency.

¹²⁶ As at 1.9.2020, General Directorate of the Corps of Prisons and Court Guards.

¹²⁷ As at 9.9. 2020 Ministero della Grazia e Giustizia.

¹²⁸ 'Legge Penitenziaria': Legge 26 Luglio 1975, N. 354 Ordinamento Penitenziario. Testo aggiornato al 28.2.2017. Law 354, 'Penitentiary Act 1975 and enforcement of liberty deprivation and restriction measures', of

administration (internal market) or for third party private contractors (external market). However, there is no direct employment contract between a prisoner and a private contractor. All employment and prisoner pay is regulated by the National Prison Service (Ministry of Justice). Annual leave and public holidays, as well as working hours are guaranteed and regulated on the basis of the provisions of the *National Labour Contract* (negotiated with trade unions). The remuneration, including severance pay is equal to 2/3 of what is established by the National Labour Contract. For prisoners who work in prison industries, employed by external private contractors, the same regulations apply as on the open labour market, i.e., the prisoner is paid a *real* wage. Prisoner wages are paid to the prisoner directly on account by the prison governor, whether s/he works for the internal or external market. If a prisoner is working for a private contractor, the employer makes the necessary deductions from the prisoners' wages according to labour laws. There are no additional non-monetary incentives.

External employers who hire ex-prisoners enjoy state tax relief (€ 520 of tax credit per month for each worker detained hired) and tax breaks (95% reduction of social security and social security withholdings for the entire period of recruitment of prisoners). The same tax advantage measures continue for subsequent 18/24 months following release from prison if the employment relationship continues with the same employer.

the presidential decree No. 230, of 30th June 2000 ('Regulations containing provisions on the Penitentiary Act and on measures entailing restrictions on, and deprivation of personal liberty').

Policy options: How to increase prisoner employment in Moldovan penitentiaries

The purpose of this study is to recommend a range of viable and implementable options to NAP, in order to increase prisoner employment as a critical element of social rehabilitation of the convicted prisoners. By definition, the policy options proposed here must be seen in conjunction with the root-causes of the existent problem and take into account best international practices. Considering the complexity and magnitude of the problem, all policy options should consist of comprehensive policy interventions – one solution which fixes everything, is unrealistic. In connection with this, the following policy measures should be part of any policy option:

- (i) Resolving the ownership of the remaining SOEs;
- (ii) Creating legislative space for the internal market of the penitentiaries, which have the capacity to partially meet their needs outside public procurement;
- (iii) Amending legislation to allow for longer-term contractual relations between penitentiaries and private contractors; and
- (iv) Adopting self-management regulation for penitentiaries to allow investment of CI income into physical and technical infrastructure.

In particular:

- **Stronger public sector oversight** should enable the owner of SOEs to effectively take decisions regarding management, staffing, capital investment, writing-off old equipment and so on. In case that PPA will *de jure* 'own' the SOEs, such arrangement shall make provisions for NAP to act as a member of the Board, with a clear role regarding prisoners' employment;
- **Legislative space for the internal market** is necessary, in order to differentiate between public procurement *sui generis*, and in-house production of specific goods needed by the penitentiaries. According to our estimations, in-house production offers good value-for-money and, besides offering employment to 120 prisoners, can generate savings of about 18% as compared with public procurement of food, uniforms, bedlinen and construction materials;¹²⁹
- **Longer-term contractual relations** between penitentiaries and private contractors will remove uncertainties associated with installed production lines and/or capital repairs. Furthermore, specific provision should be included in the Fiscal Code, so that such investment (not included in the cost of goods sold) shall be tax-deductible. Such measures shall provide 'real' incentives for the private sector, so that demand for prisoner employment is unconstrained;
- **Income generated by CI should be reinvested** in further improvements to living and working conditions within the penitentiaries. This will incentivise the prison administration to be more proactive in seeking prisoner employment and will positively impact on workers' motivation. Moreover, this should ease the pressure for capital

¹²⁹ To estimate potential savings, we have calibrated the industry specific sales/workers ratios, share of variable costs (raw materials) and prisoners wages.

investments from the public budget since the penitentiaries will become more self-sufficient in the long run.

However, in order to reach the target of providing employment opportunities for 25 to 40% of prisoners, we must look beyond tackling the misaligned incentives. In addition to the four policy measures outlined above, we recommend strengthening the management of CI. This can be achieved in two alternative ways:

1. **By creating a distinct role for a Deputy Director of a penitentiary** in charge of economic activities and building their capacity to run CI within the prison factory. Implementation of this option envisages designating 17 deputy directors (one for each penitentiary). Adoption of this option has several advantages. Most importantly, decentralised CI embody higher risk diversification – some penitentiaries may become real success stories, while others will have the opportunity to learn and to improve their performance. Secondly, decentralisation takes decision making to the level of penitentiaries, where local factors, such as knowledge of the local economy, proximity to production hubs and markets can play a more important role. On the other hand, the lack of centrally coordinated action may infringe the capacity to grasp the full potential of the internal market – in practical terms, dispersed prison industries may not know what the demand from the internal market actually is.
2. **By creating a centralised Department of Correctional Industries (DCI) under NAP** in charge of CI for the whole penitentiary system of Moldova. This option also includes designating 17 deputy directors for each of the individual penitentiaries, but in addition, a central body is created, resourcing it with 8 additional units of personnel. This option is akin to the British Public Sector Prison Industries (PSPI). DCI will act as a liaison bureau for the 17 deputy directors in the penitentiaries and be in charge of coordinating the internal market supply and demand, conduct centralised public procurement for the penitentiaries, monitor economic performance of prison factories (CI), attract private contractors and pursue strategies for the external market. As compared with the previous option, centralisation can achieve greater economies of scale and fully use the potential of the internal market. Furthermore, it can become a knowledge centre, bringing about better ‘deals’ with private contractors and building a brand for CI, enabling its access to external markets. On the downside, it bears higher concentration of risks – if DCI fails to achieve its objective, prisoner employment will suffer across various penitentiaries. For these reasons the DCI should not replace or disincentivise local initiatives, but rather support and oversee their effectiveness and develop capacities.

Along with recommending the policy options, we shall also consider what will happen to prisoner employment if no policy intervention takes place, the so-called *status quo* option. Needless to say, the *status quo* is not merely a matter of ‘freezing’ the current situation and expect that it will remain unchanged over time. It is then logical to assume that a change of ownership from NAP to PPA shall be completed by 2022 and that Branesti SOE will be liquidated. In connection with this assumption, a further decline in prisoner employment is to be expected, knowing all too well that poor economic performance of some of the few remaining SOEs, together with limited demand from private contractors, are aggravating factors. Furthermore, the status quo option should serve as a baseline for comparing impacts arising from two other policy options. A summary of the available policy option is provided in Figure 4:

Figure 4 Policy options

Policy Option 1: Status Quo	Policy Option 2: Decentralised CI	Policy Option 3: Centralised CI
<ul style="list-style-type: none"> • Transfer of ownership of SOEs to PPA • Liquidation of Branesti SOE • Declining number of employed prisoners 	<ul style="list-style-type: none"> • Penitentiaries develop their production capacities in order to meet the demand of internal market • 17 Deputy Directors in charge of prison factories to be recruited and trained • NAP retains board membership in SOEs • Public procurement legislation takes priority only when there is no capacity to produce goods internally • Legislation allows renting of prison factory space for more than 1 year • Capital repairs of prison workshops and factories by third party contractors to become tax deductible • Self-management regulation allows penitentiaries to reinvest profits 	<ul style="list-style-type: none"> • <i>Department of Correctional Industries</i> under NAP is created and resourced in order to coordinate CI activities for internal market and build a brand for external market • 17 Deputy Directors in charge of prison factories (CI) to be recruited and trained • NAP retains Board membership in SOEs • Public procurement legislation takes priority only when there is no capacity to produce goods for the internal market • Legislation allows renting of prison factory space for more than 1 year • Capital repairs of prison factories by third party contractors to become tax deductible • Self-management regulation allows penitentiaries to reinvest profits

Assessing impacts: Costs and benefits of policy options

In order to compare the policy options described previously, we propose a *quantitative* impact assessment based on a Cost-Benefit Analysis (CBA) of the projected cashflows, and a *qualitative* multi-dimensional assessment, which examines administrative, fiscal, economic, social and environmental impacts.

Cost-Benefit Analysis

Our CBA is based on the projected cashflows arising from the implementation of the policy options taking into consideration projected returns of CI under each scenario, as well as potential impacts due to increased prisoners' earnings, reduced violence among prisoners and reduced reoffending rate (see detailed projections in Annex 4). To this end, we have made the following assumptions:

1. All monetary projections are using the current inflation target of the National Bank of Moldova of 5% year-on-year Consumer Price Index (CPI). For Euro equivalent we have used the prevailing market exchange rate of 20 Moldovan Lei per 1 Euro.
2. Prisoners' earnings are estimated using the projected number of employed prisoners and the CPI adjusted minimal wage used for the remuneration of menial jobs (1,100 Moldovan Lei per month) and the CPI adjusted average wage used for the remuneration of contracted labour (2,775 Moldovan Lei per month). Prisoners' savings represent 25% of projected prisoners' earnings – the minimum saving rate prescribed by legislation.
3. We assume a stable number of prisoner population in the baseline scenario (Policy Option 1: Status Quo) and a declining number of prisoner population in the policy intervention scenarios, based on lower reoffending rates.¹³⁰
4. Current spending on penitentiaries is calculated using the projected number of prisoners and the CPI adjusted spending per prisoner (in 2020 it is equal to 87 thousand Moldovan Lei or 4.5 thousand Euros). In the baseline scenario, capital investment is assumed to continue at the 2020 level of 28 million Moldova Lei¹³¹, whereas under the two policy intervention scenarios, we assume that the capital investment will be topped-up by reinvesting all CI profits. Total public spending is equal to current spending plus baseline capital investment and reinvested profits.
5. Number of employed prisoners is projected using several assumptions:
 - 5.1. Percentage of prisoners employed on menial jobs will be kept at the traditionally capped rate of 10% of the total prisoner population. In 2020 it is slightly above 10% due to the fact that small deviations from the norm are accepted as forecasting error;
 - 5.2. In the baseline scenario, the number of contracted-in prison workers will decline in 2021 as a result of the likely liquidation of SOE Branesti. In the two policy interventions

¹³⁰ For the lack of more disaggregated data, reoffending rates have been calculated using a decay factor of $-0.3793x + 0.5669$, where x is the percentage of employed prisoner. At the moment, the decay factor is inferred from the negative correlation between the employment and reoffending rate in Rusca penitentiary and elsewhere. For more rigorous evidence, a regression can be made using percentage of employed prisoners and the reoffending rates in each penitentiary.

¹³¹ During 2016-2018 capital investment in the penitentiaries was 124 million Lei on average, yet this was linked to the implementation of the Justice Sector Reform Strategy which benefited from EU direct budgetary support. For the lack of external targeted budgetary assistance, it is safe to assume that current capital investment of 28 million Lei is the best predictor for the future.

scenarios the number of contracted-in prison workers will increase gradually, starting with the second year of policy implementation, because of the realigned incentives for private contractors (long-term lease and tax deductions for capital investment). The underlying assumption is that each of the two additional private contractors will create employment for 68 more prisoners (68 is the current average number of workers per contractor).

- 5.3. Additional employment will be created by means of legislation that fills the gap for the internal market in the penitentiaries (e.g. tendering; licensing; procurement etc). The current estimate for the size of the internal market is made, assuming that 50% of public procurement of food, 75% of the public procurement of clothes, footwear, bedlinen and 25% of public procurement of construction materials, can be replaced by in-house production of such items using existing capacities. Future projections for the internal market are CPI adjusted figures based on the projected number of prisoner population. Industry specific labour intensity was used to project the number of jobs needed for the internal market.
- 5.4. The external market is expressed as a ratio to the internal market under the policy intervention scenarios. Under policy option 2, the assumption for the external market revenues is a stable ratio of 10% to the internal market. Under policy option 3, which envisages a greater role for DCI, the assumption is of gradual increase of the ratio of external to internal market towards a factor of 2.5. In each case, the number of employed prisoners is inferred from industry specific labour intensity.
6. Under the baseline scenario, profits and losses incurred by CI are based on a trendline for the revenues, costs of goods sold and administrative expenses. In addition to this, policy options 2 and 3 envisage returns from internal and external market revenues at the profit margin of 5%.
7. Both policy intervention options (2 and 3) envisage a reduction in healthcare costs, associated with bodily injuries and decreased prisoner population. The current cost for procurement of medicine is 8.6 thousand Moldovan Lei, which corresponds to 1,116 incidents leading to bodily injuries.¹³² The underlying assumption is that, because of the reduction of free-time due to higher employment, the number of such incidents will decrease proportionally. Under the baseline scenario (no policy intervention), the healthcare costs are CPI adjusted.
8. Our final assumption is regarding the additional training and administrative expense associated with the implementation of policy options 2 and 3. For policy option 2, yearly costs of training 17 Deputy Directors of penitentiaries are estimated at 500 thousand Moldovan Lei and are CPI adjusted for the consecutive years. Correspondingly, the training costs of 17 Deputy Directors of penitentiaries plus 8 units of personnel in the DCI are estimated at 550 thousand Lei and are CPI adjusted for the consecutive years. The administrative expenses are related to hiring 17 units of personnel under policy option 2 or 17+8 units of personnel under policy option 3. Wages were estimated at 10,520 Lei per month, based on the current average wage for the administration of penitentiaries.

In terms of reaching the policy objective, Policy Option 1: The Status Quo is not satisfactory. The percentage of employed prisoners will remain at 15% of the total prisoner population after a short decline in 2021 related to the likely liquidation of Branesti SOE. Policy Option 2 envisages an increase in employed prisoners to 28% by 2025, reaching 40% by 2030. It therefore qualifies as a valid policy option. However, the best outcomes are from Policy Option

¹³² In the first half of 2020, there were 558 such incidents, including self-harm. NAP 2020.

3, which envisages an increase of the percentage of employed prisoners to 31% of the total in 2025 and 48% in 2030.

Based on the assumptions outlined above, the corresponding cashflows for three policy options have been discounted to present value using a 10% discount rate (see Annex 5 for detailed projections). Accordingly, the highest NPV is 337.7 million Moldovan Lei for Policy Option 3, where higher prisoner savings, reduced healthcare expenditure, due to lower violence, as well as reduced number of prisoners, due to a lower reoffending rate, offsets the costs associated with training and administrative expense necessary for its implementation. Next to it, Policy Option 2 has an NPV of 279.3 million Moldovan Lei, falling behind because of lesser development of the external market. Under the baseline scenario (Policy Option 1) the NPV is 40.2 million Moldovan Lei, arising from limited prisoner savings. Under Policy Option 1 there are no savings due to decreased violence and reoffending rates, but also no training or administrative costs.

In conclusion to the CBA, the recommended Policy Option is no. 3.

Qualitative impact assessment

In addition to the CBA, the study proposes a 5-lenses approach for the qualitative assessment of the policy options (see below):

Table 7 Qualitative impact assessment of policy options

	Policy option 1. Status Quo	Policy option 2. Decentralised CI	Policy option 3. DCI
Administrative impact	No administrative impact No policy intervention does not require additional administrative resources from the Government.	Medium administrative impact Implementation of the policy option requires reaching an agreement with PPA in terms of a clear role for NAP on the board of the remaining SOEs; drafting amendments to legislation in order to fill the gap in legislation for internal market, increase the ceiling for leasing prison workspace beyond 1 year, allow private funding of capital investments to be tax deductible and adopt self-management regulation for the penitentiaries. Moreover, the option envisages hiring new	High administrative impact The administrative impact is similar to option 2 in all aspects, except that in addition to the described efforts, it also envisages the creation of a new department, comprising 8 units of staff dedicated to financial monitoring, marketing, business development and so on. Building salesmanship capacity for the external market and brand development envisage slightly higher training costs.

	<p>personnel (17 deputy directors of penitentiaries) and organising training on financial management. Internal regulation for self-management also needs to be adopted.</p>		
Fiscal impact	<p>No reduction of public spending on penitentiaries</p> <p>Annually the state budget spends approx. 595 million Moldovan Lei on penitentiaries. At constant CPI and stable prison population, public spending will remain unchanged until 2030.</p>	<p>Moderate reduction of public spending on penitentiaries</p> <p>By 2030, annual budgetary spending on penitentiaries will decrease to 509 million Moldovan Lei (at constant CPI) due to lower prison population and healthcare costs. Additional capital investment will be available from the reinvestment of CI profits.</p>	<p>Moderate reduction of public spending on penitentiaries</p> <p>By 2030, annual budgetary spending on penitentiaries will decrease to 502 million Moldovan Lei (at constant CPI) due to lower prison population and healthcare costs. Additional capital investment will be available from the reinvestment of CI profits.</p>
Economic impact	<p>Low economic impact</p> <p>Economic impact will remain limited to the revenues of the surviving SOEs (Rusca and Soroca). The physical infrastructure of prison factories will remain poor and no additional jobs are going to be created.</p>	<p>Medium economic impact</p> <p>CI revenues will increase by 52 million Moldovan Lei as a result of using existing production capacities to meet the demand of the internal market. The physical infrastructure of the prison factories will improve as a result of private (tax-deductible) investment. This will allow the creation of 1,262 additional jobs for prisoners.</p>	<p>High economic impact</p> <p>CI revenues will increase by 130 million Moldovan Lei as a result of using existing production capacities to meet the demand of the internal market and exploring the opportunities of the external market. The physical infrastructure of the prison factories (CI) will improve as a result of private (tax-deductible) investment. This will allow the creation of 1,534 additional jobs for prisoners.</p>
Social impact	<p>Negative social impact</p> <p>In the absence of the policy intervention the</p>	<p>Positive social impact</p> <p>As a result of implementation of this</p>	<p>Positive social impact</p> <p>As a result of implementation of this</p>

	<p>negative effects of low prisoners' employment will perpetuate. Prisoner savings will remain low, prisoner-on-prisoner violence will continue, and the reoffending rate will remain high, due to ineffective social rehabilitation programmes. The overall cost to society, expressed as social burden of unemployment and criminality, will remain high.</p>	<p>policy option, prisoners' savings will increase in line with additional earnings from employment in CI. Reduction of prisoner free-time and idleness will decrease prisoner-on-prisoner violence; the number of bodily injuries will decrease by 60%. As a result of higher savings and better re-socialisation skills, the reoffending rate will decrease, leading to a reduction in the total prisoner population by 8%. The overall cost to society will diminish.</p>	<p>policy option prisoners' savings will increase in line with additional earnings from employment in CI. Reduction of free-time and idleness will decrease prisoner-on-prisoner violence; the number of bodily injuries will decrease by 66%. As a result of higher savings and better re-socialisation skills, the reoffending rate will decrease leading to a reduction in the total prisoner population by 10%. The overall cost to society will diminish.</p>
Environmental impact	<p>No environmental impact</p> <p>Environmental impact depends on specific types of CI production. Currently, one private contractor recycles plastic bags which has a positive environmental impact.</p>	<p>No environmental impact</p> <p>Environmental impact depends on specific types of CI production. Currently, one private contractor recycles plastic bags which has a positive environmental impact.</p>	<p>No environmental impact</p> <p>Environmental impact depends on specific types of CI production. Currently, one private contractor recycles plastic bags which has a positive environmental impact.</p>

The qualitative impact assessment favours policy option 3, which, despite of having the highest administrative impact (through creation of a specialised public body), exhibits lower public spending, higher economic outcomes and more pronounced positive social impacts.

Policy recommendations: What needs to be done

Both our quantitative and qualitative impact assessments of the policy options identify policy **Option 3** as being the most effective in delivering the expected outcome (higher employment of prisoners) and most efficient in terms of value for money (highest net present value in comparison with the other two options). However, because this option envisages more administrative effort, the policy recommendation should be implemented in parallel rather than in a sequence. In practical terms this is what needs to be done:

Recommendation 1: A Department of Correctional Industries (DCI) should be created under NAP and become fully functional by the end of 2021. To this end, NAP shall draft, and the Government shall adopt internal regulations, mandating DCI to coordinate CI activities and approve 8 units of personnel responsible for initiating private funding initiatives, contracting-in prison labour, supervising production and sales and developing a CI brand. In line with best international practices, the DCI personnel should respond to Key Performance Indicators (KPIs) which may tentatively include time-out-of-cells indicators along with other indicators (see Annex 6). Preferably, recruited DCI staff should have business skills along with an ethical commitment to re-socialising prisoners.

Recommendation 2: Each of the 17 penitentiaries shall be resourced with one Deputy Director responsible for the economic activity. In light of the recent transfer to PPA and subsequent liquidation of the prison SOEs, created in early 2000, relying upon SOEs in order to create employment for prisoners is no longer feasible. Moreover, when employment is created by contracting-in private manufacturers, this brings about an additional burden of responsibility for the prison director. It will then fall under the responsibility of the Deputy Director of the penitentiary to oversee CI within the penitentiary, while reporting and coordinating production and sales with the central DCI under NAP. We strongly recommend strengthening the competence of the newly appointed Deputy Directors by providing training in operational and financial management.

Recommendation 3: NAP retains board membership in the remaining SOEs. The transitory status of the remaining three SOEs (Rusca, Branesti and Soroca) is infringing the decision-making processes. Assuming that the transfer to PPA is irreversible and that at least Rusca and Soroca SOEs will not be liquidated as a consequence of such transfer, we recommend that NAP maintains control over SOE management through board membership.

Recommendation 4: Public procurement legislation takes priority only when there is no capacity to produce goods for the internal market. Best international practices attest that prisons (e.g., United Kingdom, Germany, USA) would never acquire goods and services from the external market when there is capacity to produce goods in-house. The opposite currently occurs in the Republic of Moldova where everything is procured via open competitive tendering by default. This is embedded in public procurement legislation, and there is an evident legislative gap regulating to the internal market of the penitentiaries. A corresponding derogation from the general procurement regulations should be made when there is capacity to produce the necessary goods for the internal consumption by the prisons.

Recommendation 5: Renting out of prison workspace should be possible for periods in excess of one year. Current legislation restricts the duration of the lease to only one year, while providing an incentive to private contractors to rent workspace for free. This discourages private contractors to undertake capital repairs and install expensive equipment, in the knowledge that in one year they may be invited to 'move out'. The general policy of the

Government is to avoid getting 'locked-in' long term rental agreements, therefore losing control over public assets. However, in case of prison factories and workshops this policy is obviously detrimental to prisoner employment.

Recommendation 6: Capital repairs of prison factories by third party contractors shall be tax deductible. Knowing that the public budget cannot afford to undertake expensive capital investment in the prison infrastructure, the Government should – at the very least - motivate private contractors to undertake capital repairs on their own accord. Under the current tax regime, capital investment is accounted for as an increase in the value of the fixed assets, whereas the depreciation of such assets is reflected in the cost of goods sold, thus diminishing the taxable net income. However, when capital investment is done for a third party (such as a prison factory), this is treated as non-productive expenditure and cannot be reflected in the cost of goods sold. In order to address this issue a corresponding amendment should be made to the Fiscal Code.

Recommendation 7: Self-management regulation shall be adopted in order to allow the penitentiaries to reinvest profits. Going forward, we expect CI to generate reasonable income which can then be reinvested in physical infrastructure, modernising equipment, new product development and so on. Under the current regulations, all income earned by the penitentiaries is transferred to the state budget, thus constraining future development of CI. By way of financial self-management, the penitentiaries should be allowed to keep the year-end balance on their treasury accounts and use the proceeds as they see fit. The budgetary transfer for wages and other expenditure should remain as they are.

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Annex 1: Working and living conditions in Moldovan penitentiaries: photographs taken at the prison visits



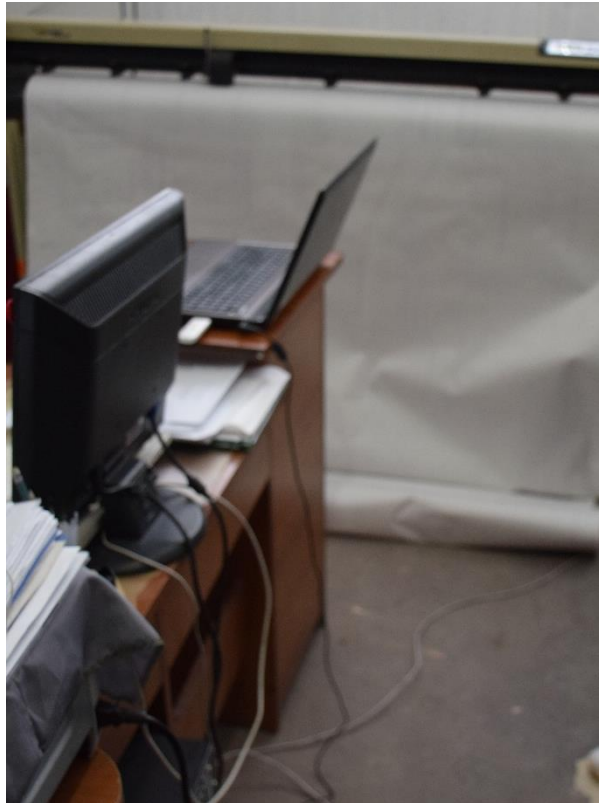
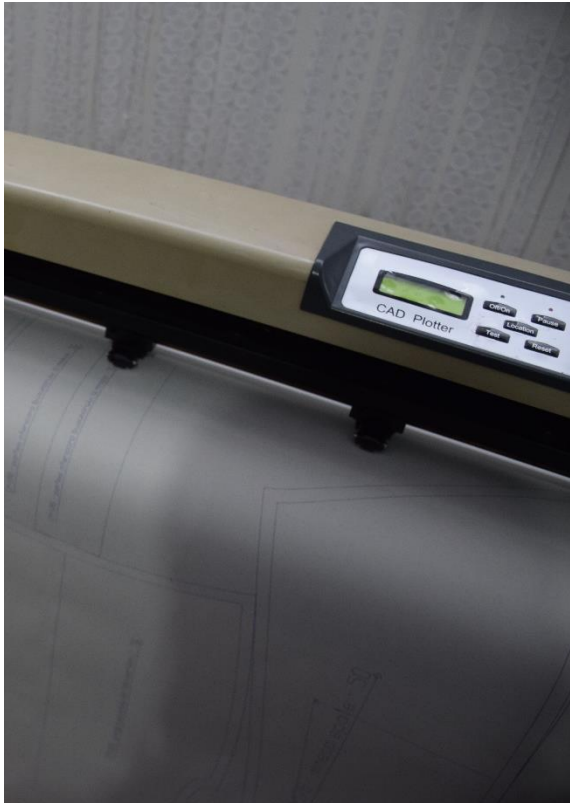
Picture 1 Seamstresses working in the SOE Rusca at the female Penitentiary nr. 7



Picture 2 Uniform samples, produced at SOE Rusca



Picture 3 Seamstress at SOE Rusca



Picture 4 Blueprints at the SOE Rusca are made using special software



Picture 5 SOE Soroca specialises in metalwork, including mending wire for prison walls



Pictures 6 and 7 Soviet equipment from the 1970s is still being used at SOE Soroca



Picture 8 Workspace facilities are empty and in need of capital repairs, starting with the leaking roof



Picture 9 Living conditions at the Soroca Penitentiary nr. 6 are decent



Picture 10 Pallet production by one of the two private contractors, who are renting factory workspace at the Cricova Penitentiary nr.4



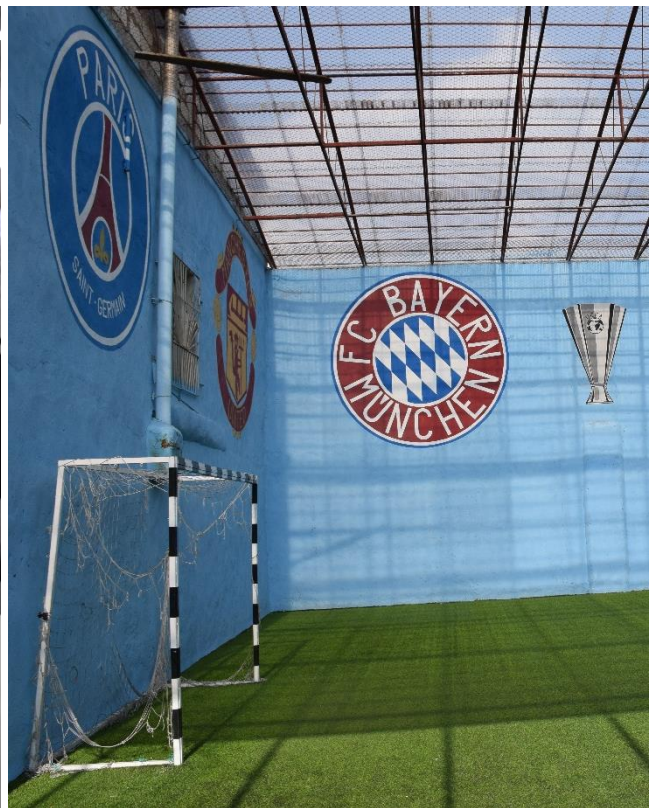
Picture 11 Recycling plant (plastic bags) by private contractor at Cricova Penitentiary nr.4



Picture 12 Limestone cutting at SOE Branesti mine



Picture 14 Installed production line at Branesti Penitentiary nr. 18 had to be stopped, due to Coronavirus pandemic.



Picture 13 Stadium at Branesti Penitentiary nr. 18 is decorated with Champions League soccer clubs by prisoners

Annex 2: International Correctional Industries Overview

Germany (16 *Länder*) (total prison population 57 600 at 30.6.2020)

Vollzugliches Arbeitswesen (VAW) - state-owned 'Prison Enterprise Services'; each *Land* (federal state) has its own VAW and business accounting system; prison governors have autonomy over budget and capital spend. There are 16 *Länder*.

Eigenbetriebe (*internal market*) supplies the *Land* with prison-made goods and services e.g. cell furniture; metal processing (shelves, storage); farms & gardens (prison food supplies); printing/offset-litho (Ministry of Justice stationery); agriculture (meat, sausage Bavaria); bakery.

Unternehmerbetriebe (*external market*) - each *Land* has its own business, sales and marketing model; outside contractors rent factory space for 15-30 years with tax incentives; bring in raw materials; train prisoners; civilian instructors; vocational training. Sell to the outside via websites (e.g. 'Partygrill'/ BBQ Niedersachsen; Hamburg); branded clothing ('Santa Fu' JVA Hamburg-Fuhlsbüttel); laundry services; catering; contract cleaning; wine; asparagus Baden-Württemberg.

France (total prison population 58 695 at 1.7.2020)

Régie industrielle des établissements pénitentiaires (RIEP)
Centralised CI management of the penitentiary system in France. Free competitive labour market 'inside' for all prisoners. Prisoners can contract themselves 'out' via the RIEP as self-employed to the private contractor (*concessionnaire*). Prisoners do not have to work by law; they can engage in a free and competitive labour market.

Service de l'Emploi Pénitentiaire (SEP) penitentiary prisoner employment agency (Ministry of Justice) has national jurisdiction over all prisoner employment (internal & external market). Job vacancies advertised in prison via website, prisoners apply with their CV (*résumé*); job interview with outside contractor; part of prisoners' vocational training. Private companies set up workshops in prisons under long lease agreements.

Le service général - general service and prison maintenance, catering and upkeep of prisoner living spaces:

- 20 hour working week
- 3 to 7 hours work per day in RIEP
- 6,800 prisoners employed (RIEP)
- 18 million euro paid in prisoner wages (SEP - March 2020).

Concessionnaire (private contractors; concessions)

- 1,200 prisoners employed in 48 RIEP workshops located in 27 prison establishments
-

- annual turnover 22.8 million Euro (March 2020)
- 6 million euros paid in prisoner wages (SEP)

Netherlands (total prison population 10,000 at 1.09.2020; 44% on remand)

Dienst Justitiële Inrichtingen - DJI - Dutch Prison Service Agency operates devolved budgets and all managerial responsibility to unit (cluster) managers for 22 prison establishments including prison workshops.
 Outside contractors (mainly): recycling, cleaning and catering
 Open prisons work for private enterprises only: prisoners receive 40 % of wages directly from the employer.
 6,700 in CI = approx. 75% of the total prison population industries
 min 20-hour working week in CI
 32-hour working wk in 5 industrial training prisons

Prisoners have to pay social security and tax contribution, deducted from their wages. Prisoners receive unemployment benefit if there is no work available in CI; sick pay only if certified by a doctor.
 non-monetary incentive: long-term prisoners, having worked min 20 hrs p.w. entitled by statute to one day a month off work.

Republic of Ireland (total prison population 3,714 at 30.9.2020)

Irish Prison Rules 2007 (amended 2013) permit convicted prisoners to work for outside/ private contractors in CI.
 25 prisoners working in 2 open prisons in paid external employment (prison governor must approve)
 12 prisons in Ireland with CI.

Prisoners' wages paid by outside employer into prison account; prison governor pays prisoners' wages.
 Income tax and social security insurance are deducted by the employer before paying the net amount into the prison account.
 Irish Government currently drafting legislation to give more legislative powers to prison governors re. CI (similar to the English Prisoners Earnings Act 1996).
 Tax incentives for businesses who employ released prisoners/ ex-offenders: 14 social enterprises received matching grants of up to €30,000 (March 2020).
 'Kick start fund': Minister for Justice and Equality, Charlie Flanagan TD, allocated €300,000 to social enterprises that tackle re-offending rates by providing employment opportunities for people with a criminal past (Jan 2020).

Lithuania (total prison population 6,018 at April 2020)

9 prisons with CI. Prisoners are assigned to 'easy' (or 'basic'), 'usual' ('enhanced') and 'discipline' ('strict') security categories and are accordingly permitted to engage in work and other purposeful activities.
 Most employed prisoners are in the easy and usual regime.

Employed prisoners sign prisoner-employer labour contract; there is also an 'internal' contract for general prison work signed by prison governor.
 100% wages to go prisoner; no deductions.
 No tax incentives for outside contractors.

Scotland (total prison population 8,200 as at 1.09.2020)

Prisoner employment regulated by Part 9 The Prisons and Young Offender Institutions (Scotland) Rules 2011. s. 82(1) 'every prisoner is required to work in prison'.
40 hour-working week (incl. VET); incl. 1 rest-day p.w.
Remand prisoners are not required by law to work (s. 85).
No individual contracts between prisoner and private contractor.
Work and earnings comply with the Scottish Prison Service (SPS) Prisoner Wage Earning Policy.
Rates of prisoner payment for each activity/work/ VET session is fixed by SPS and must not be altered at establishments.
Prisoners will not be disadvantaged if there is a lockdown or factory work is not available. Wages continue to be paid.
Prisoner wages paid directly into Prisoner Person Cash (PPC) account. If a prisoner wishes to have a TV in his/her cell, s/he is required to pay a weekly rental fee. No other non-monetary incentives.
No tax benefits of incentives to outside contractors.

Finland (total prison population 2,910 as at 1.4.2020)

Criminal Sanctions Agency. A prisoner in an open prison has a normal employment contract with the outside employer. The prison organises all other work activities inside.
External market: prisoner wages are the same with an outside contractor as for outside employees.
Internal market: contracted-in work is negotiated by prison governor; s/he negotiates pay rate for prison-made goods; prison governor pays a 'prison wage' which is not taxed.
No other non-monetary incentives for prisoners.

Ministry of Labour provides a number of employer incentives to support post-prison release employment.
There are no special tax incentives for businesses to employ former prisoners.
Released prisoners are on an equal footing with citizens in terms of employment support measures and status.

Slovak Republic (total prison population 10,705 at 1.9.2020)

General Directorate of the Corps of Prisons and Court Guards.
Prisoners have to work by law (or educate).
Prisoners either work for internal market providing goods and services to the state or for outside contractors in 'Enterprise Centres'.
External market: prisoner works for private company with a direct labour contract.
Internal market: convicted prisoners must also carry out services for the prison (§ 42(2) Prison Sentence Execution Act).
Pre-trial detainees (remands) and convicted prisoners may work.
Deductions are made from the gross of prisoners' wages for social and health insurance; deductions are sent to the 'Social Insurance Company', managed by the state and to health insurance companies. The social and health insurance companies are responsible for paying prisoners' sick pay and old-age pension benefits (only for prisoners who are engaged in prison employment). From the remaining net remuneration deductions are made for 'reparation' costs to the prison ('board and lodging').

Each employed prisoner must pay reparation i.e. between 45 and 55 % deductions from wages (decided by Prison Governor) (Government Decree of the Slovak Republic No. 384/2006 Coll).

Non-monetary incentives include the right to a 'higher standard diet' for working inmates.

There is no 'good time' system (i.e. days worked taken off a prisoner's sentence).

Businesses that employ former inmates have no tax benefits.

Italy (total prison population (excluding minors) 53,921 as at 31.8.2020 (409 minors at 30.6.2019)

All penitentiary work is regulated under Art 10 Penitentiary Act 1975 (as amended) (Ministry of Justice).

Prisoners can work for the prison administration (internal) or for external contractors. There is no employment contract between a prisoner and a private contractor.

Annual leave and public holidays, as well as working hours are guaranteed and regulated under the National Labour Contract (NLC) (negotiated by trade unions).

Prisoner pay, including severance pay, is equal to 2/3 of what is established by the NLC.

Prisoners working for external private contractors receive real wages under the same labour laws as on the open labour market.

Prisoner wages are paid directly (on account) to the prisoner (internal and external market).

Employer (either the state prison industries or the outside contractor) makes the necessary deductions from the prisoners' wages according to labour laws.

No non-monetary incentives for prisoners inside.

External employers who hire prisoners enjoy tax relief (€ 520 of tax credit per month for each worker detained hired) and tax breaks (95% reduction of social security and social security withholdings for the entire period of recruitment of prisoners). The same advantage measures continue for subsequent 18/24 months following release from prison if the employment relationship continues with the same employee (ex-offender).

England/ Wales Her Majesty's Prison and Probation Service (HMPPS) (total prison population 73,000 (adult) as at 1.10.2020)

Public Sector Prison Industries (PSPI) state-run correctional industries for England and Wales.

12,758 prisoners employed in correctional industries (out of 73,000 total adult prison population)

8,517 prisoners employed - 18% prisoners employed in CI.

PSPI holds approx. 6.2 million items in storage and distribution hub, moving approximately 720,000 items a month in clothing and equipment.

PSPI manufacture and produce for:

external market, e.g. engineering, plastic moulding, land-based activities, laundries, printing, tailoring and textiles, waste management and recycling, and woodwork/ carpentry/ furniture manufacturing.

Example: Plastics incl. supply of plastic granules, polycarbonate, polypropylene and flame-retardant materials. Main sites are: HMPs Ford, Garth, Gartree, Moorlands, Ranby and HM Young Offender Institution (HMYOI) Glen Parva.

internal market, e.g. prisoner clothing, bedding, plastic cutlery, in-cell furniture.

Example: 32 industrial laundries across prison estate operating washer-extractors from 7 kg up to 200 kg, plus 8 continuous tunnel washers. The laundry workshops provide clean clothes and bedding for 80 000 prisoners every week, plus some external customers. Processing over 8 000 000 kg of laundry per year.

The Education, Employment and Industries Group (EEIG) provides education and vocational training alongside work in prisons (England/Wales) and delivers national prisoner education syllabus.

Example: At HMP Onley (a Cat C resettlement prison in Warwickshire) Halford's bike manufacturers offer pre-release prisoners training and expertise to become professional bike mechanics ('A Road to a Brighter Future').

HM Prison Manchester Strangeways makes masks and PPE equipment for hospitals during Covid pandemic 2020; joint venture with the Manchester Fashion Institute (MFI) at Manchester Metropolitan University.

USA (total prison population 1,358,760 as at 1.3.2020)

Federal Prison Industries (FPI) Trade name UNICOR. FPI wholly owned US government, established by Congress in 1934. FPI is authorised to operate industries in federal penal and correctional institutions (18 U.S.C. § 4121 to § 4129). FPI strongly believes in public involvement which includes the marketing of prison-made goods in outside shops.

FPI supplies all products and services to US Government. Main departments: Department of Defence (DOD), Department of Homeland Security (DHS), Department of Justice (DOJ), Social Security Administration (SSA) General Services Administration (GSA). 60 prison factories and 2 farms (agribusiness) located at 52 prisons. Main business segments (fiscal year 2019-20):

Agribusiness,
Clothing and Textiles,
Electronics,
Fleet (e.g. maintenance of national school busses),
Office Furniture,
Recycling
General Services (cleaning; catering etc)

Financial Statement 2019

Total cash and investment balance increased \$66.8 million during fiscal year 2019, to a total balance of \$386.2 million.

Net inventory decreased \$12.4 million to \$109.3 million.

Net sales were below plan (-8.6%) but greater than fiscal year 2018 levels (5.7%).

FPI secured several three to five year contracts, which resulted in activating three previously closed operations.

First half of 2020 (pre-Covid) Clothing & Textiles Group's sales increased by 50%.

Recycling Business Group opened operations in the west and east coast with sales increased to 30%.

Cash and Cash Equivalents increased \$114.7 million due primarily to a \$38.5 million increase in deferred revenue, \$48.7 million in investments

redeemed, net income of \$20.8 million, and a \$12.4 million decrease in inventory.

Increases to cash were partially offset by \$11.2 million spent in acquisitions in property, plant, and equipment and construction for fiscal year 2019.

Investments during fiscal year 2019, FPI redeemed \$48.7 million in investments. As a general investment strategy, FPI plans to hold all short-term and long-term investments to maturity.

Accounts receivable balance increased \$5.5 million during fiscal year 2019.

Net accounts receivable balance of \$39.6 million represents 79.2% of total revenue for the month of September 2019.

FPI's average days to collect for 2019 were approximately 22.1 days.

Liabilities Total Liabilities increased by \$40.0 million during fiscal year 2019. The primary contributor was a \$38.5 million increase in deferred revenue (mainly retrofitting of vehicles for the Department of Homeland Security).

Total Revenue increased by \$2.9 million while total cost of revenue decreased \$.67 million. The increase in revenue resulted from an increase in Net Sales of \$28.6 million.

Largest business segments showing an increase in sales were Fleet and Office Furniture with increases of \$16.3 and \$10.1 million respectively.

Net income increased \$6.9 million from 2018.

UNICOR products sold to the outside market:

Apparel and accessories.

Awards & plaque.

Electronic.

Eyewear.

Food services.

Industrial storage.

Bedding and mattresses.

Printing and bindery services.

Data services (call centres).

Computer aided design.

Distribution, warehousing and logistics.

Recycling and waste management.

Signage (e.g. all road signs; car numberplates).

Office furniture.

Vehicle and fleet services (school buses).

Next Step Act: substantial criminal justice law reform in relation to sentencing, prisons, rehabilitation and re-entry of prisoners into society and law enforcement practices (s. 697).

Bill passed by 116th Congress (2018-19), signed by President Trump in December 2018. Act came into force on 7 March 2019 and brought about substantial prison reform including re-entry of prisoners into society after release.

By fiscal year 2022, the Next Step Act requires the Attorney General to report on efforts to enable 75% of the eligible minimum- and low-risk offenders to have the opportunity to participate in a prison work programme for not less than 20 hours per week.

UNICOR will be expected to grow in order to provide a significant number of these opportunities

Annex 3: International Correctional Industries Detailed Reports and Data

The following are more detailed reports, providing supplementary material and data as part of the international comparative study. A detailed look will give the reader an idea of the different CIs and prisoner-made goods, adopted by not only each country, but – in the case of federal governments, such as Germany and the United States – but also local prison administrations of regional or state prison labour markets.

Germany

Nedersachsen (Lower Saxony)¹³³

External market production

- Mainly piece- and service work e.g. light assembly; sorting; packaging; labelling etc.
- Textiles
- Metalwork
- Carpentry and furniture assembly
- Plastics
- Painting and spray paint
- 158 prisoners in employment with outside contractors (open prisons)

Internal market: main client Ministry of Justice, Hannover (MOJ)¹³⁴

- Furniture and woodwork production of all MOJ office furniture (carpentry/ furniture production) (4)
- Prison locks (welding)
- Barbeques (metalwork) (5)
- Gardens and horticulture (e.g., camellias and buckthorn) – prison gardens and public gardens (1)
- Print shops (MOJ flyers; programmes; court papers etc)
- Two bakeries
- Laundry services
- Kitchen, cooking and catering services (7)
- Upholstery (1)
- Building construction (1)
- Project management (2)
- Storage management (6)
- Painting and decorating (1)
- Construction (10)
- Tool manufacturing (4)

¹³³ FOI request to the Ministry of Justice of Lower Saxony and correspondence received from Prisons Minister Staatssekretär Dr. Hett, 3 November 2020 (Correspondence Nr: 4400 E - 302. 1/2020 5243).

¹³⁴ These trades offer apprenticeships, vocational training and certification as part of CIs. In total Lower Saxony offered 49 places in 2019-20 as part of the CIs (VAW).

Vocational and educational training (VEI)

Vocational and educational training for 16+ year old prisoners is offered in young offender institutions and prisons accommodating young adult offenders (Heranwachsende 18 – 21). The following apprenticeships and national vocational qualifications were completed and achieved in 2019-20:

- 55 secondary school qualification basic (Hauptschulabschluss)
- 12 secondary school qua Realschulabschluss
- 305 language certifications (German as a foreign language as part of the integration policy for foreign prisoners)
- 134 foundation certificate for technical college entrance (Berufsschule)
- 205 'Integration Certificate' for foreign prisoners incl. German politics, inter-cultural relations; religious and ethical understanding.
- 1 woodwork and furniture manufacturing
- 4 painting and decorating
- 8 metalwork
- 1 construction
- 1 car mechanic
- 1 garden & horticulture
- 3 welding
- 31 buildings and window cleaning (JVA Bremervörde, JVA Celle, JVA Hannover, JVA Rosdorf, JVA Sehnde, JVA Wolfenbüttel)
- 8 catering (JVA Hameln, JVA Sehnde, JVA Wolfenbüttel)
- 1 carpenter apprentice (JVA Hannover)
- 2 chef apprentice (JVA Hannover)
- 10 kitchen porter (JVA Sehnde - women)
- 4 storage management (JVA Oldenburg)
- 3 electronics (JVA Vechta)
- 4 landscape gardening & horticulture apprentice (JVA Vechta)
- 1 service management (JVA Wolfenbüttel)
- 59 European Computer Driving Licence (ECDL) – basic
- 42 ECDL intermediate
- 16 ECDL advanced
- 82 welding
- 36 forklift truck driving certificates

Prisoner employment rate post release for the year 2019:

40.7% - this includes actual employment, work placements (*Praktikum*), further education and vocational training; schooling and further education, social therapeutic programmes. Prisoner reintegration into society and work after release is part of the sentence plan for each convicted prisoner (§ 9 (1) and (4); § 35 (2) NJVollzG).

France

Prisoner labour in France is highly regulated by specific penal legislation and national labour laws. For example, the Code of Criminal Procedure (*le code de procédure pénale*) states that the labour relations of imprisoned persons are *not* the subject of an employment contract between the prisoner and the private contractor (*concessionnaire*). Article D.108 of the Code of Criminal Procedure (*L'article D.108 du Code de procédure pénale*) specifies that the duration of work undertaken in correctional industries must be comparable to the hours worked in the

region commensurate with the type of work activity and employment undertaken on the outside. Work undertaken inside correctional industries cannot be superior to the work undertaken outside.¹³⁵ The RIEP pays prisoners' wages and makes social security contributions as deductions from prisoners' wages. The RIEP also pays salaries for prison supervisory staff in the workshops, thereby guaranteeing safety and security to outside instructors from the private contractors.

The organisation, methods and remuneration of correctional labour and work inside each prison is similar to pay rates outside for similar professional activities and work done. All prisoners benefit from French state social security from the moment of their incarceration. This means that all prisoners are registered with the '*Caisse Primaire d'Assurances (CPAM)*' in terms of social security, health insurance and sick pay. Prisoners are insured against industrial accidents and occupational diseases as part of the CPAM. They are also affiliated to the state pension regime as part of the general social security scheme (CPAM).

Generally, prison contracted-in work comprises packaging, assembly of electronic components, carpentry, aircraft engines, digitisation activities (data input) and call centres. The *concessionnaire* companies provide the raw materials for production and equip the allocated premises with the necessary plant or machinery. The *concessionnaires* manage their own production and quality control, undertaken by technical supervisors and instructors from the *concessionnaires*, that is civilian instructors. Individual business contracts and rates of pay for each production line are agreed jointly by the RIEP and the contractor. Sector activities in the workshops (*ateliers*) includes:

- IT; data processing; call centres;
- printing;
- carpentry and furniture manufacturing;
- textiles and tailoring;
- metalwork; welding.

The Netherlands

Procurement, tendering and purchasing¹³⁶

All purchasing and tendering adheres to EU legislation. For purchases below €144,000 (within a 4-year period) written offers from 2-3 suppliers must be obtained; purchases above the amount must comply with EU tendering published on the government website 'Tendered'.¹³⁷ 'In-Made' has a salesforce of 5 full-time staff (to obtain orders from outside contractors), plus 6 full-time sales staff. The pricing policy (per unit) is set by law (*Markt & Overheid*). This legislation prevents unfair competition with companies and 'unwelcome' subsidies.

Scotland

Prisoner pay rates are based on attendance at work (or educational activity) for half day sessions each week and no prisoner should be paid for attendance at more than 10 half day sessions per week (some prisons may have to factor in time off for individual prisoners during the week to cater for essential weekend and evening working). Prisoners should not be

¹³⁵ For regional departments of correctional industries see: http://www.justice.gouv.fr/art_pix/ResponsablesTravail.pdf

¹³⁶ Source: Frank Becker, Sales and Marketing Manager, 'In-Made' and 'Ex-Made' reintegration programmes: <https://in-made360.nl/> Dienst Justitiële Inrichtingen (DJI) as at 28.10.2020.

¹³⁷ <https://www.tendered.nl/tendered-tap/aankondigingen>

penalised for wage earning if work or activity is curtailed (due to lockdown) or not available due to operational reasons. Where an establishment operates a timetabled approach to taking part in activity which does not take place or a routine workshop closure or whenever activities are curtailed at short notice, the prisoner will be credited with the appropriate session payments for the number of periods concerned. Prisoners will not be disadvantaged by taking part in offence focussed rehabilitative programmes or through part time attendance at education classes or participation in other self-development activities. The number of individuals engaged in purposeful activities across the Scottish prison estate is unclear. Typical prison work undertaken in Scottish prisons include:

- Repair work (sewing machines; bicycles)
- recycling prison waste;
- clothing, textiles and tailoring
- assembly and piecework (e.g. packaging tea and coffee)
- furniture manufacturing (e.g. garden sheds; benches;
- manufacturing (e.g. post office trolleys)
- bakery
- kitchen and catering;
- laundry
- gardens & horticulture

Untried prisoners (remand) and persons awaiting deportation may be offered the opportunity to work, if it is available. Priority to any work that is available is given to prisoners who have no access to Prisoner Personal Cash (PPC). Prisoners who transfer from one establishment to another receive one week's repeat wage set by the sending establishment, thereafter the wage is set by the receiving prison. Prisoner wages are paid directly into Prisoner Personal Cash (PPC) account. If a prisoner wishes to have a television in his cell, he is required to pay a nominal rental fee on a weekly basis. The Scottish National Health Service provides free healthcare to all those in custody in the same way as it does to those in the community. There are no additional non-monetary incentives. There are no tax benefits or incentives to outside employers who employ inmates and former inmates.

England and Wales

The *Education, Employment and Industries Group* (EEIG) provides education and vocational training alongside work in prisons (England/ Wales). They deliver the national prisoners education syllabus and annual programme provided by the National Prison Education Team.

The Manchester Fashion Institute (MFI) at Manchester Metropolitan University operates several training workshops inside HMP Manchester Strangeways run by Her Majesty's Prison and Probation Service (HMPPS) and EEIG. During the Covid 19 pandemic these workshops started production of thousands of medical scrubs, based on an open-source digital design template, built and made freely available to download by the MFI Technical Team inside the prison.¹³⁸

At HMP Onley (a Cat C resettlement prison in Warwickshire) Halford's bike manufacturers offer pre-release prisoners training and expertise to become professional bike mechanics ('A Road to a Brighter Future').

¹³⁸ See: <https://fashioninstitute.mmu.ac.uk/news/item/?id=12271> accessed 21.10.2020.

Republic of Ireland

The Irish Government offers a large range of employment and back to work schemes, thereby encouraging long-term unemployed people to return to work; this includes released prisoners and those with a criminal conviction. In 2019 the Irish government funded 14 social enterprise schemes which received grants of up to €30,000. The aim of these programmes is to reduce re-offending by providing employment opportunities for people with a criminal record and those released from prison.

In January 2020, Minister for Justice and Equality, Charlie Flanagan TD, announced the allocation of €300,000 funding to social enterprises that tackle re-offending rates by providing employment opportunities for people with a criminal past. The funding is being provided by the *Department of Justice and Equality's Social Impact Programme* under its 'KickStart' Fund. The fund will provide matching grants up to €30,000 to 14 organisations providing employment to former offenders and persons leaving prison. A total of €300,000 was approved for the programme under the 'Dormant Accounts Disbursement Scheme' to enable organisations to conduct a feasibility study or market research or for start-up and development costs. Prisoner reintegration programmes, such as KickStart are partly funded by the Irish Government and in parts by the *Irish Small and Medium Enterprises Association (ISME)*, with a nationwide membership of excess of 10,500. ISME is owned, funded and managed by small and medium Enterprises (SME) owner-managers, representing the sector through its members.¹³⁹

Minister Flanagan referred to the importance of social enterprise for those excluded from the mainstream labour market due to their criminal past saying "in order to break the cycle of re-offending, it is important that former prisoners who want to make a positive contribution to society have an opportunity to work. Supported employment in a social enterprise provides a much-needed buffer, allowing people in this situation to gain confidence in their own abilities while also earning a wage. It's as simple as this: people who are given access to training and are in work are less likely to re-offend. This is important for the individuals, their families and the wider community." Director of the Irish Probation Service, Vivian Geiran, indicated that interest in the fund had been better than expected, which reflected positively for the potential Social Enterprise sector and for those organisations involved with providing employment for persons with a criminal justice history.¹⁴⁰

USA

Federal Prison Industries (FPI)

Financial Structure of FPI

FPI operates as a revolving fund and does not receive an annual appropriation. The majority of revenues are derived from the sale of products and services to other federal departments, agencies, and bureaus. Operating expenses such as the cost of raw materials and supplies,

¹³⁹ See: ISME website www.isme.ie accessed 8.10.2020.

¹⁴⁰ Source: 'Social enterprises that help cut re-offending rates given €300,000 'KickStart' by Minister Flanagan', Press release by the Irish Department of Justice and Equality, 22 January 2020. From DSP website www.welfare.ie Accessed 8.10.2020.

inmate wages and staff salaries are applied against these revenues resulting in operating income or loss, which is reapplied toward operating costs for future production.

In this regard, FPI makes capital investments in buildings and improvements, machinery, and equipment as necessary in the conduct of its industrial operation. FPI sells products and services to the majority of federal departments, agencies, and bureaus. FPI's largest federal government customers include the Department of Defence (DOD), the Department of Homeland Security (DHS), the Department of Justice (DOJ), the Social Security Administration (SSA), and the General Services Administration (GSA).

As at 30 September 2019, FPI had agricultural, industrial and service operations at 60 factories and 2 farms located at 52 prison facilities.¹⁴¹ Factories are operated by FPI supervisors and managers, who train and oversee the work of inmates. The factories utilise raw material and component parts purchased primarily from the private sector to produce finished goods. Orders for goods and services are obtained through marketing and sales efforts managed primarily by FPI staff. Some products and all services are provided on a non-mandatory, preferred source basis. FPI processes primarily all customer orders and billings along with vendor payments through a centralised service centre in Lexington, Kentucky. In the fiscal year 2019-20, FPI operated in seven business segments:

- Agribusiness,
- Clothing and Textiles,
- Electronics,
- Fleet (e.g. maintenance of national school busses),
- Office Furniture,
- Recycling
- General Services (cleaning; catering etc)

Some private enterprises have complained that prisons have an unfair competitive advantage in several ways. For instance, prisons do not need to adhere to a number of federal and state standards for the workplace, such as the *Fair Labor Standards Act 1938* (FLSA) (as amended).¹⁴²

FPI Annual Accounts 2019-20:

During the fiscal year 2019-20, FPI realised earnings for the fourth consecutive year. The total cash and investment balance increased \$66.8 million during fiscal year 2019, to a total balance of \$386.2 million. Net inventory decreased \$12.4 million to \$109.3 million. Fiscal year 2019 net sales were slightly below plan (-8.6%) but greater than fiscal year 2018 levels (5.7%). FPI opened and/or expanded 6 operations located at FCI Pekin¹⁴³, FCI Tallahassee¹⁴⁴, FCC

¹⁴¹ Source: Federal Prison Industries, Inc. Fiscal Year 2019 Annual Management Report November 5, 2019.

¹⁴² The FLSA (29 U.S.C. § 203) created the right to a minimum wage (currently \$7.25 per hour) and 'time-and-a-half' overtime pay when people work over forty hours a week. It also prohibits employment of minors in 'oppressive child labour'.

¹⁴³ The Federal Correctional Institution (FCI) Pekin is a medium-security United States federal prison for female inmates in Illinois.

¹⁴⁴ FCI Tallahassee, Florida, is a minimum-security federal prison for female inmates.

Yazoo City¹⁴⁵, FCI Terminal Island¹⁴⁶, FCC Allenwood¹⁴⁷, and USP Atlanta¹⁴⁸. UNICOR products and public services comprise:

- Apparel and accessories
- Awards & plaques
- Electronics
- Eyewear
- Food services
- Industrial storage
- Bedding and mattresses
- Printing and bindery services
- Data services (call centres)
- Computer aided design
- Distribution, warehousing and logistics
- Recycling and waste management
- Signage
- Office furniture
- Vehicle and fleet services.¹⁴⁹

During fiscal year 2019, FPI secured several three to five-year contracts, which resulted in activating three previously closed operations. In the first half of 2020 the Clothing & Textiles Group's sales increased by approximately 50%. The Recycling Business Group opened operations in the west and east coast with sales increased to approximately 30% in the first half of the fiscal year 2020, with a growth potential of 10% each year over the next five years.

Cash and Cash Equivalents increased \$114.7 million due primarily to a \$38.5 million increase in deferred revenue, \$48.7 million in investments redeemed, net income of \$20.8 million, and a \$12.4 million decrease in inventory. The increases to cash were partially offset by \$11.2 million spent in acquisitions in property, plant, and equipment and construction for fiscal year 2019. Investments during fiscal year 2019, FPI redeemed \$48.7 million in investments. As a general investment strategy, FPI plans to hold all short-term and long-term investments to maturity. It is worth noting that FPI annual accounts do not include rent of factory space, utilities or other economic costs in their cost calculations.

The Accounts Receivable balance increased \$5.5 million during fiscal year 2019. The net accounts receivable balance of \$39.6 million represents 79.2% of total revenue for the month of September 2019. FPI's average days to collect for 2019 were approximately 22.1 days. Liabilities Total Liabilities increased by \$40.0 million during fiscal year 2019. The primary contributor was a \$38.5 million increase in deferred revenue. The increase in deferred revenue is primarily attributable to a change in customer advances payable on hand primarily for the retrofitting of vehicles for the Department of Homeland Security.

Total Revenue increased by \$2.9 million while total cost of revenue decreased \$.67 million. The increase in revenue resulted from an increase in Net Sales of \$28.6 million. The largest business segments showing an increase in sales were Fleet and Office Furniture with

¹⁴⁵ FCI Yazoo City in Mississippi is a federal prison for male low, medium, and high-security inmates. An adjacent satellite prison camp houses minimum-security male offenders.

¹⁴⁶ FCI Terminal Island, California, is a low-security federal prison for male inmates.

¹⁴⁷ The Federal Correctional Complex, Allenwood, Pennsylvania is a federal prison for male inmates.

¹⁴⁸ United States Penitentiary, Atlanta, Georgia, is a medium-security federal prison for male inmates.

¹⁴⁹ For a full list see: <https://www.unicor.gov/Category.aspx?iStore=UNI>

increases of \$16.3 and \$10.1 million respectively. The fiscal year 2019 net income increased \$6.9 million from 2018. Business Segments In fiscal year 2019, FPI's businesses were organized, managed, and internally reported as seven operating segments based on products and services. These segments are Agribusiness, Clothing and Textiles, Electronics, Fleet, Office Furniture, Recycling, and Services. FPI is not dependent on any single product as a primary revenue source; however, it is currently primarily dependent on the federal government market for the sale of its products. FPI's net industrial income (earnings) at the business segment level consists of sales offset by cost of goods sold and certain other general and administrative costs.

Due to the volatile nature of the changes affecting FPI with the government sector since 2019 and particularly during the Coronavirus pandemic in 2020, emphasis has been placed on exploring more opportunities with commercial customers. Opportunities in this arena have become available as part of the Congress approval, for FPI to obtain commercial customers through repatriation and bringing sales otherwise sent to foreign countries back into the United States of America. Additionally, the *Consolidated and Further Continuing Appropriations Act of 2012* (P.L. 112-55) authorised FPI to participate in the Prison Industries Enhancement Certification Program (PIECP) (see below).¹⁵⁰

Prison Industry Enhancement Certification Program (PIECP)

PIECP was created by US Congress in 1979 to encourage federal states and local government to establish employment opportunities for inmates that approximate private-sector work opportunities. The programme is designed to place inmates in a realistic work environment, pay them the prevailing local wage for similar work, and enable them to acquire marketable skills to increase their potential for successful rehabilitation and meaningful employment upon release. The *National Correctional Industries Association* (NCIA), the professional organisation for prison industry employees, provides technical and certification assistance for PIECP in conjunction with the Bureau of Justice Assistance (BJA) (sub-division of the US Department of Justice). PIECP exempts certified state and local departments of corrections from normal restrictions on the sale of inmate-made goods in interstate commerce. In addition, the programme lifts restrictions on these certified corrections departments, permitting them to sell inmate-made goods to the Federal US Government in amounts exceeding the \$10,000 maximum normally imposed on such transactions.

PIECP allows private industry to establish joint ventures with state and local correctional agencies to produce goods using inmate labour. The programme benefits:

- **The corrections administrator.** The programme is a cost-effective way to occupy a portion of the ever-growing prison population.
- **The crime victim.** The programme provides a means of partial repayment for harm sustained.
- **The inmate.** The programme offers a chance to work, meet financial obligations, increase job skills, and increase the likelihood of meaningful employment upon release from incarceration.
- **The private sector.** The programme provides a stable and readily available workforce. In addition, many correctional agencies provide manufacturing space to private-sector companies involved in the programme.

¹⁵⁰ Examples of types of work done in CI provided by the National Correctional Industries Association (NCIA) as at 21.10.2020.

- **The public.** Because of inmate worker contributions to room and board, family support, victim compensation, and taxes, the program provides a way to reduce the escalating cost of crime.

The mandatory criteria of a US department of corrections in each federal state must meet all nine of the following criteria if they wish to join the PIECP programme:

1. *Eligibility.* Authority to involve the private sector in the production and sale of inmate-made goods on the open market.
2. *Wages.* Authority to pay wages at rate not less than that paid for work of a similar nature in the locality in which the work is performed.
3. *Non-inmate worker displacement.* Written assurances that PIECP will not result in the displacement of employed workers; be applied in skills, crafts, or trades in which there is a surplus of available gainful labour in the locality; or significantly impair existing contracts.
4. *Benefits.* Authority to provide inmate workers with benefits comparable to those made available by the federal or state government to similarly situated private-sector employees, including workers' compensation and, in some circumstances, Social Security.
5. *Deductions.* Corrections departments may opt to take deductions from inmate worker wages. Permissible deductions are limited to taxes, room and board, family support, and victims' compensation. If victims' compensation deductions are taken, written assurances that the deductions will be not less than 5 percent and not more than 20 percent of gross wages and that all deductions will not total more than 80 percent of gross wages.
6. *Voluntary participation.* Written assurances that inmate participation is voluntary.
7. *Consultation with organised labour.* Written proof of consultation with organized labour prior to program start-up.
8. *Consultation with local private industry.* Written proof of consultation with local private industry prior to program start-up.
9. *National Environmental Policy Act (NEPA).* Written proof of compliance with NEPA requirements prior to program start-up.

Arizona Correctional Industries (ACI)

ACI can sell directly to the private sector (external market) but must make sure the inmate-made products stay within the State of Arizona. ACI also sells to the state US Department of Corrections and many other Arizona state and local governmental agencies. ACI are however limited as to what they can sell to the Federal Government, limited to \$ 10,000 per contract. ACI must buy from vendors who are on a state contract with the exception of materials such as iron and steel which are controlled by the ACI purchasing group. In 2020, ACI produced the following for the US State Departments: clothing, mattresses, bread, bunks, furniture etc. ACI sold gowns to the California state psychiatric hospital during the COVID crisis and masks to New Mexico CIs.

Between 2010 and 15, sales increased by 24% and inmate work hours increased 27% with yearly net income averaging \$3 million. ACI celebrated a record year in FY 2015 with \$42.1 million in sales and \$3.87 million in net income. ACI added additional CI labour contract businesses, focussing on recycling and business call centre areas, while also adding a fish farm, wild horse and burro programme,¹⁵¹ as well as a production facility that

¹⁵¹ The Wild Horse and Burro programme at the prison ranch includes the management of healthy wild horses and burros on public rangelands. Watch the 'Wild horse and burro inmate programme': <https://aci.az.gov/taming-wild-horses/>

manufactures polystyrene construction blocks. The primary focus of ACI is now on Wild Horse management¹⁵², fish farming, furniture manufacturing, recycling and 'green initiatives' (e.g., recycling).¹⁵³ ACI do not compete in the plastic or cabling service areas but concentrate on printing, wood furniture, metal fabrication (e.g. novelty car numberplates, bus shelters and bunk beds), PPE products, signs, furniture reupholstery.

ACI staff go out for commercial and competitive bids, based on the Arizona state contract as well as for purchases of raw materials. ACI tries to be very competitive with the outside marketplace. Contracts between ACI labour contract partners who have facilities either inside the prisons or outside are handled between the US Department of Corrections central purchasing jointly with active participation from ACI staff 'on the ground'. For example, an existing contract for inmate labour with Erickson manufacturing, making house wall units and roof trusses, are used in the whole state of Arizona. ACI provides security and transportation if and when required. ACI charges a fee per inmate hour to Erickson's.

Contract length is usually 5 years, but the contract can be cancelled by either party with 30-day notice. Companies which set up facilities within the prison can pay a great deal of money to modify or add to the space depending on the available space. Utilities are usually paid by the company. Companies set up facilities inside the prisons for many reasons, but most are pleased with the consistent and steady work force and the ability to hire the ex-offenders when they are released. Companies also set up operations inside the prison because the pool of available minimum custody inmates who could work in their outside operations or businesses have been exhausted. Erickson's, for example, have an inmate workforce who go to their facility in Chandler and they have also set up a truss operation in the State Prison of Lewis in Buckeye.

California Prison Industry Authority (CALPIA)¹⁵⁴

CALPIA does not use the formal bid process, but the procurement process, using both, the formal and informal solicitation (procurement) processes. The solicitation process applies to sales within CALPIA. A purchase order is required for sales to other agencies, but there is no solicitation process involved. Agencies are mandated through *Penal Code 2807* to purchase from CALPIA, unless they obtain a waiver. The contract and purchase order awards are made on the basis of 'BEST VALUE' as determined by CALPIA under statutory authority considering the following criteria:

- Best price, including payment terms and discounts;
- Greatest quality for the product or service;
- Bidders' past performance, reliability, and ability to perform;
- Life cycle cost of a product;
- Warranty and customer service defined; and/or
- Other factors deemed relevant.

¹⁵² For more information see: <https://aci.az.gov/adopt-a-horse-or-burro/>

¹⁵³ For the ACI online product range see: <https://aci.az.gov/our-products/>

¹⁵⁴ Source: Michele Kane, Assistant General Manager, External Affairs, California Prison Industry Authority, Michele.Kane@calpia.ca.gov as at 30.10.2020.

Formal procurements valued *over \$10K* for services or goods with services included (e.g. turnkey projects for public works) is performed by the CALPIA Contracts Unit. A *Contract Request and Scope of Work (SOW)* is received and reviewed. An *Invitation for Bid (IFB)* or Request for Proposal (RFP) is created for the requested goods or services, to include the SOW; and then posted on the *public eProcurement site, Fi\$cal*, for a minimum of 10 business days. Bid packages are submitted by the posted deadline (date and time). All bid openings are public. Bids are viewed for responsiveness and then evaluated for compliance with IFB or RFP requirements. Based on compliance and *Best Value*, an awardee is determined and an *Intent to Award Notification* is issued. A 5-day protest period is allowed in the event that an award is made to a bidder other than the lowest proponent and provided no protests are received by CALPIA, the contract is executed (signed by both the vendor and CALPIA).

Informal procurements for goods or services valued *under \$10K* - this process is performed by CALPIA staff in each location/division of CALPIA. Staff create a *Request for Quote (RFQ)* that details the item(s) and/or services required. The RFQ details the due date and time, and contact person performing the solicitation. Quotes are received and a vendor is awarded based on Best Value to CALPIA.

What are the financial advantages and incentives for outside contractors?

- Reduced workers' compensation insurance rates for offenders;
- State tax credit equal to 10% of the wages paid to each offender employed in the PIECP program (see below);
- No employment benefits for offenders;
- No cost long term lease for 10 yrs. with automatic extensions up to 30 years. The US state offers no cost leases based on the 'in lieu of' credit justification for services provided to the state for participating in the PIECP programme (see above).

Annex 4 CI Projections 2020–2030

Model parameters	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
CPI Target		0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500	0.0500
Exchange rate	19.5788	20.0000	20.0000	20.0000	20.0000	20.0000	20.0000	20.0000	20.0000	20.0000	20.0000
Minimum wage	1,100	1,155	1,213	1,273	1,337	1,404	1,474	1,548	1,625	1,706	1,792
Average wage	2,775	2,914	3,059	3,212	3,373	3,542	3,719	3,905	4,100	4,305	4,520
Number of prisoners in Moldovan penitentiaries	6497	6497	6497	6497	6497	6497	6497	6497	6497	6497	6497
Total spending on penitentiaries, thousand Lei	594,192	622,501	652,226	683,438	716,210	750,620	786,751	824,689	864,523	906,349	950,267
Capital investment in penitentiaries, thousand Lei	28,000	28,000	28,000	28,000	28,000	28,000	28,000	28,000	28,000	28,000	28,000
Current spending on penitentiaries, thousand Lei	566,192	594,501	624,226	655,438	688,210	722,620	758,751	796,689	836,523	878,349	922,267
Public procurement, thousand Lei	109,574	115,053	120,805	126,846	133,188	139,847	146,840	154,182	161,891	169,985	178,484
Public spending per prisoner, Lei	87,147	91,504	96,079	100,883	105,927	111,224	116,785	122,624	128,755	135,193	141,953
Public spending per prisoner, Euro	4,451	4,575	4,804	5,044	5,296	5,561	5,839	6,131	6,438	6,760	7,098
Option 1: Status Quo											
Number of prisoners	6497	6497	6497	6497	6497	6497	6497	6497	6497	6497	6497
Employment for menial jobs	740	650	650	650	650	650	650	650	650	650	650
Contracted-in CI, number of firms	6	5	5	5	5	5	5	5	5	5	5
Contracted-in employed prisoners	406	302	302	302	302	302	302	302	302	302	302
Total prisoner employment	1146	952	952	952	952	952	952	952	952	952	952
Percentage of the total prisoners	18%	15%	15%	15%	15%	15%	15%	15%	15%	15%	15%

Prisoner earnings, thousand Lei	23,288	19,564	20,542	21,570	22,648	23,780	24,970	26,218	27,529	28,905	30,351
Prisoner savings, thousand Lei	5,822	4,891	5,136	5,392	5,662	5,945	6,242	6,554	6,882	7,226	7,588
Bodily harm	1116	1116	1116	1116	1116	1116	1116	1116	1116	1116	1116
Cost of healthcare, thousand Lei	8,597	9,026	9,478	9,952	10,449	10,972	11,520	12,096	12,701	13,336	14,003
P&L for Correctional industries, thousand Lei	2,333	610	639	668	697	726	755	784	813	842	871
Current spending on penitentiaries, thousand Lei	566,192	594,501	624,226	655,438	688,210	722,620	758,751	796,689	836,523	878,349	922,267
Capital investment in penitentiaries, thousand Lei	28,000	28,000	28,000	28,000	28,000	28,000	28,000	28,000	28,000	28,000	28,000
Reinvested CI profits		610	639	668	697	726	755	784	813	842	871
Total public spending	594,192	623,111	652,865	684,105	716,906	751,346	787,506	825,472	865,336	907,191	951,137

Option 2: Decentralised CI

Number of prisoners	6497	6434	6381	6327	6273	6219	6165	6111	6057	6002	5947
Employment for menial jobs	740	643	638	633	627	622	617	611	606	600	595
Internal market for CI, thousand Lei	31,784	33,052	34,415	35,832	37,303	38,831	40,418	42,066	43,776	45,551	47,392
Additional employment for internal market		120	125	130	135	141	147	153	159	165	172
External/Internal market ratio		0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
External market for CI, thousand Lei		3,305	3,441	3,583	3,730	3,883	4,042	4,207	4,417	4,638	4,870
Additional employment for external market		12	12	13	14	14	15	15	16	17	18
Contracted-in CI, number of firms	6	6	8	10	12	14	16	18	20	22	24
Number of contracted-in workers per firm	68	68	68	68	68	68	68	68	68	68	68
Contracted-in employed prisoners	406	406	541	677	812	947	1083	1218	1353	1489	1624
Total prisoner employment	1146	1181	1317	1452	1588	1724	1861	1997	2134	2271	2408
Percentage of the total prisoners	18%	18%	21%	23%	25%	28%	30%	33%	35%	38%	40%
Prisoner earnings	23,288	27,729	34,206	41,269	48,962	57,330	66,423	76,293	87,003	98,607	111,169

Prisoner savings, thousand Lei	5,822	6,932	8,552	10,317	12,241	14,333	16,606	19,073	21,751	24,652	27,792
Bodily harm	1116	1062	937	835	751	680	619	567	521	481	445
Cost of healthcare, thousand Lei	8,597	8,588	7,956	7,446	7,029	6,682	6,389	6,141	5,927	5,743	5,583
P&L for Correctional industries, thousand Lei	2,333	2,428	2,532	2,638	2,748	2,861	2,978	3,097	3,222	3,351	3,484
Training costs, thousand Lei		500	525	551	579	608	638	670	704	739	776
Administrative costs, thousand Lei		2,253	2,366	2,484	2,609	2,739	2,876	3,020	3,171	3,329	3,496
Current spending on penitentiaries, thousand Lei	566,192	591,221	614,570	638,972	664,427	690,947	718,550	747,259	777,100	808,102	840,295
Capital investment in penitentiaries, thousand Lei	28,000	28,000	28,000	28,000	28,000	28,000	28,000	28,000	28,000	28,000	28,000
Reinvested profits from CI		2,428	2,532	2,638	2,748	2,861	2,978	3,097	3,222	3,351	3,484
Total public spending	594,192	621,648	645,101	669,610	695,175	721,809	749,528	778,357	808,322	839,453	871,779

Option 3: Centralised CI

Number of prisoners	6497	6423	6357	6289	6221	6150	6078	6004	5944	5884	5824
Employment for menial jobs	740	642	636	629	622	615	608	600	594	588	582
Internal market for CI, thousand Lei	31,784	32,993	34,286	35,618	36,990	38,399	39,847	41,331	42,966	44,658	46,408
Additional employment for internal market		120	125	130	135	140	145	150	156	162	169
External/Internal market ratio		0.25	0.50	0.75	1.00	1.25	1.50	1.75	2.00	2.25	2.50
External market for CI, thousand Lei		8,248	17,143	26,714	36,990	47,999	59,770	72,329	75,945	79,743	83,730
Additional employment for external market		30	62	97	135	175	217	263	276	290	305
Contracted-in CI, number of firms	6	6	8	10	12	14	16	18	20	22	24
Number of contracted-in workers per firm	68	68	68	68	68	68	68	68	68	68	68
Contracted-in employed prisoners	406	406	541	677	812	947	1083	1218	1353	1489	1624
Total prisoner employment	1146	1198	1364	1532	1703	1877	2053	2232	2380	2530	2680
Percentage of the total prisoners	18%	19%	21%	24%	27%	31%	34%	37%	40%	43%	46%

Prisoner earnings	23,288	28,343	35,993	44,435	53,739	63,978	75,234	87,593	99,455	112,327	126,285
Prisoner savings, thousand Lei	5,822	7,086	8,998	11,109	13,435	15,995	18,809	21,898	24,864	28,082	31,571
Bodily harm	1116	1043	898	782	688	611	545	489	450	415	383
Cost of healthcare, thousand Lei	8,597	8,437	7,623	6,975	6,445	6,004	5,629	5,305	5,119	4,956	4,812
P&L for Correctional industries, thousand Lei	-	2,333	2,672	3,210	3,784	4,396	5,046	5,736	6,467	6,758	7,062
Training costs, thousand Lei		550	578	606	637	669	702	737	774	813	853
Administrative costs, thousand Lei		3,314	3,479	3,653	3,836	4,028	4,229	4,441	4,663	4,896	5,141
Current spending on penitentiaries, thousand Lei	566,192	591,007	612,968	635,781	659,394	683,766	708,861	734,644	763,237	792,849	823,500
Capital investment in penitentiaries, thousand Lei	28,000	28,000	28,000	28,000	28,000	28,000	28,000	28,000	28,000	28,000	28,000
Reinvested profits from CI		2,672	3,210	3,784	4,396	5,046	5,736	6,467	6,758	7,062	7,378
Total public spending	594,192	621,678	644,178	667,565	691,790	716,812	742,597	769,111	797,995	827,911	858,878

Annex 5 Net Present Value of policy options

Cashflow analysis, thousand Lei		2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Option 1												
CI Profits	-	2,333	610	639	668	697	726	755	784	813	842	871
Prisoner savings		5,822	4,891	5,136	5,392	5,662	5,945	6,242	6,554	6,882	7,226	7,588
Savings on prisoners' healthcare	-	-	-	-	-	-	-	-	-	-	-	-
Savings due lower reoffending rate	-	-	-	-	-	-	-	-	-	-	-	-
Training	-	-	-	-	-	-	-	-	-	-	-	-
Staffing	-	-	-	-	-	-	-	-	-	-	-	-
Net Cashflow		3,489	5,501	5,774	6,060	6,359	6,671	6,997	7,338	7,695	8,068	8,458
Discounted Cashflow		3,172	4,546	4,338	4,139	3,948	3,766	3,591	3,423	3,263	3,111	2,965
NPV @10%		40,262										
Option 2												
CI Profits	-	2,333	2,428	2,532	2,638	2,748	2,861	2,978	3,097	3,222	3,351	3,484
Prisoner savings		5,822	6,932	8,552	10,317	12,241	14,333	16,606	19,073	21,751	24,652	27,792
Savings on prisoners' healthcare	-	439	1,522	2,505	3,420	4,290	5,131	5,955	6,774	7,593	8,420	
Savings due lower reoffending rate	-	5,728	11,165	17,143	23,703	30,891	38,753	47,341	56,710	66,918	78,028	

Training	-	-	500	525	551	579	608	638	670	704	739	776
Staffing	-	-	2,253	2,366	2,484	2,609	2,739	2,876	3,020	3,171	3,329	3,496
Net Cashflow	3,489	12,773	20,879	29,568	38,925	49,028	59,953	71,778	84,583	98,446	113,453	
Discounted Cashflow	3,172	10,556	15,687	20,195	24,169	27,675	30,766	33,485	35,871	37,955	39,765	
NPV @10%	279,296											

Option 3

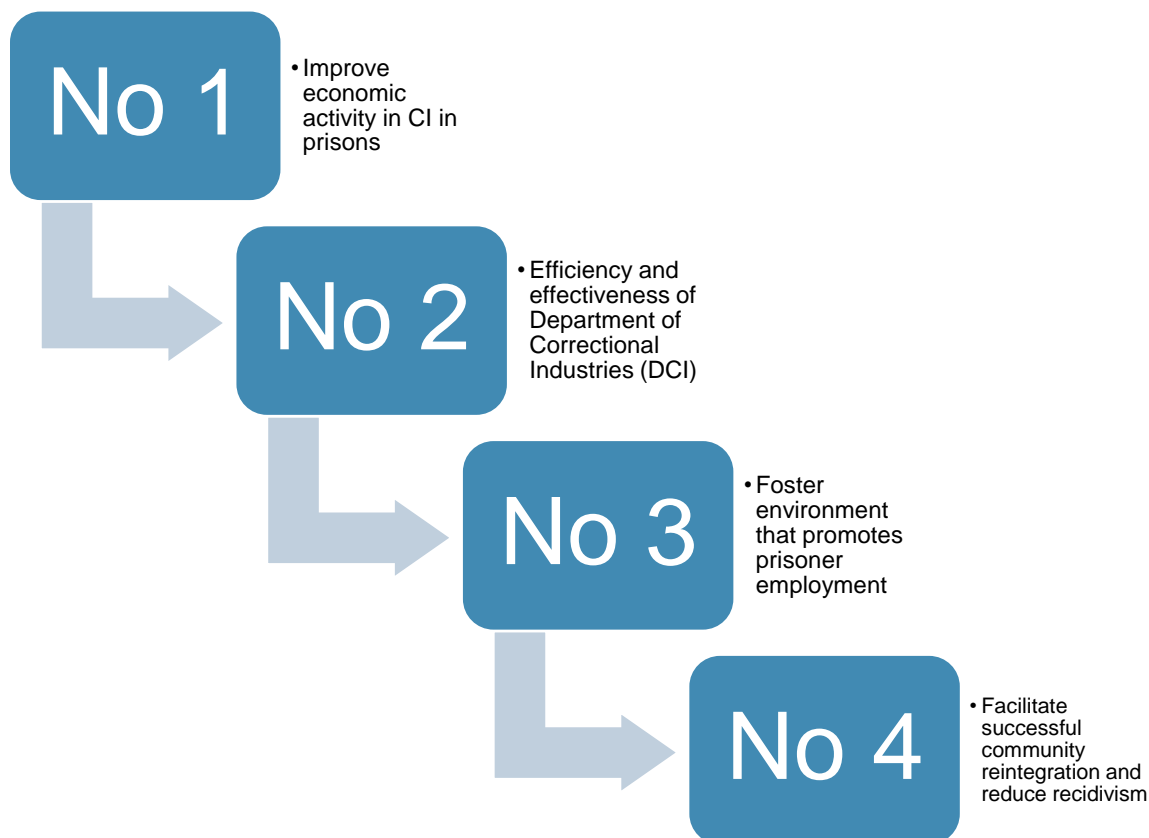
CI Profits	-	2,333	2,672	3,210	3,784	4,396	5,046	5,736	6,467	6,758	7,062	7,378
Prisoner savings	5,822	7,086	8,998	11,109	13,435	15,995	18,809	21,898	24,864	28,082	31,571	
Savings on prisoners' healthcare	-	589	1,855	2,977	4,004	4,968	5,892	6,792	7,582	8,380	9,191	
Savings due lower reoffending rate	-	6,769	13,461	20,940	29,284	38,582	48,929	60,431	71,141	82,828	95,569	
Training	-	-	550	578	606	637	669	702	737	774	813	853
Staffing	-	-	3,314	3,479	3,653	3,836	4,028	4,229	4,441	4,663	4,896	5,141
Net Cashflow	3,489	13,252	23,467	34,550	46,646	59,894	74,434	90,409	104,908	120,643	137,715	
Discounted Cashflow	3,172	10,952	17,631	23,598	28,963	33,809	38,196	42,177	44,491	46,513	48,268	
NPV @10%	337,771											

Annex 6 Key Performance Indicators for Deputy Directors of Correctional Industries (CI) at the Penitentiaries (17)

Managing CI successfully

Across the Moldovan prison estate each Deputy Director will improve the services provided by CIs, will provide through a determined focus on standards and quality of delivery for the internal and external market, the foundation for successful prisoner employment, including vocational training, in modern, highly industrial workshops in the penitentiaries. They will ensure improvements of prison factories and workshops, provide safe, secure and decent environments for prisoners and prison factory staff to work in, addressing more effectively the issue of prisoner-on-prisoner violence, self-harm and ultimately resocialisation upon release back into society. The key performance indicators (KPI) which follow are an important benchmark to effectively deliver aims and objectives inhered in the work culture which should be at the forefront of CI, thereby providing the foundation for successful rehabilitation, so that the Moldovan prison administration can drive a culture which both challenges poor behaviour inside prisons but also motivates and incentivises individual prisoners to change by way of wanting to work in prison industries.

Key objectives (per annum)



KPIs that foster the success of Correctional Industries in the penitentiaries

KPI per annum	Benchmark
1. number of prisoners employed (min. 25% of total prison population)	
2. average working week in CI (min. 20 – max. 35 hrs p.w.)	
3. number of prisoner-on-prisoner assaults	
4. number of prisoner self-harm rate	
5. number of prisoner suicides	
6. number of prisoner-on-staff assaults	
7. number of prisoners in VET	
8. number of prisoners who passed apprenticeships; qualifications etc	

Financial KPIs that inform DCI business strategy

