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The limits of decarceration: Rethinking punitiveness through Spain and Belgium

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Abstract

European prison systems operate alongside an increased emphasis on human rights in detention and punishment, including the prohibition of inhuman or degrading treatment or punishment under Article 3 of the ECHR. Yet overcrowding of prisons is a persistent reality across Europe and has contributed to what some describe as a legitimacy crisis within the penal sphere (Cavadino & Dignan, 2012). This thesis examines why Spain and Belgium have followed significantly divergent incarceration trajectories: Spain towards sustained decarceration since 2010 and Belgium toward persistent overcrowding. It analyses the economic, social, and political context behind Spain's penal shift, the legal and policy developments in the penal system of both countries, and whether their different institutional configurations help explain this divergence. The research argues that declining incarceration figures alone provide an incomplete, and at times misleading, indicator of penal moderation, and examines instead the extent to which reintegration is prioritised in practice. While the comparison is conducted primarily at the national level, the empirical component focuses on Catalonia, given its distinct competence over prison administration within Spain, and Brussels/Flanders. The analysis combines a historical-institutional comparison with semi-structured expert interviews with actors involved in detention and reintegration practices. The findings show that divergent incarceration trajectories do not reflect opposing penal orientations. Spain's decarceration coexists with an expanded penal sphere but comparatively institutionalised reintegration practices, while Belgium combines institutional features traditionally associated with penal moderation with continued overcrowding and significant constraints on reintegration in practice. The comparison highlights that decarceration alone does not indicate decreased punitiveness and that penal transformation depends also on how reintegration is institutionalised and implemented.

Keywords: European comparative penology, penal change, decarceration, punitiveness, reintegration, critical criminology.

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Preface

This thesis was conducted as part of the research component of the International Master's in Advanced Research in Criminology, jointly offered by Erasmus University Rotterdam and Ghent University.

During the first year of my Bachelor's degree in Political Science, I had the opportunity to take several courses at the Faculty of Criminology, which first sparked my interest in prison systems. This master's programme deepened my curiosity about the different framings and purposes underlying punishment, always shaped by broader power structures. As part of my contribution to public policy informed by social research, this thesis reopens the debate on European punitiveness and connects it with the reintegration purpose that criminal justice systems officially pursue but sometimes fail to implement.

First, I would like to thank my supervisor, Laurens van Puyenbroeck, and my co-supervisor, René van Swaaningen, for their invaluable feedback, which allowed me to refine, improve, and narrow the thesis topic.

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1. Introduction

The role and mere existence of prisons in contemporary democracies is increasingly being called into question. While such contestations to penal control have long been at the centre of critical criminology, they are now gaining greater visibility beyond academia, particularly within civil society and policy arenas. Across Europe, this is reflected in the expansion of prison oversight and monitoring mechanisms. Bodies such as the European Committee for the Prevention of Torture (CPT)[1] have gained prominence and states' recognition, while newer actors, including the European Prison Litigation Network, contribute to strategic advocacy efforts to secure inmates' rights. At the same time, national monitoring organisations and research initiatives are increasingly engaged in documenting prison conditions, generating comparative data, and exposing structural, long-lasting deficiencies. All these developments have a commonality; they feed into a broader critique of detention practices, highlighting concerns regarding continuous inhumane conditions, limited implementation of reintegration goals, and serious challenges in the protection of basic human rights within a 'rule of law' framework.

The late twentieth century was marked by what has been described as a 'punitive turn' that reshaped Western penal systems. During this period, mass incarceration, described as the "systematic imprisonment of whole groups of the population" (Garland, 2001a, as cited in Garland, 2013: 478) often accompanied by prison overcrowding, were linked to the expansion of the punitive arm of state control. As noted by Pratt et al. (2013), this shift was characterised "not only by longer prison sentences but also by penal laws that seem to abandon long-standing limits to punishment in modern societies" (p. 12). Global policy developments such as the 'war on drugs' and the 'war on terror' epitomised this punitive trend.

More recent scholarship, however, points to signs of moderation, both in the United States and across Europe, and particularly in relation to drug policy (Brandariz, 2024) which had previously led to mass imprisonment. Incarceration rates have begun to fall, and the associated carceral contraction has been broadly described as a "penal shift" (Brandariz, 2024). While the United States, long considered the global epicentre of mass

[1] The Committee was created by the Council of Europe following the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which next to the European Convention on Human Rights (ECHR) is regarded as one of the most relevant for human rights violations.

incarceration, has experienced a significant decline in its prison population (Walmsley, 2018), similar trends in Europe appear more uneven. Within the European Union (hereinafter EU), penal trajectories across Member States follow inverse or contrasting patterns (Tur i Otero, 2026).[2]

This is particularly evident when comparing Spain and Belgium. Over the past two decades, Spain has undergone a substantial decline in incarceration rates, with a reduction of approximately 28.5% between 2009 and 2022 (Brandariz, 2024). This trend has coincided with broader shifts in public attitudes toward crime and punishment, which includes declining levels of fear of crime and reduced public salience (concern) of crime during the decarceration period (Brandariz, 2024; Karstedt & Endtricht, 2022).[3] However, at the same time, emerging dynamics such as the rise of far-right political actors and the increasing prominence of *crimmigration* debates in the public and political discourse suggest that these changes in the Spanish criminal justice system are neither linear nor uncontested. This questions whether the apparent retrieve from punishment could be in fact reversed in the future.

In contrast, Belgium continues to face persistent prison overcrowding and rising prison population. According to the Council of Europe's SPACE statistics, its prison system remains among the most overcrowded in Europe.[4] While such indicators must be interpreted with caution due to methodological differences in calculating prison capacity, they nonetheless point to sustained differences in penal trajectories between the two countries.

This disparity raises the question: why these two Western European countries operating within a shared legal and normative framework show such different incarceration trends? More specifically, it calls into question whether declining prison populations necessarily reflect a genuine shift away from punitiveness in the Spanish case.

Drawing on insights from comparative penology and critical criminology, this thesis examines the factors underlying these different trajectories. Evidence consistently shows

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[2] Referring to my previous work on this topic from *Research Module II: EU criminal policy and justice in context* (2026).
[3] These studies retrieve the data on public opinion from the national statistics centre (Centro de Investigaciones Sociológicas or CIS) and the Eurobarometer along the period of 2009-2022.
[4] According to SPACE report of 2023, Belgium had the fourth most overcrowded prison system, with roughly 115 prisoners for every 100 available places.

that any statistical attempt to correlate delinquency and incarceration rates is irrelevant (Jiménez Franco, 2016). In fact, "Lappi-Seppälä's survey on 35 countries show a reverse trend in the correlation between recorded offences and incarceration rates" (Lappi-S., 2011: 309, cited in Jiménez Franco, 2016). Thus, the thesis builds from the idea that penal policy is a continuum adjustment in which the legitimacy, administration, and reproduction of punishment are shaped by legal, political, and socioeconomic forces.

In this view, penality is institutionally rooted in the political economy of punishment (Garland, 2013; Lacey, 2008; Wacquant, 2009). The significant decline in Spain's incarceration rate is not interpreted here as a self-evident sign of penal progress. The hypothesis that decarceration may coexist with the persistence of punishment as disciplinary power through other forms, has been advanced in recent critical scholarship (González Sánchez & Wacquant, 2021; Jiménez Franco, 2016; Murakawa & Beckett, 2024).

2. Problem statement

Decarceration in Spain aligns with similar trends across all Europe, where imprisonment rates have declined by 15% during the last 15 years, and the U.S., with a decline of 30% of prison population in the same period (Lappi-Seppälä, 2025). Despite evidence of declining incarceration rates, the causes, meanings, and implications are examined unevenly in academia. Decarceration processes have recently attracted scholarly attention, but the literature remains predominantly Anglo-centric or focused on country-specific studies. There is also abundant research on cases considered exceptional –the so-called penal exceptionalism–, most notably the Scandinavian countries, selected for their low imprisonment rates and distinctive penal cultures (Pratt, 2007). In other European countries, existing case studies, such as those by Brandariz (2024) and Boone et al. (2022), provide analyses of the national trajectories of Spain and the Netherlands, respectively, offering valuable insights into the national patterns underlying formal decarceration. However, the extent to which explanatory frameworks apply within a comparative context and among countries with similar institutional and welfare configurations, remains unexplored:

> "Our efforts might be well spent traversing a more diverse array of nations and regions that are not necessarily in binary opposition but compare and contrast in terms of politics, economics and history." (Brangan, 2020: 606)

In this respect, Spain and Belgium offer a particularly relevant basis for comparison. Both countries are situated within a continental welfare regime (Esping-Andersen, G., 1990), considered by Cavadino and Dignan (2012) as conservative corporatist states, which are defined having lower levels of inequality in comparison to neoliberal states and some protections against the free market, but where strong "divisions between groups of citizens continue to exist" (Vanhouche, 2022: 36). Other similarities are the shared European normative framework, and the display of analogous features in their legal culture. Both countries belong to the broader civil law (Roman) tradition, characterised by a high degree of codification and constitutional hold in contrast with case-by-case judicial decisions of common-law systems (Stein, 1991). Furthermore, they present a similar institutional complexity in the distribution of competences across different governance levels (national and regional).

Yet, despite these similarities, their incarceration trajectories have diverged significantly over the past two decades. This raises an important analytical distinction between structural and contingent causes. In this research, the different penal outcomes are analysed through: a) country-specific policy and legal processes, the so-called proximate causes of penal change (Garland, 2013); and b) socio-economic dynamics making penal shift or stagnation more likely, i.e., the background causes (Brandariz, 2024; Garland, 2013).

While the comparative analysis is conducted primarily at the national level, this research also incorporates a regional perspective to capture how reintegration policies are implemented in practice. That is, the historical and legal analysis focuses on the national level since the core legislative component of the criminal justice system remains a state competence in both Spain and Belgium; whereas the regional level analysis allows to capture where reintegration practices and their institutional differences actually take place.

The empirical fieldwork focuses on Catalonia for the Spanish side, and on Brussels and Flanders for the Belgian side. This regional scope has a closer population match for the comparative analysis. The combined population of Flanders and Brussels totals over 8.15 million residents (Statbel, 2026), is close to Catalonia's population of 8.2 million (Idescat, 2026), whereas Belgium as a whole (approximately 11.7) is considerably larger. This makes Catalonia and Flanders/Brussels a more balanced comparative pair than their respective states at the national level.

This choice also reflects institutional differences between the two countries. Belgium's penal system is characterised by a complex and fragmented policy implementation (Scheirs et al., 2016), whereas Spain remains largely centralised, with the exception of Catalonia, which holds full competence over prison administration since 1984.

The division of penal competences in the Catalan region is still a bit different from the Belgian system, where the prison administration is a federal responsibility and reintegration and welfare practices fall under the regional authorities (Scheirs et al., 2016). However, focusing on Catalonia allows to analyse how a decentralised penal implementation operates within the Spanish context, making it more comparable to the Belgian fragmented system.

3. Research questions

Building on existing research on penal change, decarceration, and new forms of state carceral expansion (Beckett & Murakawa, 2012; J. A. Brandariz, 2022; J. Á. Brandariz, 2025; González Sánchez & Wacquant, 2021; McIvor et al., 2010; Nash, 2018), this thesis engages with ongoing debates in comparative penology and critical criminology. It also responds to recent critiques of the Anglo-centric and binary tendencies that have shaped comparative penology traditionally (Brangan, 2020). The analytical focus is shifted from penal exceptionalism to penal divergence within structurally comparable contexts, something that remains relatively underexplored in existing European scholarship.

By placing these cases in comparative discussion, it seeks to contribute to a nuanced understanding of decarceration as a political choice while also being affected by background social and economic forces. In doing so, it aligns with recent calls within critical criminology and comparative penology to interrogate the symbolic, material, and structural dimensions of punishment (Brandariz, 2024; Boone et al., 2022) in times of institutional consolidation of far-right forces, which historically have been associated with a larger tendency towards increased punitivism. Distinguishing between proximate causes, understood as legal and state practices (Garland, 2013), and broader social causes of penal change, allows to assess how these current political shifts may constrain decarceration efforts in these countries, or conversely, leave their current trajectory unaffected.

Empirically, the research combines macro-level analysis of incarceration and overcrowding trends, with a specific examination of legal reforms and penal rationales.

The top-down dimension explores how structural and institutional configurations, through the lens of the political economy of punishment, shape penal outcomes. Building on this foundation, the bottom-up dimension then traces how those rationalities are interpreted and put into practice by actors on the ground, drawing on qualitative interviews across different institutional contexts. This multi-level approach aims to build a nuanced understanding of whether decarceration in Spain reflects a substantive shift in penal logics relative to Belgium. What that contrast can tell us about the broader direction of European penal systems is, ultimately, the theoretical stake of the comparison.

This research answers one main question, followed by three sub questions:

RQ: *To what extent can the diverging incarceration trends in Spain and Belgium since 2010 be explained by differences in penal approaches, and how are these reflected in the institutional implementation at the subnational level, in Catalonia and Brussels/Flanders respectively?*

- SRQ1: *How have incarceration trends evolved in Spain and Belgium since the early 2000s?*
- SRQ2: *What dominant penal orientations characterise each country at the national level, particularly in relation to punitiveness and reintegration?*
- SRQ3: *How do the actors involved describe and interpret penal culture and practices, in relation to the reintegration/rehabilitation framework, in Catalonia and Brussels/Flanders?*

4. Theoretical framework and literature review

4.1. Framing the goal: Rehabilitation or reintegration?

For the purpose of this thesis, penal approaches refer to the rationalities underpinning the criminal justice system, and the priorities and assumptions that guide how punishment is justified and delivered. These rationalities are not neutral, they reflect deeper political and institutional choices about what punishment is ultimately for. Establishing these rationalities, and how they differ across contexts, is a necessary first step for the comparative analysis that follows.

Central to this discussion is the distinction between rehabilitation and reintegration, two terms that are frequently seen as equivalent in policy discourses, but which build on fundamentally different assumptions about the causes of crime and the purpose of punishment. To draw this distinction, I rely on Ganapathy (2018), whose structural reframing aligns with the political economy framework guiding this thesis. In the article, he builds a careful conceptual distinction between rehabilitation and reintegration, and challenges the common tendency to treat the two terms as interchangeable.

According to the author, rehabilitation is characterised as primarily psychological. It refers to programs directed at the individual with the aim of bringing about attitudinal and behavioural change. The dominant framework for this is the Risk-Needs-Responsivity (RNR) model, which works on the premise that reoffending derives from internal cognitive and emotional deficits that can be identified, assessed, and “fixed”. Therefore, rehabilitation is essentially a prison endeavour targeting the individual. Reintegration, by contrast, is described as fundamentally social. It concerns what happens when a prisoner returns to society, and it depends not just on the individual but on society at large, and its willingness to abandon stigmatic punishment. This perspective reminds that crime intersects with dimensions of structural inequality such as ethnicity, class and gender; and that the social capital available to the individual, crucial to reintegration, is unevenly distributed across such dimensions.

The way in which punishment is implemented further damages the process of rehabilitation, understood as individual responsibility, in several ways. This can be illustrated with the concept of “prisonisation” (Clemmer, 1958, as cited in Ganapathy, 2018), which refers to the process by which a new inmate takes on the norms, customs, values and culture of the prison environment and learns to adapt to it. Throughout this process, the individual loses the capacity for self-regulation and initiative, becoming increasingly dependent on external constraints and institutional routines. Furthermore, the individual's sense of worth is diminished, through a loss of autonomy, and degradation and stigma experienced during incarceration are internalised (Ganapathy, 2018).

Another understanding of this transformation is in the principle of normalisation (Snacken, 2002, cited in Vanhouche, 2022), which has two distinct meanings. The first concerns the normalisation of the incarcerated person, whereby imprisonment seeks to produce conformity with socially accepted norms and behaviours, placing responsibility on the individual's actions to prevent future reoffending. Following Foucauldian insights on norm abidingness in classrooms and other total institutions creating subjugated bodies, "normalisation can be experienced as a form of discipline" (Vanhouche, 2022: 140).

The second meaning refers to the normalisation of prison life, according to which prison conditions should resemble, as closely as possible, the positive aspects of life in the outside. In this understanding, punishment should mean only a loss of liberty and nothing more (Ganapathy, 2018). It is this second understanding of normalisation that underpins the Scandinavian model of penal exceptionalism (Pratt, 2007). This thesis emphasises reintegration as understood by this normalisation of prison life, and the importance of institutional conditions to preserve autonomy, dignity and social ties during the experience of imprisonment.

Criminology as a social science has evolved drastically, from the Lombrosian school to contemporary critical frameworks. However, the paradigm underpinning most modern penal systems remains a continuity with this early criminological tradition. Lombroso conceived the criminal as a "gothic monster, stranger among the civilised" (Rafter, 2011: 151), linking criminality to something inherent within certain bodies. While this conceptualisation has been largely discredited in academia, Ganapathy (2018) argues that this legacy persists in the RNR model. By locating the causes of reoffending in the internal cognitive and emotional deficits of the individual, the RNR model pathologizes criminality in ways that obscure its social and historical dimensions, along the lines of race, class and gender.

Punishment in this framework continues to rely on stigma and social exclusion, and almost never driven by restorative goals. Cavadino and Dignan (2006, as cited in

Ganapathy, 2018) demonstrate this through a comparative study of twelve contemporary capitalists societies, finding that neo-liberal societies operating on individualistic social ethics, such as the United States, United Kingdom and Australia, are the most punitive. Here, economic and criminal failure are treated alike as the individual's responsibility. This punitive discourse, they argue, reproduces itself through cultural attitudes that resist reintegration. Ganapathy (2018) further points out that the very concept of 'reintegration' is questionable, since many ex-prisoners were never truly integrated into mainstream society to begin with, having come from already marginalised and economically disenfranchised communities. Rather than restoring offenders to social membership, contemporary penal systems tend to deepen social exclusion, making genuine rehabilitation or reintegration structurally improbable.

The paradox is how can an institution that is inherently coercive, depersonalising and disempowering produce genuine positive rehabilitative outcomes, even with the most favourable conditions? The RNR model's weaknesses, according to Ganapathy (2018: 161) is that it operates in an "institutional vacuum", largely ignoring how the effects of the *total institution* (Goffman, 1961) that prison is, systematically undermine whatever programs are put in place within it. The institutional environment itself works against the goals rehabilitation is meant to achieve, which in turn reinforces the argument that rehabilitation cannot be understood purely at the level of fixing the individual.

The individualising narrative places responsibility for desistance on the offender. By locating the causes within the individual, intervention focused on rehabilitation risks depoliticising criminality and obscuring the structural factors. Reintegration, by contrast, depends on supportive infrastructures, social ties, and prison conditions that preserve autonomy and dignity. This is precisely why reintegration, rather than rehabilitation, serves as the normative framework for this thesis.

4.2. Conceptualising punitiveness and decarceration

Understanding contemporary penal transformations requires a clear conceptualisation of what punitiveness is, as well as an analytical distinction between different mechanisms through which penal systems operate and evolve. While declining incarceration rates are often interpreted as evidence of penal moderation, they provide an incomplete and potentially misleading indicator, as they fail to capture the overall intentions, structures, and practices through which punishment is exercised (Tur i Otero, 2026).[5]

Recent comparative penology has moved towards more nuanced conceptualisations of punitiveness. In this regard, Pfeffer (2024) offers a particularly useful framework by defining punitiveness as "the degree of strictness of a given country's criminal justice system as institutionalized and intended in the legal codes that support the punishing arm of the state." (p. 576), thus shifting the analytical focus from penal outcomes to penal intentions. This approach introduces three core dimensions of punitiveness embedded in criminal law: 1) the prioritisation of punishment over reintegration,[6] 2) the harshness of penal responses (e.g., sentence length), and 3) the coherence and proportionality of punishment in relation to offence's seriousness and intent.

Pfeffer's framework highlights an important distinction between what penal systems intend to do and what they actually produce. This distinction is crucial in comparative analysis, because similar incarceration levels may hide fundamentally different penal rationalities, i.e., divergent prison populations may occur from variations in state capacity rather than penal intentions (Tur i Otero, 2026).[7] This perspective challenges reductionist interpretations of penal moderation, as punitiveness may persist through other mechanisms.

Within this basis, decarceration can be understood as a set of mechanisms aimed at reducing prison populations, either through legal reforms, sentencing practices, or alternatives to custody (electronic monitoring, community service, financial sanctions, suspended sentences, etc). A key insight resulting from this perspective is that decarceration is visible at the level of penal outputs, that is, it affects the number of individuals incarcerated. However, as Chapter 4.3.1 will discuss, it does not change the exclusionary logic of punishment nor it stops the expansion of non-custodial sanctions. Moreover, increasing use of alternatives to imprisonment in Spain has been more driven by the goal of avoiding imprisonment rather than a community-based reintegration (Blay & Larrauri, 2015).

[5] This conceptualisation is extracted from my previous work *Decarceration and the transformation of penal power in Spain*, in *Research Module IV: Power Relations & Abuses of Power* (2026).
[6] Pfeffer (2024) uses the concept of "rehabilitation" instead of reintegration. However, for the purposes of this thesis and following the analysis of Chapter 4.1., reintegration is the appropriate term here.
[7] Extracted from *Decarceration and the transformation of penal power in Spain*, in *Research Module IV: Power Relations & Abuses of Power* (2026).

In contrast to decarceration, policy mechanisms focused on reintegration refer to strategies explicitly aimed at supporting individuals' return to society and reducing long-term reliance on correctional supervision. These include educational and vocational programs, psychosocial support, integrated pre- and post-release assistance, and interventions targeting particularly vulnerable groups. For instance, 'rehabilitation' programmes for drug dependency. Drawing on the punitiveness framework discussed, reintegration mechanisms do connect with the first dimension of punitiveness, i.e., the prioritisation of rehabilitation over punishment. A penal system that systematically invests in reintegration presents a lower degree of punitiveness because it redirects the purpose and rationality of punishment. Thus, reintegration policies aim to transform individuals' paths and reduce reliance on penal control.

Building on this distinction, this research conceptualises punitiveness as a multidimensional concept, encompassing both penal intentions and institutional or implementation practices. Accordingly, particular attention is given to the relationship between decarceration and reintegration, and to the extent to which prison downsizing is accompanied by efforts from the administration to normalise prison life, by reducing the characteristics of the prison as a total institution and facilitating inmates' return to community.

4.3. Historical analysis from a political economy of punishment

The contrasting incarceration trends between Spain and Belgium requires an analysis that goes beyond systemic explanations. As argued by Cavadino & Dignan (2012: 43): "penality remains irreducibly relatively autonomous from any particular factor or combination of factors, however powerful. Particularities of geography, history, and even highly specific political circumstances, can all play their part". This section therefore shifts the focus toward country-specific factors in order to see how institutional, political, and socioeconomic dynamics shape state penality.

In doing so, it will depart from what I refer to in this thesis as the 'welfare hypothesis'. The welfare hypothesis departs from a Marxist interpretation of punishment which links penal conditions to the labour market. The first account of this theory is the one formulated by Rusche and Kirchheimer in 1939, according to which punishment cannot be understood in isolation from the socioeconomic conditions at a given time. Under this perspective, when labour is scarce, i.e., low unemployment and high demands for workers, material conditions improve and the lower classes hold more bargaining power, including leverage for better prison standards. The opposite is also true, and when there is a large surplus of labour, i.e., high unemployment and low wages, the economic and social conditions worsen. Prison conditions tend to track the material conditions of the poorest classes, staying just below them. The labour market sets the bar and the penal system adjusts, not necessarily by becoming harsher or more lenient in absolute terms, but by maintaining its position relative to free life of the labour classes (Rusche and Kirchheimer, 1939). According to the 'less eligibility' principle which holds the idea that the basic function of punishment is deterrence (Vanneste, 2017), the threat of unemployment under these circumstances becomes a disciplining mechanism in itself.

Later, several accounts in the political economy of punishment followed this perspective and conducted empirical analysis to trace and link economic indicators, mostly unemployment, with incarceration rates and penal repression. This tradition in the political economy gave another intuitive but different argument: that high unemployment and economic marginalisation produced more imprisonment, because the states use the penal system to warehouse surplus populations who are excluded from the labour market. This logic runs through several canonical studies (Lacey, 2008; Melossi, 2013; Wacquant, 2009). Although not without criticisms (Garland, 2021) on the theory's tendency toward economic determinism.

The welfare hypothesis departs from the framework linking punishment and economic conditions, but instead of considering the economic indicator of unemployment or wages, it encompasses the broad redistributive practices of the state in terms of reduced inequality. This has been already advanced in criminological studies engaging with cross-national comparisons on penality and economy (Cavadino & Dignan, 2012; Downes & Hansen, 2006), and it essentially argues that welfare commitments and practices increasingly limit a punitive culture of control. In this sense, imprisonment reduces not when economy is thriving, but when redistribution is at the centre of social policies.

4.3.1 Spain's penal evolution

The Spanish penal system has undergone a significant transformation since the late twentieth century. By the early 1980s, Spain was constructing a democratic penal framework following the transition from dictatorship. This period also marked the beginning of a gradual stiffening of the criminal response, which became more pronounced after the implementation of the new Penal Code in 1995 and the penal reforms of 2003 (Ripollés, 2006). Paradoxically, during the years of the housing bubble (approximately 1997-2007), employment rates and prison population evolved in parallel, both trending upward. This complicates any straightforward application of the welfare hypothesis to the Spanish case. Instead, we should examine both the absence of a consolidated welfare state and the specific form that economic growth took during this period.

On the first point, as Jiménez Franco notes, the initial punitive turn did not follow the path observed in other Western democracies, where penal expansion was typically linked to a "conversion of welfare into prisonfare" (Jiménez Franco, 2016: 156). In Spain, the previous authoritarian regime had granted social protections only to those in formal employment (predominantly male heads of household) and in a fragmented manner, depending on the job sector. This "dictatorial protection system" (Jiménez Franco, 2016: 155) was not a welfare regime in any consolidated sense. The hardening of penal policies therefore did not displace an existing welfare state; it emerged alongside a democratic state still under construction, one that had yet to deliver the expanded rights and progressive redistribution. The resulting absence of basic protections fell most heavily on the most vulnerable sectors of society.

On the second point, the connection between the labour market and penal expansion can be understood through Melossi and Pavarini's political economy framework. In *The Prison and the Factory*, they establish that it is not aggregate economic conditions but the particular arrangements of power and discipline at any given moment that shape penal configurations. In Spain, the period from 1990 to 2009 was not one of productive growth based in stable wages and investment. Instead, economic accumulation occurred through household debt, real estate speculation, easy credit, and financial markets. As Jiménez Franco (2016) argues, this model of financialised accumulation (credit, debt, speculation) systematically undermined the capacity of marginalised populations to sustain adequate conditions for "social reproduction" (Harvey, 2013: 57, cited in Jiménez Franco, 2016). Thus, the model of economic growth generated precariousness and social dispossession.

The punitive consequences of this period thus fell in a concentrated manner. The penal harshening of the early 2000s disproportionately affected lower working-class populations: "The vast majority of prison sentences involve crimes against public health, properties and economic order committed by lower class people, mostly against other lower class people" (Jiménez Franco, 2016: 156). Simultaneously, this is consistent with the high proportion of property-related offences among those incarcerated[8], a pattern that makes sense in the context of a major speculative housing bubble. Thirty-five years of uninterrupted prison expansion "consolidated the Spanish penal system as one of the most punitive in Western Europe" (Jiménez Franco, 2016: 160). Crucially, this expansion was not preceded by rising delinquency, quite the opposite. Between 2002 and 2009, recorded offences decreased by 21% and sat 20 points below the EU average, even as Spain recorded the highest incarceration rate in Europe, alongside with the UK and Turkey (Jiménez Franco, 2016: 155). Punitiveness was driven by the requirements of a particular economic model and the social disruptions it produced.

Against this background, the significant shift from the 2010s onwards, in which incarceration rates began to fall, demands careful interpretation. One reading, consistent with the timing, is that this decline was a side effect of the post-2008 austerity crisis. Prison is, after all, an expensive sanction. In July 2013, Spain's Secretary General of Penitentiary Institutions publicly called for a revision of custodial sentencing, expressing doubts about its effectiveness as well as its high cost (Jiménez Franco, 2016: 187). The persistence of decarceration even after the period of fiscal pressure does not necessarily undermine this reading. However, other authors attribute the decline to a specific 2010 legal reform mitigating sentences for minor drug-trafficking offences rather than to a general retrenchment of the penal apparatus, since capacity itself was not scaled back despite the austerity agenda (Brandariz, 2024). Whether driven by fiscal, political, or legal factors, the trend is not evidence of a permanent retreat from punitiveness, for two reasons.

First, punitive control has not so much diminished as been displaced into other areas within and alongside the penal sphere itself (González Sánchez & Wacquant, 2021). Second, the neoliberal state continues to produce social exclusion through mechanisms independent from the criminal justice system (Jiménez Franco, 2016), meaning that a reduction in incarceration rates says little about other coercive and exclusionary practices.

On the first idea, the expansion of alternatives to imprisonment illustrates how apparent penal moderation coexists with an extension of the punitive reach. The 1995 Penal Code

[8] In 2006, 80% of recorded offences were against property. This statistic is consistent in several studies. See the data presented by P. Cabrera (2004) and by Ripollés (2006).

reform formally introduced community service and unpaid labour as a sentencing option (Blay & Larrauri, 2015). This development could signal a reintegrative approach, but the subsequent trajectory of these measures reveals a more ambivalent reality. Between 2003 and 2008, community service penalties grew exponentially, particularly for minor offences related to domestic violence and road safety infractions (González Sánchez, 2021, cited in Tur, 2026). Importantly, this expansion did not correspond to a reduction in custodial sentences for equivalent low-level offences. Many of the behaviours now sanctioned through community service had previously been classified as misdemeanours, situating them at the edge of (or entirely outside) the penal domain. Their re-classification therefore constitutes not a genuine alternative to imprisonment but a widening of the punitive net, bringing "new" conducts into the penal scope (González Sánchez, 2021, cited in Tur, 2026). Moreover, the practical rationale behind these modifications was not rehabilitative but the avoidance of custody, reflecting a judicial culture that prioritises administrative efficiency over reintegrative aims (Blay & Larrauri, 2015).

Beyond the net widening effect of alternative sanctions, something already advanced by Cohen (1985), the implementation of community service shows that the penalty still is conditioned by class structures. Supervision is often delegated to private organisations without rehabilitative expertise, and the attitudes of supervisors vary markedly according to the social background of the person sentenced (González Sánchez, 2021, cited in Tur, 2026). Those from middle-class backgrounds, particularly in traffic cases, are often treated as not requiring behavioural change; their sanction is treated as a neutral formality rather than a moralising intervention. The case, of course, is the opposite with backgrounds framed as being 'problematic'. This discretion reproduces existing classist hierarchies in the environment of alternative sanctions, something deeply entrenched in the configuration of disciplinary power; hence the logics remain the same. Although participation in these programmes is formally voluntary, non-compliance results in a custodial sentence (Blay & Larrauri, 2015). What presents itself as a softer, welfare-oriented measure is in practice another instrument of discipline, reflecting a broader normalisation of social control (Cohen, 1985). In Europe, this dynamic is also observed in the Dutch penal reductionism and, more broadly, in various incarnations of the 'penal-welfare complex' (van Swaaningen, 2013).

This normalisation of social control extends beyond sentencing into the disciplining of public space itself. Hall (2002) identifies the expansion of policing and sanctioning in the public domain as forms of disciplinary power, a dynamic clearly visible in the joint reform in 2015 of the Penal Code and the Law of Citizen Security, called *Ley Mordaza*. This law expanded administrative sanctions and police powers against the backdrop of mass protests and social mobilisation, functioning as a tool for the criminalisation and penalisation of political dissent (Tur i Otero, 2026). The result has been that "there are now administrative offenses with more punitive sanctions than crimes, but without the judicial guarantees of the rule of law" (González-Sánchez, 2019: 8). Ultimately, it epitomises the state's punitive response to a crisis of political legitimacy, one that culminated in the 15-M Movement, through which civil society expressed widespread disaffection with the political establishment. To this day, the *Ley Mordaza* remains unchanged, and generates countless administrative sanctions (Arainfo, 2021) –mostly for disobedience– as well as criminal prosecution, as seen in cases against artists and activists charged under Penal Code provisions of this law, for "glorification of terrorism" or insults to the Crown (Álvarez-Benavides, 2018).

A second displacement is at the level of border governance. Jiménez Franco (2019) characterises the neoliberal penal state as structured by a dual logic of *expulsion* from the national territory and *exclusion* from the welfare state. In both, the state abandons social rights and expands coercive practices. The former is clearly visible at the Spanish southern border, where enforcement practices at Ceuta and Melilla have repeatedly produced lethal outcomes (e.g., El Tarajal in 2014), with documented incidents involving the use of force against migrants, collective expulsions (prohibited by international law), the systematic denial of access to asylum procedures, and the resulting absence of institutional accountability (Tur i Otero, 2026). Political and media framing of these events has amplified the perceived threat of migratory flows, constructing what Gabrielli (2025) terms a "border spectacle" that legitimises coercive and punitive practices including push-backs, confinement, and death.

Such developments are consistent with Beckett and Murakawa's (2012) concept of a "shadow carceral state," in which coercive power is dispersed across administrative and regulatory domains to produce punitive effects that elude the procedural safeguards of criminal law.

The second reason to resist a penal moderation statement is of a different nature. Apart from the various displacements of punitive power, the neoliberal penality is present in a parallel logic of social exclusion nourished by increased inequality. The combination of a dual and precarious labour market and limited affordable housing, produces structural disadvantages that undermine the life conditions of those most exposed to penal control. Spain's persistently high unemployment, concentrated among young and low-skilled workers, intersects with a labour market segmented between stable and precarious (temporary) contracts, generating economic insecurity. The ongoing housing crisis, characterised by speculative forces and processes of expulsion, further undermine the capacity of lower-class populations to sustain basic needs. For non-citizens, restricted regularisation pathways amplify this vulnerability, turning administrative status into an axis of exclusion from labour protections. The underlying logic of the neoliberal state is to reduce formal incarceration while leaving untouched, or even intensifying, the structural conditions that produce marginalisation.

Together, these arguments demand a revision of the political economy of punishment when applied to Spain. The question is not whether welfare constraints punishment, but how the two intersect, since exclusionary dynamics persist across penal and non-penal arenas alike. The relationship between economic conditions, welfare provision, and penal outcomes is a complex mechanism shaped by the specific accumulation model and social policy. An initial interpretation of the political economy of punishment in Spain might seem contradictory, as it shows what Jiménez Franco (2016: 159) identifies as “a reverse relationship between unemployment and prison”. However, this reversal only becomes legible once contingent sociocultural and policy factors are incorporated into the analysis. Spain’s decarceration is thus a less clear example of reduced punitiveness.

4.3.2 Belgium’s penal evolution

In contrast with the Spanish case, where the relationship between welfare development and imprisonment has been less consistent, Belgium presents a strong fit with political-economy theories of punishment. Its institutional configuration corresponds to characteristics that comparative scholarship has associated with more moderate penal outcomes (Lacey, 2008; Vanneste, 2017). However, its relative moderation is less evident once other factors weighing on punitiveness are considered.

The welfare hypothesis finds empirical support in Vanneste’s (2017) longitudinal analysis of the political economy of punishment in Belgium, covering 1831 to 2014. Across this period, imprisonment consistently correlated with socioeconomic insecurity, although the indicators through which this was measured changed alongside transformations in the

Belgian economy. These shifted from the price of basic commodities during the nineteenth century to real wages in the interwar period, unemployment after WWII, and to income inequality from the 1980s onward (Vanneste, 2017). Despite these changing indicators, the underlying relationship was consistent. Detention rates fell in periods of greater economic security and redistribution (through Keynesian economic policies, trade union movements, etc.), and increased in periods of socioeconomic insecurity. This offers empirical support for the broader relationship between welfare arrangements, income inequality, and detention rates identified in comparative scholarship (Lacey, 2008; Lappi-Seppälä, 2008).

This historical trajectory is consistent with Belgium's institutional position in political-economy scholarship. Drawing on established comparative typologies, Vanneste (2017) situates Belgium as a coordinated market economy, within European continental capitalism, under the conservative-corporatist welfare model, and among consensual democracies. These categorisations share a combination of features –strong welfare state, integration of interest groups in political processes, proportionally representative (PR) electoral systems, and coalition governments– that would predict sustained penal moderation. And indeed, the Belgian penal landscape shows relative moderation compared to the United Kingdom and other Mediterranean countries which present higher incarceration rates (Vanneste, 2017). Yet this prediction sits in increasing tension with a penal system under mounting pressure from prison overcrowding, and with what Vanneste (2017) identifies as the growing presence of a neoliberal economic model within Belgium itself.

Barker's (2017) critique of Scandinavian exceptionalism is illustrative here, as she argues that welfare states produce an internal logic of expulsion toward populations considered marginal, threatening, or simply "not worthy" (similar to Spain's case). Her analysis thus cautions against inferring penal moderation directly from strong welfare institutions and low incarceration rates.

This has empirical support. The evolution of penality in Belgium followed a broadly linear patter, closer to the welfare hypothesis than the Spanish case, with detention rates consistently tracking economic indicators. However, after the 2008 crisis the pattern stopped: detention rates continued their exponential growth even as income inequality, measured by the Gini index, decreased (see Chapter 7). Vanneste (2017: 131) asks whether this could be “the sign of a possible reversal of the tendency”, pointing to signs of the neoliberal model infiltrating the Belgian economy. This is visible in changes in income distribution, a rise in right-wing voting (itself more associated with liberal market economies) and the continued growth of the prison population.

This tension has deeper historical roots. Following Belgian independence in 1830, the newly established *Sûreté Publique* (S.P.) exercised extensive administrative powers over foreigners, including expulsions without judicial involvement or court conviction (Feys, 2023). Vagrancy accounted for 77% of all cases expelled through the S.P. (Feys, 2023). Its surveillance network included local authorities, customs agents, and prison wardens, who reported on foreign inmates to enable coordinated expulsions (Feys, 2023). From 1873 to 1914, the penal state (and incarceration) expanded further through the criminalisation of vagrancy itself (Vanneste, 2017). Two things can be concluded. One is that the Belgian criminal justice system was closely connected with the executive from the state’s founding. The second is that the exclusionary practices were present in both Spain and Belgium from early on. Hence, this complicates any simplistic reading that connects aggregate detention rates directly to moderation or punitiveness.

Prison overcrowding in Belgium is not sporadic but structural. Between 1980 and 2010, the Belgian prison population nearly doubled (Mary, 2018), and by 2020, prison density was at 117.2% (Aebi et al., 2021) with some centres exceeding 30% overcrowding and others reaching 75-80%. [9] This limits access to activities, services, healthcare, and individualised support throughout the system.

The expansion of non-custodial alternatives has not eased this pressure either. In 2002, community service became an autonomous work penalty aimed at reducing the use of imprisonment (McIvor et al., 2010). However, its increased use has instead “been accompanied by a concomitant increase in the size of the prison population” (McIvor et al., 2010: 86) rather than a substitution effect. This mirrors the net-widening dynamic observed in Spain, though in Belgium the expansion worked through the replacement of non-custodial sanctions rather than absorbing new offence categories.

[9] These figures are extracted from the Direction Générale des Établissements Pénitentiaires (DGEPI), *Rapport annuel* 2017, p. 44 and from the Conseil Central de Surveillance Pénitentiaire (CCSP), *Rapport annuel* 2019, pp. 33-107.

A further gap persists between welfare-oriented penal discourse and its implementation. Snacken et al. (2022) highlight the growing importance of psychological and psychiatric expertise in release decisions, suggesting that reintegration in practice may be conditional on risk assessment. This carries tensions that cannot be captured in a macro-level analysis, and which are explored further in Chapter 6.2.

This analysis thus draws a cautious conclusion. Belgium may be institutionally closer to the welfare model, but important tensions remain between penal principles and their implementation. Persistent prison overcrowding, the continued expansion of carceral infrastructure (Mary, 2018), and the growing role of risk-oriented assessment in sentence implementation suggest that the welfare hypothesis cannot fully account for contemporary Belgian penality. It cannot be reduced either to a case of penal moderation or to a complete neoliberal turn. Reintegration and welfarism are important legitimising principles of the penal state, while their practical implementation faces important constraints.

5. Methodology

As comparative literature suggests, countries with similar political, economic, and cultural structures can be expected to display substantial commonalities in their penal systems, even while allowing for meaningful divergence in outcomes (Cavadino & Dignan, 2012). This thesis employs a qualitative comparative case study design to examine penal orientations and outcomes in Spain and Belgium. The central research question calls for an approach that captures institutional processes, policy frameworks, and practitioner's perspectives. This cannot be reflected adequately only by aggregate quantitative measures.

The epistemological lens is thus interpretivist; rather than seeking to establish causal relationships, the aim is to develop a theoretically grounded account of how penal change is produced and constrained through the interaction of economic models, the institutional configuration, and reintegration practices.

5.1. Case selection

Spain and Belgium are selected following a 'most similar systems' logic (Przeworski & Teune, 1970). Both are Western European welfare states with historically elevated incarceration rates. Their divergent trajectories, with Spain achieving sustained decarceration since 2010, cannot be attributed to macro-level structural differences alone, making the comparison analytically productive for identifying the institutional and political factors that account for the decarceration vs. incarceration trend.

The subnational focus is a methodological challenge that has been addressed iteratively during the research process. The original design centred on the empirical study of Catalonia, motivated by the distinct institutional competences in penal policy in the former and an initial contact with the latter. However, difficulties in accessing respondents exclusively from the Brussels region led to a considered extension of the Belgian case to encompass the country more broadly, incorporating perspectives from both the Brussels and Flanders regions. This adjustment reflects theoretical consistency: given that reintegration competences in Belgium are distributed across regions, limiting the analysis to Brussels would have produced a partial and potentially misleading account. The Spanish subnational focus remains on Catalonia because it has its own prison administration and a distinct position on reintegration practices: it is the only Spanish region with a public contracting entity dedicated exclusively to reintegrative opportunities –the Centre for Reintegration Initiatives (CIRE).

5.2. Historical-Institutional comparative analysis

Historical analysis is used to reconstruct the evolution of penal trajectories in both countries, drawing primarily on secondary literature in criminology, sociology, political economy and penology. Documentary sources, including legislation, policy documents, official reports and monitoring body publications, are also used to contextualise and verify legal and institutional developments in the penal sphere. These materials are complemented by quantitative indicators and by expert interviews. The quantitative indicators employed are: the prison population rate, prison density, and the Gini index. Prison population data were obtained from the Institute for Crime & Justice Policy Research database, prison density data from the Council of Europe SPACE I annual reports (2005-2025), and inequality data from the World Bank Open Data database. These indicators serve a descriptive and analytical purpose to illustrate long-term trends relevant to the welfare hypothesis and to the conceptualisation of punitiveness developed in Chapter 4.2.

5.3. Expert interviews

Semi-structured interviews are another empirical contribution of the thesis, adding to the historical-institutional study. Expert interviews were chosen because the research question requires access to insider knowledge of how penal and reintegration practices are understood and implemented.

The participants were recruited through purposive sampling, on the basis of their professional involvement with detention, reintegration, and penal policy in Spain and Belgium. Potential participants include prison staff, social workers, legal practitioners, and representatives of reintegration entities. Initial contact was established through email to a broad range of actors fitting these criteria. The final sample consisted of those who agreed to participate, reflecting also practical constraints linked to participant availability.

In total, six in-depth interviews were conducted, three per country, with a duration of 45 to 60 minutes. Interviews in Belgium were conducted in English and in Catalan in Catalonia. The criteria were purposive as planned, and the final sample includes equivalent profiles in each country (see Chapter 9).

A thematic guide was derived from the theoretical framework and research questions, and guided the interviews in a semi-structured manner. The themes encompassed institutional conditions for reintegration, gaps between formal policy and practice, and the practitioner's assessments of the drivers and limits of penal change. They were conducted both remotely and in person, depending on availability, and recorded with informed consent. Given the mixed sample, anonymisation follows a two-tier system, according to which institutional representatives speaking in their official capacity (i.e., director of CIRE) can be identified by professional role and jurisdiction, with the name if they consent. NGO workers and lawyers are identified by profession and organisation only.

Interview data were analysed using thematic analysis. Transcripts were coded using ATLAS.ti program, with codes organised into broader thematic groups depending on their theoretical relevance. The coding process remained open to developing themes that connected findings to the political economy lens and the rehabilitation/reintegration distinctions established in the theoretical framework. Ethical considerations were taken into account throughout the interview process. Participants were informed about the purpose and use of the research and provided consent prior to participation and recording.

5.4. Limitations

The interview sample (6) is small and currently weighted toward the non-governmental sector. The extension of the Belgian interviews beyond Brussels introduces some analytical variability and asymmetry that cannot be fully resolved within the scope of this thesis.

6. Penal reforms in the 21st century

Both Spain and Belgium have undergone several changes in their legal and policy penal landscapes. This overview of reforms provides a baseline to contextualise both countries' existing penal outcomes (prison overcrowding vs decarceration) and their broader penal cultures, either toward more punitiveness or reinsertion intents.

6.1. Penal culture and reforms in Spain

As discussed in the theoretical framework, Spain's penal system underwent a process of increasing punitiveness from the end of Franco's regime. This culminated in the adoption of a new Criminal Code in 1995, which introduced the use of alternatives to imprisonment. Paradoxically, its provisions simultaneously hardened the penal response, raising maximum sentence thresholds and expanding the use of imprisonment by double in all its forms (Ripollés, 2006). This trend, characterised by the absence of a political and criminal orientation towards alternatives to custodial sentences, was further reinforced by the reforms of the Criminal Code introduced in 2003 (Ripollés, 2006).

Consequently, between 1994 and 2006 the prison population increased by 70%, while the general population grew only by 11% (Jiménez Franco, 2016: 156). By 2006, Spain's incarceration rates were among the highest in the EU, surpassed only by Poland and England. In this context, the Spanish penal system of the early 2000s has been characterised as a disproportionate, outdated, unfair, and ineffective (Ripollés, 2006).

In this escalation of punitiveness, the carceral bubble reached its peak in 2010. Between 2002 and 2009, the prison population grew by 34,7%, while recorded offences and delinquency rates decreased by 21% and remained below the EU average (Jiménez Franco, 2016: 156). This illustrated a clear dissonance between penal severity and crime trends. As noted by González Sánchez, "Spain has shown how an accelerated increase in the prison population can coexist with much lower, stable or even decreasing delinquency rates" (González Sánchez, 2021: 8). This was accompanied by average sentence lengths that, by 2009, were twice the European average (Jiménez Franco, 2016).[10]

Importantly, as discussed in the theoretical framework (Chapter 4.3.1), this punitive turn must be understood in relation to Spain's specific political-economic configuration, marked by financialised accumulation and the disproportionate impact of penal expansion on dispossessed populations (Jiménez Franco, 2016). As an illustrative example, around 80% of prisoners were serving sentences for property offences, particularly theft and burglary (Ripollés, 2006: 22).

Considering this background of 35 years of uninterrupted prison expansion, the penal de-escalation in Spain was indeed an unexpected turn (Brandariz, 2024). This shift can be explained by a multiplicity of factors, but this section focuses exclusively on the legal and penal policy causes.

In December 2010, the Organic Law 5/2010 entered into force, introducing an extensive modification of the Penal Code, by reforming 150 provisions. Among these changes, the reform reinforced the principle of proportionality in drug trafficking offences, reducing the maximum sentence for minor trafficking from nine to six years. These minor drug-related offences were then considered within a lower rank, resulting in a mitigation of penalties (Brandariz, 2024). Furthermore, the reform introduced two provisions: the possibility to replace prison sentences of up to six months with the alternative sanction of permanent location (what is commonly referred to as electronic monitoring), in addition to the already established fines and community services; and a parole system (Gómez Martín, 2011).

Regarding the penal culture, there was also a shift in the prioritisation of specific offence types. The crisis of the war on drugs, exemplified in reforms such as the OL 5/2010, and a growing prioritisation of gender violence, corruption offences, and economic and financial crimes, as well as the "decreasing relevance of noncitizens in terms of policing, prosecution and sentencing" (Brandariz, 2024: 4). However, the recent surge of far-right agendas and increasing mediatisation of *crimmigration* discourses threatens to reverse this background.

[10] In 2009, the European average length of imprisonment was 9 months, and in Spain it was 18 months (Jiménez Franco, 2016).

García-Borés Espí (2015) offers a complementary reading of this changing trajectory from punitivism to decarceration. He frames the carceral system as disparate and without a clear route, never settling on a single governing model. The author identifies the persistent coexistence and overlap of four distinct orientations within Spanish penal policy: 1) rehabilitative framework working mainly as a legitimating discourse rather than effective practice, given chronic underfunding; 2) an incapacitating orientation consolidated through the 2003 reforms but against the constitutional mandate; 3) managerial orientation of cost-efficiency, inactive during the expansionary 2000s but triggered after the austerity measures in 2010; and 4) an actuarial orientation particularly relevant in Catalonia, which establishes risk prevention as the organising principle of intervention while anchoring its rhetoric to rehabilitative aims. Moreover, the study suggests that the predominant orientation varies depending on the prisoner category (foreign nationals, women, high-risk), which is argued to be a violation of the principle of equality before the penitentiary law. The Spanish case can be situated as a penal system with a variety of rationalities co-existing and being predominant at a given juncture, shaped by economic conditions, media and punitive populism (see Chapter 8.3). Therefore, shifts toward decarceration or moderation should not be read as part of a coherent policy-changing paradigm.

6.2. Penal culture and reforms in Belgium

Belgium's sentencing culture has historically relied on two forms of punishment: fines and imprisonment (Vanhouche, 2022). The first significant diversification occurred in the 1960s, when probation and suspended sentences were introduced to individualise sentencing and reduce the use of short custodial sentences (Vanhouche, 2022). From the 1990s onward, the search for alternatives to imprisonment intensified due to increasing recognition of the harmful effects of incarceration and the mounting pressure of prison overcrowding (Vanhouche, 2022). During this period, the work penalty and electronic monitoring were introduced and have since become central instruments of Belgian penal policy.

This diversification, however, has not produced a more lenient system as such. Instead, it has given rise to what scholars describe as a 'bifurcated sentencing': a practice in which, although the tendency of non-custodial sentences has increased, imprisonment has simultaneously become longer and more restrictive when applied. Judges often "consider these alternatives as 'favours' for those they deem deserve a second chance, while the prison sentences they do impose have become longer” (Vanhouche, 2022: 43). Custodial forms have thus become more severe, and parole more difficult to obtain (Vanhouche, 2022; Scheirs et al., 2016).

One of the most decisive events in shaping current Belgian penal policy was the Dutroux case of 1996. Marc Dutroux, previously convicted for the abduction and rape of minors in 1989 and released after serving three years, had committed new and more serious crimes during his conditional release period. The discovery of victims held captive, and of four more deaths, provoked a crisis of institutional legitimacy that disrupted the Belgian criminal justice system (Beyens, 2019; Vanhouche, 2022).

The consequences were significant. Given that responsibility for conditional release decisions had rested with the Minister of Justice, mounting criticism of the appropriateness of such executive influence led to a reform of the release system. This was channelled through the creation of Parole Commissions in 1998 (Beyens, 2019), and the enactment of the External Prison Act in 2006, to strengthen the service infrastructure (Vanhouche, 2022). The Act restructured the release process, as responsibility for conditional release was transferred from the executive to independent multidisciplinary Sentence Implementation Courts, and expanded subjective rights in the release procedure (Beyens, 2019). Reintegration was formally established as the primary aim of sentence implementation; these courts would assess prospects for reintegration alongside risk indicators before granting conditional release. In practice, however, this entrenched a logic of risk assessment (and risk aversion) that has shaped Belgian release policy ever since, tightening the conditions for conditional release, particularly for sexual offences (Vanhouche, 2022). Research on the implementation courts has since demonstrated that conditional release functions as a discretionary favour, that imprisoned persons’ rights take a back seat in the process, and that reintegration serves as a vehicle of risk reduction rather than as an end in itself (Beyens, 2019; Nederlandt, 2020, cited in Vanhouche, 2022). The emphasis is placed mainly on behavioural change at the individual level, reflecting a penal practice that adopts the RNR model discussed in Chapter 4.1, with a strong rationale of individual rehabilitation and recidivism reduction.

The Belgian Prison Act of 2005 represented the formal legal codification of detainees’ rights and legal status, which is why it is also referred to as the law of principles (*Loi de* *principes/Basiswet*) or the Dupont Act.[11] This legislation formally defined reintegration, harm reduction, normalisation, and respect for a person's dignity as explicit goals of sentence implementation (Vanhouche, 2022). It introduced individual detention plans, complaint commissions in each prison, and procedural protections partly inspired by the Dutch complaint system (Boone & Kelk, 2015, cited in Vanhouche, 2022). The statute governs all aspects of life inside prison, including daily treatment, prion regimes, security measures and the disciplinary system. Prior to these provisions, the daily life of interns had been regulated by ministerial orders that left their rights undefined.

As with the External Prison Act of 2006, the Belgian Prison Act has also been subject to criticism. The right to complain established by the law was only implemented in prisons from 2020 (Vanhouche, 2022). Individual detention plans, which under the 2005 Act were to be initiated from the start of a prison sentence, were only rolled out in 2019 (Snacken et al., 2022). Moreover, although the law of principles provides for interns to undertake studies and vocational training whilst incarcerated, this is largely absent from current implementation. Both reforms thus reveal a substantial gap between stated ambitions and practical application.

The principle of equivalence between healthcare inside and outside prison is inadequate and unequally implemented in Belgium, particularly regarding drug-related and mental healthcare (Van Malderen, 2012, cited in Stöver et al., 2019). Overcrowding, insufficient specialised staff and limited treatment capacity constrain access to these services, with budgetary cuts further reducing drug treatment programmes (Vander Laenen et al., 2013; cited in Stöver et al., 2019).

Belgium follows a pattern that Vanhouche (2022) characterises as *de jure* moderation and *de facto* illiberalism, i.e., a legal framework that formally emphasises penal contraction (prison as a last resort) and prisoner's rights, but a reality shaped by a range of structural constraints on those rights, including overcrowding and the inadequate living conditions it produces, the absence of coordinated detention plans, insufficient access to professional training inside prisons, the lack of minimum service during officer's strikes, and the lack of dedicated psychiatric units.

[11] Named after Lieven Dupont, a KU Leuven criminal law professor who chaired the commission that drafted the 2005 "*Loi de principes*".

Prison overcrowding has been a persistent feature of the Belgian penal system since the mid-1980s and remains unresolved. Also, pre-trial detention is at a high percentage, accounting for 37% of the incarcerated population compared to a European median of 22% (Vanhouche, 2022). The government's response to overcrowding has relied, first, on the quasi-automatic administrative release, and second, on the widespread use of electronic monitoring. These are pragmatic measures have reduced prison population in some periods as intended, but without addressing the structural conditions that produce it (Beyens, 2019). Belgium thus lacks a direct reductionist approach that would include alternatives to custody in the first place (Beyens, 2019).

Another response to prison overcrowding has been penal expansionism. The 2020 coalition agreement set this trajectory, with the planning of new prison facilities — including Haren in Brussels, with 1.200 places— alongside harsher treatment for recidivists (Vanhouche, 2022). These measures were accompanied with a rhetorical commitment to a 'meaningful detention period', referring to improved material conditions in prisons. However, both the institutional investment and the principled commitment to reintegration remain limited, and the penal system oscillates between a formal rehabilitation narrative and punitive practice. Beyens (2019) links this to an intensified risk-oriented approach in Sentence Implementation Courts and prison administration, leading to the 'maxing out' phenomenon —that is, prisoners serving their full sentence instead of benefiting from the probation system, because of its procedural complexity and the risk emphasis within both the judiciary and the administration.

A more recent and paradigmatic shift from the prison model has been the introduction of detention houses (*detentiehuizen*) and transition houses (*transitiehuizen*) as part of Belgium's small-scale detention policy.

The transition house model was tested with the opening of the country's first *transitiehuis* in Mechelen in 2019, aimed at facilitating the transition from custody into the community through an individualised reintegration plan (Vanhouche & Nederlandt, 2020). Residents of the transition house can keep personal belongings, such as a phone and a laptop, wear their own clothes, and have personal access keys, all of which is intended to develop their autonomy and responsibility (Vanhouche & Nederlandt, 2020). The individualised reintegration plan starts in prison. According to the Directorate-General of Penitentiary

Institutions (DG EPI)[12], transition houses are meant to support the most vulnerable detainees, but in practice the program tends to favour candidates who already have a well-developed reintegration plan (Vanhouche & Nederlandt, 2020). Vanhouche & Nederlandt (2020) connect this reality to Robinson's concept of "managerial rehabilitation", which argues that eligibility for rehabilitation/reintegration programmes is built around risk profiling – low risk being associated with no drawbacks. Thus, the new model may end up serving mainly detainees who need the least support, and the most isolated detainees who arguably need the most help for reintegration, are the ones excluded by these criteria.

For people serving shorter sentences, Belgium passed the "*Masterplan Detentiehuizen*" in 2021. As part of this, the first detention house opened in 2022 in Kortrijk. Unlike the transition houses, this model absorbs residents from the outset of a custodial sentence, and it explicitly targets a "generalistic" support without prioritising already set candidates (Delvaux & Vander Beken, 2025). In this respect, the detention house model seems to correct the structural exclusions that Vanhouche & Nederlandt (2020) identified in the transition house. A specific experiment called DEPAR was run within the Kortrijk detention house. This is an ESF-funded[13] programme aiming for an intensive collaborative support (Delvaux & Vander Beken, 2025). Each resident is assigned from the start a case manager or "*compagnon de route*" (p. 3) and a psychosocial service (PSD) worker, who draft an individualised guidance plan covering housing, work, finances, health, and social network, and whose guidance continues for up to six months after the resident leaves the facility (Delvaux & Vander Beken, 2025). The evaluative research conducted by Delvaux & Vander Beken (2025) on the Kortrijk pilot found that the PSD staff numbers have declined while the resident population has grown. As a result, PSD respondents reported that while in the early stages they could sit and eat alongside residents on the living units, growing caseloads and time pressure have left them reverting to the habits and role of the regular prison; for instance, taking over administrative tasks residents were meant to complete because it was faster, and losing the informal and proximate contact that had distinguished the detention house (Delvaux & Vander Beken, 2025). The same research found that residents enrolled in DEPAR's most intensive support track are more likely, relative to the detention house population as a whole, to be

[12] This is the administrative body within the Belgian Federal Public Service for Justice that manages prisons and the enforcement of sentences.
[13] European Social Fund.

transferred to a regular prison or to fail to return from temporary leave (Delvaux & Vander Beken, 2025).

When compared to what Vanhouche & Nederlandt (2020) describe in the transition house model, the rates of non-return or transfer to prison within DEPAR show that the programme is reaching the population at most need, which in turn reflects an eligibility approach based on reintegration rather than risk-oriented. In that respect, this experiment is a notable example of good practice within Belgian small-scale detention.

7. Comparative penal indicators

7.1. Assessing the welfare hypothesis

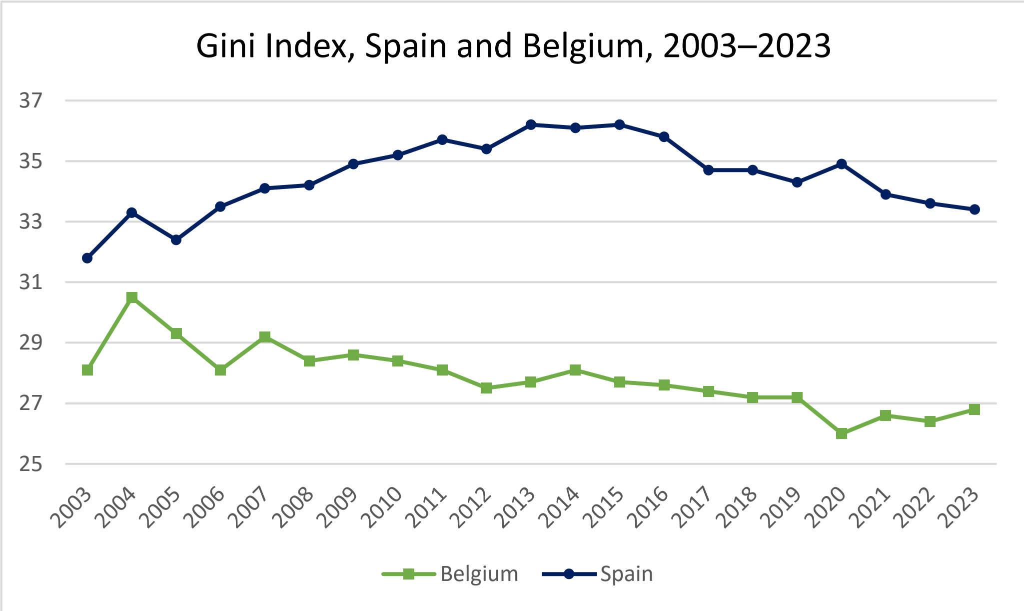

Figure 1. Gini index, Spain and Belgium, 2003–2023. Source: World Bank Open Data (accessed [06, 2026]).

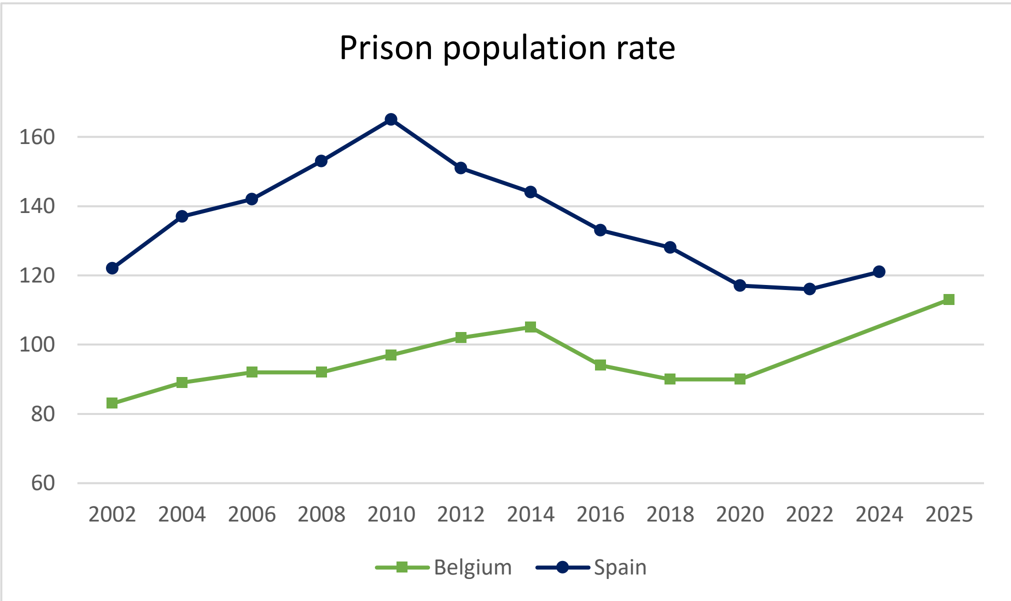

Figure 2. Prison population rate per 100,000 people, Spain and Belgium, 2002–2025. Source: Our World in Data, based on Institute for Crime & Justice Policy Research (2026) and population data from various sources (2024). Note: some years reflect missing data; the lines are connected for visual continuity.

Figure 1 illustrates the different trajectories of income inequality in Spain and Belgium between 2003 and 2023, and allows for a cross-national reading of the welfare hypothesis.

In Spain, the Gini index rose steadily through the housing bubble and financial crisis years, reaching its peak at 36.2 in 2015, before declining consistently during the post-crisis period. Notably, decarceration efforts persisted whilst inequality continued to grow (until 2016), which suggests that the uninterrupted downward turn in incarceration was more politically/socially than economically driven. From 2016 onwards, both inequality and incarceration rates evolved downwards in parallel, which gives empirical support to the welfare hypothesis, at least for the more recent period.

The Belgian trajectory tells a more complex story. Despite maintaining a consistently lower Gini index than Spain throughout the entire period, reflecting stronger redistributive efforts and capacity, incarceration rates have continued to rise. Although not necessarily invalidating the welfare hypothesis, this complicates it, suggesting that redistribution alone is insufficient to explain penality when other factors are at play. The welfare hypothesis, while analytically productive, requires further social context, possibly in the political domain (see Chapter 8.3.).

7.2. Prison population, prison density and punitiveness

Belgium's chronic prison overcrowding has been consistently flagged by international monitoring bodies such as the CPT and the European Court of Human Rights (ECtHR). For this reason, the comparative analysis takes both incarceration rate and prison density, i.e., the ratio between the number of inmates and the number of available detention places, which produces overcrowding when it surpasses 100 (Aebi, M. F. & Cocco, E., 2026).

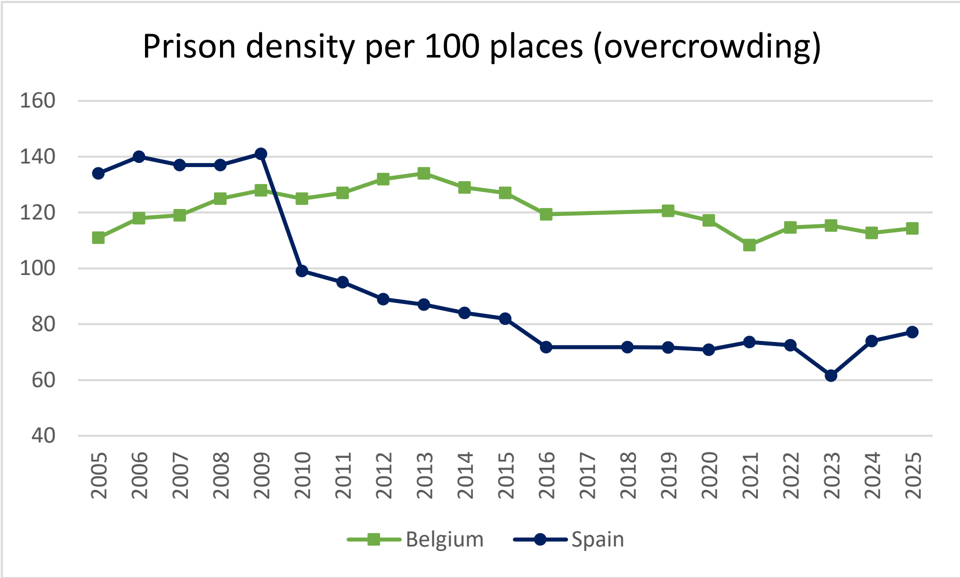

Figure 3. Prison density per 100 places, Spain and Belgium, 2005–2025. Source: Aebi, M.F., Berger-Kolopp, L., Burkhardt, C. & Tiago, M.M. (2018) for 2005–2015; Council of Europe, SPACE I Annual Reports (various years) for 2016–2025. Own elaboration.

Figures 2 and 3 together reveal a complex picture that cannot be grasped by each graph in isolation. According to the SPACE I report from 2025, Spain records a higher prison population rate (120.8) than Belgium (106).[14] Figure 2 shows that this indicator remains consistently above the Belgian one over time. However, the figures are inverted when seeing prison density. In that same year, Spain stands at 77.2 while Belgium reaches 114.3. More generally, Spain's prison density fell sharply from 2009 onwards, preceding the formal legal reforms discussed in Chapter 6.1. This decline can be explained by at least two concurrent dynamics. On one hand, the expansion of certified prison capacity through the creation of 11 penitentiary centres, 30 Social Reintegration Centres (CIS), and 5 dedicated *Unidades de Madres* (units for mother inmates) during the years 2006-2012, following the approval of a new strategy: the *Plan de Amortización y Creación de Centros Penitenciarios* (Ministerio del Interior, 2010; SIEP, 2011). On the other, a gradual shift in prosecutorial priorities, later consolidated in legislative reforms reducing penalisation for drug offences, which began before formal statutory change took effect. From 2016 onwards, Spain stabilised at a density rate of 70-75%, meaning its prisons transitioned from severe overcrowding to operating below capacity within less than a decade. Thus, the indicators in Figure 2 and 3 can be read as reflecting a structural

[14] Prison population rate is calculated through the ratio of the number of inmates (including pre-trial detainees) per 100.000 inhabitants in each country (Aebi, M. F. & Cocco, E., 2026).

transformation of the Spanish prison system. Belgium, by contrast, has remained above 110% throughout the entire period and, although its incarceration rate is slightly below the European median, it has consistently ranked among the top five most overcrowded prison systems in the Council of Europe (Penitentiaire Beleidsraad, 2024). By 2025, the two countries are converging in population rate but diverging in density.

A methodological caution is necessary here. Prison density and overcrowding figures are calculated on the basis of capacity data provided by the countries themselves, corresponding to their own estimations (Aebi, M. F. & Cocco, E., 2026), and countries employ different concepts of capacity and counting methods not aligned with international standards (Penitentiaire Beleidsraad, 2024). These indicators therefore do not allow straightforward cross-national comparisons (Aebi, M. F. & Cocco, E., 2026) and should be read with caution.

That said, the general picture presents a clear contradiction. If Spain incarcerates more people relative to its population, one might interpret this as a harsher penal response. But Belgium's severe and persistent overcrowding complicates such conclusion. Taking the conceptualisation of punitiveness developed in this thesis (see Chapter 4.2), which links legal intentions with state capacity, the asymmetry of these indicators points to a grey area between punitive intentions and punitive outcomes.

This asymmetry matters because overcrowding produces a punitive logic in itself, independently of incarceration numbers. The material hardening of confinement conditions, the self-degradation associated with it, and the reduced access to educational programs and healthcare all exacerbate the punitive experience of imprisonment. Wacquant (2009) already stressed that warehousing conditions of overpopulation produce a more stressful, punishing, and brutalising atmosphere, bringing back incarceration to "what it was at its origin: an ordeal (the word punishment comes from *poena*, which means suffering)" (Wacquant, 2009:173).

The ECtHR has condemned Belgium under Article 3 of the ECHR —on the prohibition of torture and degrading treatment— in numerous cases on the basis of chronic overcrowding and inadequate detention conditions, including lack of sanitation, insufficient personal space and risks to mental health (Tur, 2026). [15] This reinforces the argument that punitive outcomes cannot be read from incarceration numbers alone. Higher detention rates in Spain are also accompanied by adequate prison capacity and, as discussed, by legal reforms that have effectively reduced the incarcerated population over the past 15 years.

In conclusion, and as various comparative criminology studies have noted (Cavadino et al., 2012; Pease, 1994), the limitations of using imprisonment rates as sole indicators of punitiveness are significant. The cross-national reading of data on incarceration and prison density shows that Spain and Belgium have contrasting penal trajectories that nonetheless converge in unexpected ways.

8. Comparative analysis

8.1. Differing frameworks for penitentiary law

During the seminar '*On the legal status of persons deprived of their liberty*', held at Universitat de Barcelona on the 21st May 2026, [16] a main argument made by penologists, legal scholars and practitioners including representatives of a non-profit cooperative of lawyers (IACTA) and the Central State Administration (AGE), was that of an increasing 'administrativisation' of penitentiary law in Spain. This argument was originally put forward by Rivera Beiras (2023) in *La cuestión carcelaria: la pena legal y la pena real*, where he identifies a pattern in which key governing aspects of the Spanish prison system are founded in sub-statutory regulation, generating tensions with constitutionally protected rights, namely the right to life and to physical and moral integrity, the right to private and family life, and the right to work. This status quo ultimately reflects a system in which increased institutional discretion, exercised by the prison as an 'autonomous body', shapes crucial aspects of the day-to-day life in prison, placing inmates' jurisdictional protections and fundamental rights at risk. One such case is that of 'mechanical fixation', a practice consisting of strapping prisoners to their beds for regimental purposes, whose use has increased in Catalonian prisons (CPT, 2025). This practice is currently subject to an abolition requirement by the CPT, on the grounds that

[15] ECtHR condemnations for prison overcrowding include: *Vasilescu v. Belgium* (Application No. 64682/12); *Tekin and Arslan v. Belgium* (Application No. 12905/17); *Pîrjoleanu v. Belgium* (Application No. 21497/16); and *Venken and Others v. Belgium*.

[16] Forero Cuéllar, A. (Dir.). (2026, mayo 21). *Sobre la configuración del estatuto jurídico de las personas privadas de libertad* [Seminario]. Proyecto FORTLEG (PID2024-157155NA-I00), Facultad de Derecho, Universitat de Barcelona.

it poses a risk of ill-treatment "as evidenced by the practice of prisoners being fixated in a face-down position and forcibly administered intramuscular injections by healthcare staff" (CPT, 2025, para. 5). Mechanical fixations are not regulated outside the medical setting by any legal or regulatory framework, and they are extensively documented by independent prison monitoring bodies. Notably, this practice is not exclusive to Spain.

The CPT has also flagged the use of mechanical restraint in Belgian prisons. While documented primarily among detainees with psychiatric needs, the Committee explicitly noted that such measures should not substitute hospitalisation, and should be confined to formal medical settings, with the doctor's attention (Council of Europe, 2022). For example, the CPT deemed unacceptable the use of metal handcuffs at Ypres prison for agitated prisoners, and called on authorities to cease the practice immediately (Council of Europe, 2022). However, mechanical restraint is not documented as a regimental measure applied to the general prison population, and is reported to occur about once a year (Council of Europe, 2022: 21).

Spanish penitentiary law is characterised by a combination of legal and administrative instruments. The *Ley Orgánica General Penitenciaria* of 1979 (LOGP), the first Organic Law enacted after the democratic Constitution of 1978, has remained practically unaltered over four decades. In the meantime, the reality of penitentiary institutions has evolved beyond its original provisions, with new content being absorbed into the *Reglamento Penitenciario* of 1996 (Laso, 2015), and a proliferating body of sub-statutory administrative instruments. While aiming to fill the gaps left by the old statute, this regulatory expansion has produced a sort of legal vacuum, as Laso (2015: 11) observes:

> The strong expansion of the principle of penitentiary flexibility in recent years without apparent criteria —a possibility moreover not foreseen in the Law but only in the Prison Regulations— facilitates solutions for special cases, but also generates unjustified situations. (Own translation)

In comparison, Spain lacks a penitentiary procedural law similar to the Belgian law of principles of 2005. It also lacks a consolidated text for criminal enforcement law (Rivera Beiras, 2023), i.e., an instrument comparable to Belgium's External Prison Act of 2006, which represented a deliberate move towards the judicialisation of the release process (see Chapter 6.2). Paradoxically, this more independent and robust legal framework has not produced less punitive outcomes. Beyens (2019) argues it has instead contributed to the 'maxing-out' of sentences discussed earlier. Moreover, the CPT has consistently identified overcrowding as a major and long-standing problem across the entire prison system, directly linked to violence among prisoners, understaffing, and prisoners spending up to 23 hours a day confined in their cells (CPT, 2022).

This contradiction points to some of the limits that legal frameworks have as actual drivers of broader penal change. The administrativisation of penitentiary law in Spain can be seen with suspicion due to potential (and real) abuses, but such regulations are also put in place within the administration's principle of proportionality, and including regulatory oversight, mandatory technical audits and the involvement of affected groups. In Belgium, such rules are more legally bounded and implemented by the independent judiciary, but still are unfulfilled in practice. During the seminar (Forero Cuéllar, A., 2026), a practitioner with experience both within prisons and in the AGE pointed out that a cultural shift and of mindset was still needed within prisons, since administrative practices are difficult to change. A view that is analogous to what Belgian scholars such as Snacken (2022) and Beyens (2019) describe.

In both countries, the implementation, more than the legal framework in itself, has the stronger effect in punitive experiences.

8.2. Institutional configurations

A structural characteristic of Belgium that has no direct Spanish equivalent is the federal division of competences over imprisonment and reintegration. Prison administration falls under federal authority, while the provision education, mental healthcare, and reintegration support within prisons is the responsibility of the regional communities, i.e., Flanders, Wallonia, and Brussels (Vanhouche, 2022). In practice, this division has produced a system of institutional fragmentation. Reintegration services depend on cooperation between regional authorities, whose access to prisons is regularly disrupted by staff strikes and resource constraints due to overcrowding (Beyens, 2019; Snacken et al., 2022). As an example, prison labour falls under prison administration rather than reintegration support, and as such it is centralised at the federal level. Since 1931, the *Régie du Travail Pénitentiaire* (under the market label Cellmade) has operated as an autonomous service within the federal public service (SPF) Justice, coordinating work placements across 30 prison workshops in partnership with several external companies (*Federal Public Service Justice*, n.d.). However, prison work is not managed by an employment contract under the law, and detainees can lose a placement without notice or compensation and remain excluded from the social security system (Prison Insider, 2024).

The strategic plan (2020-2025) of the Flemish community for inmates' support emphasised reintegration mainly through an approach of recidivism reduction. The psychosocial service, formally the advisory body in release decisions, has become in practice a powerful gatekeeper whose assessments shape prisoners' trajectories far more than the formal legal framework would suggest (Snacken et al., 2022). The dominant mechanism of control has landed on psychological and psychiatric expertise through the expanded role of risk assessment in release decisions. The authors term this shift the 'new penal power' (Snacken et al., 2022), in which the psychosocial assessments have a central impact in prisoners' trajectories toward or away from reintegration. If we ask what the consequences are, reintegration pathways are directly dependent on the result of risk assessments, which suggests that it is not being treated as an end in itself. This brings us back to Ganapathy's (2018) distinction between rehabilitation and reintegration. Although formally framed as pursuing reintegrative aims, the implementation of Belgium penal model is closely linked to the RNR framework because it focuses on the prisoner's behaviour and its personal responsibility, before improving the background conditions. This risk-oriented penal culture in turn produces the 'maxing out' phenomenon (see Chapter 6.2). Thus, the gap of legal or formal commitment to reintegration and its institutional delivery remains persistent and a structural issue.

On the other side, the actual demand for punishment is higher than the penal infrastructure. State responses relied on expansion of prison capacity, especially through the "masterplans" which involve the construction of mega-prisons (Prison Insider, 2024). The Haren prison complex, opened in 2022 as a response to chronic overcrowding, is a clear example. Since then, prison overcrowding has remained practically unchanged (see Figure 3), which suggests that prison building has not resolved penal inflation. Instead of relieving pressure, new capacity actually tends to absorb it, because judicial and administrative actors adjust their practices (sentencing, pre-trial detention, release policy) to the space available (Mary et al., 2000), worsening dependency on incarceration as a default response.

In Spain, the already mentioned Social Reintegration Centres (CIS) were created to facilitate the reintegration process of individuals under an open regime (third-degree classification), promoting their capacities for their incorporation into the community through programmes and activities (SIEPSE » Infraestructuras Penitenciarias, n.d.). These centres also supervise certain non-custodial sentences and individuals under conditional release. They allow a gradual reintegration into society, and are generally smaller than regular prisons. However, they are not designed as small-scale detention facilities in the sense of the detention house model in Belgium (VZW De Huizen, personal communication, May 28, 2026).

The Catalan Department of Justice and Democratic Quality created the Centre for Initiatives for Reintegration (CIRE) in 1989. This is a public enterprise designed to offer inmates a route back into society through vocational training and employment (*Centre d'Iniciatives per a la Reinserció*, n.d.). Its scope covers penitentiary and juvenile centres across Catalonia. It runs training programmes, workshops, and creates work placements in partnership with companies in the private sector that contract out part of their production to prison labour. Participants are under a special employment contract which enables them to be covered by social security, make pension contributions and receive a fixed economic compensation.[17] CIRE also has a job board linking trained inmates to the local business network. Catalonia's full control over penal enforcement and prison management has enabled a more unified system for reintegration, although this question is discussed directly with CIRE's director in Chapter 9.5.

8.3. Partisan politics

The criminal justice system is one of the dimensions of the state power apparatus, being also affected by the already discussed economic, social, and cultural dimensions. This subchapter examines how the political sphere, specifically partisan alignment, intertwines with incarceration trends in Spain and Belgium.

As discussed in section 7.1. on the welfare hypothesis, inequality indicators have a certain limitation in explaining incarceration trends. The political economy of punishment perspective, however, allows us to introduce other structural criteria that could factor into the evolution of punishment, that being the political actors shaping these outcomes. Piketty (2017) points to the role of political actors and views in the distribution of wealth, i.e., inequality, of what is considered fair and the "relative power of those actors and the

[17] This information is advanced by the interview to the CIRE's director, conducted simultaneously with the empirical analysis.

collective choices that result" (p. 28). In the same line, other scholars have linked incarceration rates to shifts in the political spectrum (Lacey, 2008).

A valuable analysis of the Belgian landscape is the one by Vanneste (2017) covering the period from 1951-2011. Political parties were assembled in three categories: Left, Centre, and Right, based on their position on social policy (Vanneste, 2017). These were then tracked alongside detention rates on a longitudinal study. Her findings point to a weak inverse relationship between the declining proportion of Left vote and incarceration, and a stronger correlation between falling support for the Centre and rising detention rates ($r= -0.77$). The most significant relationship in the study was the one between growing support for the Right and rising incarceration ($r= 0.83$) (Vanneste, 2017: 119). Moreover, when analysed with the inequality indicator (Gini), the votes to the Right also reveal a significant correlation after 1980, when inequality began to rise, and a significant inverse relationship with centrist support (Vanneste, 2017). These findings confirm the border claim that partisan political alignment is relevant in understanding the trajectory of punishment.

For Spain, a longitudinal study between party vote share and incarceration is not yet available. Spanish politico-criminological scholarship has instead focused on the development of punitive populism (*populismo punitivo*), a term that arose particularly in relation to the punitive character of the 2003 penal reforms (Antón Mellón et al., 2015). This term related to the amplification of crime salience in periods of political de-legitimation through media channels, creating public pressure that parties respond to with tougher criminal law (often using the issue against one another) regardless of their ideological orientation (Antón Mellón et al., 2015).

The 1995 Penal Code, passed under the leftist socialist (PSOE) government, already combined the introduction of alternatives to custody with a lengthening of all prison sentences (Ripollés, 2006). The following right-party's (PP) administration implemented the 2003 reforms, considered as a severe turning point for penality, and the 2015 *Ley Mordaza*, already discussed in Chapter 4.3.1, which also expanded coercive police powers. The 2010 reform mitigating sentences for minor drug-trafficking offences, which was itself a driver of decarceration, was passed under a PSOE government. However, in the recent reform of February 2026, the PSOE passed alongside with PP and Vox's votes (the far-right party) a toughening of sentences for repeat minor theft, even with the government's further-left coalition partners opposing to it for being alienated with populist discourses (Maturana, 2026).

This rotation between punitive and moderate measures across governments with seemingly opposing social policies suggests that partisan alignment has limited influence on the direction of Spanish penal policy, and electoral competition can be a driver for punitivism across both sides of the political spectrum.

Importantly, public punitiveness does not offer an argument for the persistence of punitive rhetoric and reform. Fear of crime and crime salience in Spain declined consistently since the late 2000s, with levels below the EU average throughout 2010-2023 (Brandariz, 2024)[18], including the years of economic crisis. This decline aligns more closely with the trajectory of decarceration as such. The punitive reforms that have nonetheless continued or intensified during this period of low crime salience are therefore better explained as politically driven rather than publicly (or demand) driven (Tur i Otero, 2026). Therefore, even though relevant legal and policy reforms allowed decarceration to happen, it is not so clear that Spanish partisan politics account for the decline of imprisonment. What they do explain is the persistence of punitive discourse throughout that decline, especially on the far-right side of the spectrum (Tur i Otero, 2026).

9. Expert interviews

Five clear patterns emerge from reading the expert interviews together, conducted to workers at NGOs, reintegration centres, and criminal law practitioners in Catalonia and Brussels/Flanders. The analysis focuses first on the institutional gaps at the moment of release, illustrating lack continuity in practice; and second, on the reintegration orientation of the different actors, in regards to both their own self-perception and their assessment of the overall penitentiary system. This results directly from linking the grounding of the theoretical framework with the perspectives of the participants.

The different profiles are refereed as to Interviewees, followed by the number in chronological order of the interview:

- Int. 1: Psychologist and worker at Nou Horitzó (NGO, reinsertion group), Catalonia

[18] Brandariz's study collects this data from Eurostat Quality of Life indicators, Eurobarometer, and the Centre for Sociological Research (CIS) in Spain.

- Int. 2: Psychologist and social worker at APRES (reinsertion group), Brussels
- Int. 3: Criminologist and jurist, expert in criminal execution, worker at Marianao Foundation (NGO), Catalonia
- Int. 4: Worker at VZW De Huizen, Flanders and Brussels
- Int. 5: Trainee lawyer in criminal law, Flanders
- Int. 6: Director of the CIRE, Catalonia

9.1. Institutional gaps

In both countries, the most obvious gap happens at the end of a prison sentence. The support in-prison stops at release, and outside services start after release. The civil society actors I conversed with usually act as a bridge and fill this gap, but not without organisational constraints and almost always each NGO focuses on one specific thing: occupational reintegration, which aims at the reintegration of inmates in the job market as its main objective.

This gap is perhaps the most structurally entrenched problem. In Catalonia, Int. 3 described how inside social workers are the only real bridge to the exterior, yet the moment someone is released, that bridge disappears. There is no obligation to transfer the case to outside social services, and outside services won't engage while the person is still under Justice. In Belgium, Int. 2 described a similar disconnection from the other direction: the only publicly funded social workers inside prison conduct risk assessments for release decisions (or daily permits), instead of reintegration support exclusively. As the interviewee put it, “if you’re talking about the social workers who are supposed to be helping the inmates and really helping them, not assessing them, it’s us actually” (Int. 2). Despite the very different formal structure of the two systems, both converge on the same result, being that the inside and outside worlds are entirely disconnected when the person crosses between them. These NGOs absorb this gap in both contexts using similar language about their own role.

A related mechanism produced by this disconnection is the bureaucratic limbo. In Catalonia, third-grade (open regime) status leaves people caught between two institutional that sometimes defer one another. Outside services “cannot” help because “you depend on Justice” (Int. 3), while inside workers decline to open a file for someone with only weeks left. In Belgium, Int. 2 described that parole timelines are uncertain (hearings communicated 3–4 weeks in advance), while professional training programmes have fixed start dates. Part of the job that the Int. 2 does at APRES is to build a reintegration plan on the hope that release date and course start date will align. They rarely do, and when they do, it undermines the whole premise of a stable and clear path for the individual. In Belgium specifically, this is reinforced by the fact that the legal framework (the Act of 17 May 2006) explicitly mandates the same access to education, work, and training in prison as outside, but which is largely not implemented. Int. 2 says:

> …What I know from those prisons is that yeah you have some trainings. You have like one or two maybe three prisons in Wallonia where they have some professional trainings…It's really nothing compared to what exists outside because outside you have like hundreds of skills and jobs you can learn in a few months for free if you're registered as a job seeker. In the prisons it's almost nothing… For the French speakers do you know how many professional trainings there are in Haren right now during the year? It's one. One. Cooking. That's all. (Int. 2, APRES)

9.2. The negative effects of imprisonment

Related to the institutional gap described above, every informant independently of the country, organisation, or professional role, described imprisonment as producing the disconnection that then has to be repaired after release. Int. 5 said: "the longer you are in detention, the more things you lose. You lose your work, you lose your relatives, you lose your loved ones… you kind of feel like a stranger once they come out. Because everything has changed around them" (Int. 5). Int. 4 explained the same effect in the institutional design itself, saying that in the prison system "you really get apart from the community" and that in order to go back to it it's important that some connection is maintained throughout, which is precisely what large-scale prisons do not allow to do (Int. 4). This participant added a second layer to it, which is the loss of ordinary responsibility and agency: "in prison, they take all your responsibilities away. But after detention, you have to be responsible for a lot of things. So, you have to learn to take those responsibilities again" (Int. 4).

This shows up in the Catalan interviews as well. Int. 1, working with people immediately after release, described disorientation with everyday technology and routine: "there are many things that overwhelm you, a phone, the simplest things" (own translation, Int. 1). The same informant placed a deeper obstacle in trust: "family and community don't fully trust you again, regardless of how well someone reintegrates… until you've truly proven yourself" (own translation, Int. 1). This also connects with Int. 5's point about societal stigma. Similarly, Int. 3 explains that it is often the same vulnerability that led to incarceration in the first place that people return to on release, "because it's what they know" (own translation, Int. 3). People go back to the same neighbourhood, the same social network, not necessarily out of failure but because alternatives are unavailable.

Something that has been flagged specifically by the Belgian actors (not raised by any Catalan informant) is that this same disconnection begins before conviction, during pre-trial detention. Int. 5 said "once you get into the prison system and you are not being released, then the risk that you will lose a lot around you is very big… sometimes you lose your network, you lose your work…because your boss will not prolong your contract" (Int. 5). The same informant noted the injustice when detention turns out to have been unjustified, describing a homeless client held six to seven months in pre-trial detention on weak evidence: "it's not even that you have a sentence… actually, you're innocent" (Int. 5). This was situated within a pattern: "in the Belgian prison system, detention and certainly pre-trial detention is not an exception. It's just the rule… the conditions are so vague and it's applicable to a lot of offences" (Int. 5). This is consistent with Belgium's repeated condemnation by the ECtHR for prolonged pre-trial detention, referenced by Int. 2. This informant also mentioned that people frequently lose their jobs at the pre-trial stage. Thus, pre-trial detention in the Belgium produces significant harm in the reintegration path.

Another visible pattern is that actors across both cases treat reintegration as something the individual must pursue proactively, in a deeply liberal sense: those who ask receive, those who don't get nothing. Int 5. says: "it is an individual responsibility, because prisoners need to take the first step to get into contact with the relevant persons in prison". Int. 6 sees instead the success of reintegration as the individual's responsibility, not necessarily the first step towards it:

> In the end, what's essential is the person's will. The will of the person who, no matter how many opportunities, how much support, how many resources, how much help, or whatever else you throw at them, has to want to reintegrate. They have to want to and be willing to go through the process and make the effort, and that's something only they can do. (Own translation, Int. 6)

Whether the final success or the initial step falls on the individual's responsibility, all participants directly tackle, by means of their work, the systemic deficiencies that imprisonment cannot, providing support on those areas they deem are most needed. Int. 2 puts it bluntly: "if APRES didn't exist, people would just walk out and be on their own" (Int. 2). Int. 3 and 5 note that it is often the same vulnerability that brought people to prison in the first place, and what should be addressed, while Int. 2 points to the "double penalty" logic whereby people released without social capital or resources are punished twice: one by the sentence and one by its unaddressed structural outcomes. According to the respondent, this logic falls disproportionately on those without access to an organisation like APRES.

9.3. Alternative sanctions

Every informant who addressed alternative sanctions affirmed their potential to ease overcrowding and facilitate reintegration outcomes. Int. 2 said that its more extended use "would release a lot of pressure from the prison system…and make reintegration way more efficient" (Int. 2), and was very clear that they continue to be underused in relation to the availability of legal options. Apart from the underuse, the respondent pointed at a pattern of differentiated use, contrasting two cases handled around the same time: a medical student convicted of rape who received no sentence at all "since you are a promising young man who's going to be a great doctor" against a person from an immigrant background convicted of theft who received three years in prison (Int. 2). In Catalonia, Int. 3's account on the criteria for alternative sanctions is that it is largely automatised and depending on the offence. However, the interview sample is too small to treat this as a finding, and confirm whether alternative sanctions really function as a neutral decarceration tool in Catalonia or an unequal one in Belgium.

9.4. Addiction as a structural, under addressed factor

Drug dependency and mental health conditions appeared across every interview, independently of the country, as a factor that drives incarceration and undermines reintegration efforts when unaddressed. Int. 3 noted that at Fundació Maraianao, the two eligibility criteria for their support programme are geographic proximity and diagnostic, as "participants must present this profile of mental health and drug dependency problems…these problems generally come together, it's usually dual pathology" (own translation, Int. 3). The CIRE director mentioned that treatment for addiction sits outside their scope of action, but made the connection to occupational reintegration stating that "someone will hardly reintegrate, however much training, however much work, however much support they receive, if they haven't overcome their addictions" (own translation, Int. 6). Access to treatment, however, is structurally inconsistent on both sides of the comparison. Int. 3 described Catalan treatment for detox in prison as voluntary and unevenly distributed across facilities (in and out of prisons):

> In theory, yes, they should have a specific treatment, but in practice this is not always the case… On the other side, if their offence is related to drug dependency, it is usual for them to be put on a drug rehabilitation programme." (Own translation, Int. 3).

In Belgium, Int. 2 pointed to a lack of a separate unit within prisons and to the fact that inmates with drug addiction are treated the same:

> For people who are judged as responsible of their own action so it's not like what we call the internment, even if they really really need mental health support or physical health support especially regarding addiction, they're just in a regular prison… sometimes they can keep like a substitution treatment for heroin or stuff but that's all. (Int. 2)

This resonates with the non-implementation of the equivalence principle discussed in Chapter 6.2., which is also found in the lack of in-prison trainings mentioned above.

Moreover, Int. 4 described the detention-house model as not yet equipped with a mechanism for addiction cases, and noted the additional problem that prison conditions themselves can increase drug use rather than stop it.

9.5. Institutional competences

Chapter 8.2 argued that Catalonia's full-developed competence over sentence enforcement and prison management has enabled CIRE to be a solid unified institution. When asked whether this competence configuration is a *sine qua non* for a reintegration model as coordinated as CIRE, the director's answer was illustrating. In his account, competence is necessary but not sufficient "we can do it because the Generalitat has the transferred prison competences… but the Spanish government could do this too" (own translation, Int. 6). He locates the difference instead in a sustained political commitment over 40 years, describing the occupational reintegration model as "very consolidated". Spain's centralised system could have an equivalent model of a public enterprise, but chooses not to. For the thesis, this resolves that neither centralisation nor decentralisation on its own favours a coordinated reintegration system. Spain's centralised administration has not produced one despite that it could, and Belgium's fragmentation has not either. Belgium's own federal prison-labour service, the *Régie du Travail Pénitentiaire* (Chapter 8.2), suggests the country does have the capacity at the administrative level, but it has never been extended into the reintegration-oriented pathway CIRE represents. This is consistent with the reading that the missing element is not institutional capacity as such, but the political decision to direct it toward reintegration efforts.

10. Conclusion

This research set out to explain the divergent incarceration trends in Spain and Belgium (decarceration and prison overcrowding respectively) through their penal orientations, arguing that genuine penal transformation would involve decreased punitiveness. This was assessed here through the state of reintegration practices in Catalonia and Brussels/Flanders.

Regarding the first research question, incarceration rates and overcrowding have not moved in the same direction. Spain's incarceration rate has continued to decrease since after the austerity period, while Belgium's has increased, especially since 2020. If these trajectories continue as now, the two countries will diverge further. Overcrowding figures however show a clear divergence. Spain's prison occupancy has remained below 100% since 2010 and continues to fall, while Belgium's has stayed above 110% throughout the analysed period (see Figure 3).

The second research question has a less straightforward answer. Spain's decarceration has not followed a clear path towards decreased punitiveness, as the expanded penal sphere discussed in Chapter 4.3.1 shows, and punitive and moderating legal reforms have continued regardless of the governing party's ideology. Reintegration practices, however, are more institutionalised in Spain than in Belgium, particularly through vocational trainings, prison labour under more favourable conditions, specialised units for drug-dependent inmates, and the increasing use of Social Reintegration Centres (CIS). Belgium's specialised units exist on paper, but overcrowding and staffing shortages make access highly unavailable across prisons (see Chapter 9.4). Regarding this second question, the thesis therefore concludes that decarceration does not necessarily entail decreased punitiveness, and that diverging incarceration trajectories do not map neatly onto opposing punitive orientations. Whether shown in the psychosocial assessments of the Belgian system, or in the conditionality attached to reintegration programmes in Spain, a risk-oriented rationale is palpable.

Neither case fully confirms the welfare hypothesis completely. Spain’s weaker welfare coexists with institutionalised reintegration, while Belgium’s stronger one has failed to prevent overcrowding. In both countries political economy shapes, but does not determine, penal outcomes.

One of this research’s central findings is that decarceration policies may ease prison overcrowding without making the penal system more “moderate”, unless accompanied by cohesive and institutionalised reintegration. Such cohesion does not depend on centralising prison competences, which is unlikely under Belgium’s system. The comparison with Catalonia illustrates what is feasible when institutional capacity is accompanied by a sustained commitment to (occupational) reintegration. The interviews nevertheless revealed a structural gap common to both systems between Justice and Social Departments during early release, probation, and sentence completion, which are critical stages in the transition out of prison. This institutional division creates obstacles to a cohesive reintegration pathway.

A second insight concerns Spain’s punitive turn (1990-2010), its subsequent shift, and what can be learned from it. Legal reforms enabling decarceration, especially regarding drug offences and pre-trial detention, are now long-established and unlikely to be completely reversed. Yet punitive measures have also been introduced under centre-left governments, suggesting that partisan ideological orientation does not always predict penal moderation. The findings suggest that economic conditions, public punitiveness (concern about crime), and the relative salience of punitive populism may be relevant to understanding shifts in penal moderation.

Reintegration as an individual project cannot be separated from the structural conditions faced after release, when people often return to the same neighbourhoods, social networks, or conditions of precarity. Yet access to support remains conditional on early-release risk assessments in Belgium and overly focused on making the individual productive again in Spain, with also conditionalities on who receives support. Reintegration therefore risks mirroring the individualising logic of the RNR model when access depends on inmates demonstrating their readiness or “worthiness” for the support that is meant to prepare them for release.

Belgium, however, does not need to follow the Spanish or Catalan path. Small-scale detention houses pursue the same broader objective through a different model, prioritising dignity and autonomy while encouraging social ties to the community. The two cases illustrate different pathways towards reintegration.

One limitation of this thesis was the uneven access to respondents in both cases. Only NGOs and a small number of law practitioners were willing to share their experience, while penitentiary staff and government bodies proved harder to reach. This limitation was also partly related to the researcher’s own access to the field.

Regarding future research, as Chapter 9.3. concluded, the sample was too small to establish whether alternative sanctions are implemented neutrally. Since respondents broadly agreed that such measures would facilitate reintegration, this remains an important direction for future research in both cases. Further research is also needed to establish whether a relationship exists between the salience of punitive populism and shifts in penal moderation, in Spain or elsewhere. On a last note, Belgium’s penal landscape could shift considerably if it the detention-house model were expanded and measures were taken to reduce the use of pre-trial detention, thereby easing the current strain on its prisons.

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APPENDIX

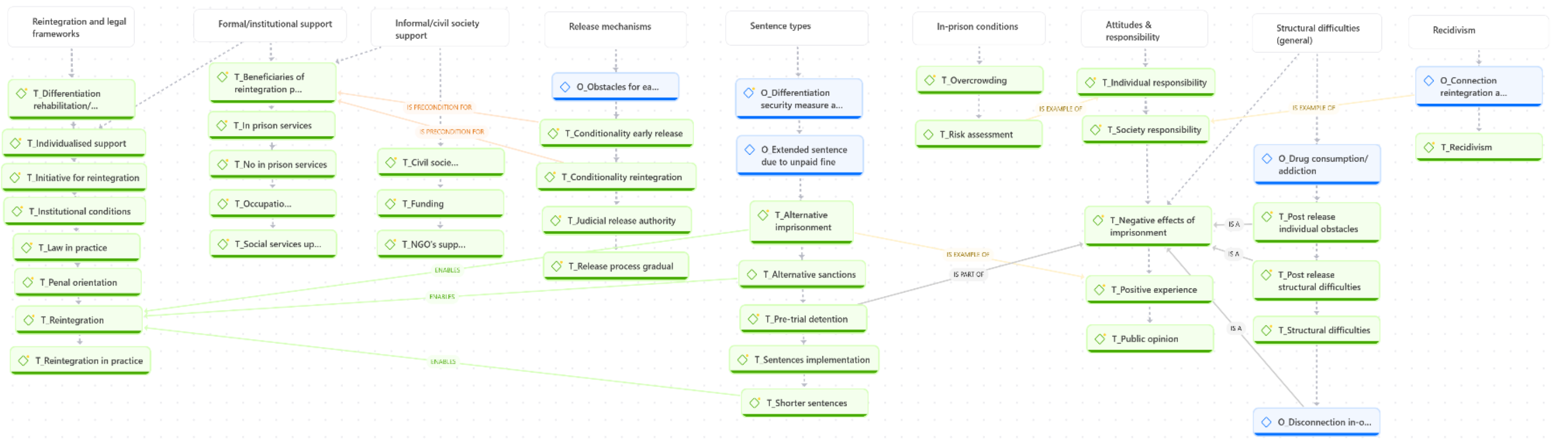

Figure 4. Network, own elaboration using ATLAS.ti

Legend:

- Box colour: green = thematic code (T_), blue = open code (O_)
- Line style: dotted = codes co-occurring within the same thematic group; solid, coloured by type = specific relation identified in the empirical data
- Line colour key: orange = is precondition for, green = enables, yellow = is example of, grey = is part of / is a

Codebook (ATLAS.ti Code Report)

The table below summarises the 44 codes applied during the coding of the interview transcripts in ATLAS.ti, grouped by thematic (T) and open/descriptive (O) codes, with their working definitions and the number of coded quotations associated with each. The full coding report, including all coded quotations and code groups, is available upon request.

Code	Definition	Type	Quot.
Reintegration in practice	30/6/2026 13:32 Any mention to the gap between reintegration policies (in paper) and their real-life implementation.	T	15
Occupational reintegration	29/6/2026 14:24 Any reference to reintegration of inmates to the job market as being the objective.	T	14
Conditionality early release	30/6/2026 13:30 Any mention to the criteria or conditions that need to be fulfilled for getting an early release or probation status.	T	12
Beneficiaries of reintegration programmes	29/6/2026 14:27 Any reference to the sentence conditions of inmates that benefit from the reintegration organisation. Whether that is shorter-longer sentences, individuals with community services' sentence, etc.	T	11

Code	Definition	Type	Quot.
Law in practice	30/6/2026 20:34 Any reference on the gap between the legal provisions and its real implementation (law in theory vs. in practice).	T	10
Reintegration	29/6/2026 14:09 Any reference to reintegration as being the objective of the prison experience, or the objective of the association in particular.	T	10
Post release structural difficulties	29/6/2026 14:14 Description of what obstacles or difficulties of structural nature (institutional, social, etc.) inmates might have after release.	T	10
Release process gradual	29/6/2026 18:03 Any mention to making the release of prison a more gradual process, through permits to get out during the day or during weekends. In Spain, such process is regulated through the standardized classification: Primero, segundo y tercer grado.	T	9
Individual responsibility	29/6/2026 18:31 Any reference to the fact that reintegration to society depends essentially on the individual and it is its own responsibility.	T	8
Negative effects of imprisonment	2/7/2026 18:49 Any reference to the detachment from one's community and social links that prison entails, worsening their reintegration to society afterwards.	T	8
Alternative sanctions	—	T	8
Overcrowding	30/6/2026 13:28 Any mention to the overcrowding of prisons as a problem (in Belgium).	T	8
Society responsibility	2/7/2026 18:40 Any reference to the fact that reintegration depends essentially on the resources available and the structural conditions (social capital, vulnerability factors, etc) of the inmate, making reintegration a shared responsibility too, not only individual.	T	8
Conditionality reintegration	30/6/2026 12:54 Any mention to the criteria or conditions that need to be fulfilled for benefiting from reintegration services.	T	8
Pre-trial detention	30/6/2026 12:58 Any reference to pre-trial detention.	T	7
Experts profiles	29/6/2026 14:41 Any reference on the type of experts working or volunteering in the non-governmental organisation.	T	7
Individualised support	3/7/2026 10:41 Any reference to the need of giving individualised support to inmates in order to facilitate the reintegration process.	T	7
In prison services	29/6/2026 18:24 Any mention to the social services available in prison that help with the reintegration process. The thesis considers these as primordial: "policy mechanisms focused on reintegration refer to strategies explicitly aimed at supporting individuals' return to society and reducing long-term reliance on correctional supervision. These include educational and vocational programs, psychosocial support, integrated pre- and post-release assistance, and interventions targeting particularly vulnerable groups" (p. 14).	T	7
Positive experience	29/6/2026 18:18 Any mention to in-prison experience as one with the possibility to be educational or even capaciting for the inmate.	T	6
Civil society importance	2/7/2026 18:18 Any reference to the predominant role of civil society organisations in the reintegration process within and outside prison, and where does this role stand in relation to the public administration (more role, delegated competences, or less role?).	T	6
Risk assessment	—	T	6
Public opinion	3/7/2026 10:57 Any mention on how the society at large views reintegration efforts by the NGOs. Is it criticised? Do politicians, mayors, and citizens give support to their efforts? This is a generalisation, of course. But it is still relevant to know how	T	5

Code	Definition	Type	Quot.
	the practitioners and actors involved perceive society's response and public opinion's transformations (especially with the rise of far-right public discourses).		
Initiative for reintegration	29/6/2026 14:44 Who has the authority to decide on an application for admission to a rehabilitation centre. Do inmates have to apply for reintegration paths or do prison authorities take the initiative on this matter?	T	5
NGO\'s support services	30/6/2026 21:09 Any reference to the support services by NGOs and civil society (psychological, legal, administrative, etc.) in a personalised level with individuals during a penal procedure (either in pre-trial situation, inmates or recently released inmates).	T	5
Judicial release authority	30/6/2026 13:02 Any mention of the judiciary as being the authority to ultimately decide on the gradual release of inmates (whether that is the sentencing application court or the sentence application judge, in Belgium).	T	5
Funding	29/6/2026 14:52 Whether the reintegration organisation receives funds from the local authorities or government, private funding, or no funding at all (volunteering).	T	5
Inmates profiles	29/6/2026 14:35 Any comment on the individual characteristics (psychological or material) of inmates beneficiaries of reintegration programmes.	T	5
Differentiation rehabilitation/reintegration	29/6/2026 15:00 Any reference to the difference between the processes of reintegration and rehabilitation, and the support available for each.	T	5
No in prison services	1/7/2026 17:05 Any mention to the absence of social services in prison that would facilitate the reintegration process. The thesis considers these as primordial: "policy mechanisms focused on reintegration refer to strategies explicitly aimed at supporting individuals' return to society and reducing long-term reliance on correctional supervision. These include educational and vocational programs, psychosocial support, integrated pre- and post-release assistance, and interventions targeting particularly vulnerable groups" (p. 14).	T	4
Alternative imprisonment	20/7/2026 12:03 Any reference to the need for or to the existence of other forms of detention that are outside the prison institution.	T	4
Post release individual obstacles	29/6/2026 14:33 Any reference to the individual difficulties faced by prisoners upon release from prison that directly hinder their reintegration into society.	T	4
Institutional conditions	15/7/2026 11:56 Any mention to the institutional configurations that are needed (degree of autonomy in regional authorities) or not to implement better reintegration services. 30/6/2026 12:48 Any reference to which authority has the competence to do what, and how is the division of penal competence distributed across regions. 15/7/2026 12:06 Any mention to how political pressures could change or not the programs for reintegration of inmates, as a broader societal shift towards increased punitiveness due to the rise of institutionalised far-right parties.	T	3
Structural difficulties	7/7/2026 16:19 Structural obstacles that individuals face before or during the start of a criminal procedure that minimise their chances of alternative sanctions or a shorter time in prison.	T	3
Social services upon release	29/6/2026 14:57 Any comment on the good availability of support services upon release (assistants and social workers).	T	3
Shorter sentences	2/7/2026 18:53 Any mention to the impact of shorter sentences, on whether the reintegration process or decarceration goals.	T	3
Recidivism	2/7/2026 18:59 Any mention to recidivism, as a way of preventing it or because it is an increasing reality in the country.	T	3
Penal orientation	2/7/2026 19:00 Any description made of the overall orientation of the penal system. Does it follow a more risk-oriented attitude, efficiency and management of inmates,	T	1

Code	Definition	Type	Quot.
	or does it prioritise reintegration, alternative sanctions for all and a development of the inmate's autonomy?		
Sentences implementation	20/7/2026 12:16 Any mention on how the judges and practitioners implement prison sentences.	T	1
Drug consumption/addiction	—	O	13
Disconnection in-out prison	—	O	5
Obstacles for early release	—	O	3
Connection reintegration and recidivism	—	O	2
Extended sentence due to unpaid fine	—	O	1
Differentiation security measure and penalty	In Spain, "when you commit a crime, you can be given a sentence or a security measure. A sentence would be anything involving prison, among others that aren't deprivation of liberty, like a fine or a ban on doing certain things. And then there are the security measures, for which you have to prove that you don't have criminal liability. That is to say, that you were not at all conscious at the time of the acts. And security measures can be many things, among others, for example, being sent to a rehabilitation centre."	O	1

Total coded quotations: 274