



## Chapter 9

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# Greece

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### Summary

The introduction of conditional release in Greece dates back nearly a hundred years.<sup>1</sup> As one might expect, the pertinent laws have been subjected to a number of reforms ever since. What is less expectable, perhaps, is that none of those reforms has brought about any fundamentally progressive large-scale change to the ways in which conditional release is applied on the ground. Indeed, amid pompous rhetoric of the rehabilitative and humanitarianist varieties, conditional release in Greece has always been hostage to conservative control imperatives. This may be understood in two seemingly contradictory but eventually complementary senses. On the one hand, conditional release has been deployed as a no-cost tool for curbing overcrowding in the antiquated prisons of the country and a 'carrot-and-stick' mechanism of incentivizing orderly behaviour among prisoners.<sup>2</sup> Both are functions which Rothman (1980/2002) characterizes under the catchall term 'administrative convenience'. On the other hand, owing to political considerations of the elites in office and the centralization of decision-making powers in the hands of a traditionally punitive judiciary, harsh legal and practical restrictions have been placed upon the granting of conditional release. This has not simply crippled the

<sup>1</sup>The terms 'conditional release', 'parole' and 'release on licence' are used interchangeably throughout the chapter.

<sup>2</sup>The same holds true in relation to similar schemes, such as temporary release (see Cheliotis 2005, 2006a, 2009).

capacity of the scheme to bring down overcrowding. The attendant frustration among prisoners over the degrading conditions of captivity combines with resentment for the lack of promised rewards in exchange for compliant conduct to erode the effectiveness of conditional release as a means of pre-empting prison unrest. But again, as Cohen (1985) notes well, disorders caused by penalty itself operate subtly to legitimate the ongoing and continuing neglect of decarcerative alternatives. Never has this paradox been more pronounced in Greece than today.

### **1. The early history of conditional release in Greece<sup>3</sup>**

As a temporary scheme planned to last two years only, conditional release was first introduced in Greece in 1911 under the broader category of 'early release'. Local judges presiding in Courts of Misdemeanours were responsible for assessing applications and determining the length of the licence period, which could vary between three and five years. Prisoners serving over five years could be released after completing three quarters (or, in exceptional cases, two thirds) of their sentence, while lifers needed to have served at least twenty years. Unless their custodial sentence was converted into a monetary penalty at two thirds of the former, prisoners serving between one and five years were eligible to apply for conditional release. Licences were suspended and prisoners returned to custody in the event of a further offence at any point before the expiry of the full sentence, but no provisions were made as to their supervision.

Whereas its European counterparts evoked offender rehabilitation as the driving force behind the introduction of conditional release, the Greek government only spoke of an 'exceptional' measure of 'leniency' that aimed to lessen the duration of exposure to inhumane conditions of overcrowded captivity and, even more so, to curtail the length of short-term sentences imposed systematically by the courts. Practice, however, belied the rhetoric. For one, no provisions were made as to the minimum of stay in prison required of those serving between three months and one year. Furthermore, in the light of public and academic criticism against the granting of clemency to so-alleged dangerous offenders, the implementation of conditional

<sup>3</sup>No legal history of conditional release in Greece can afford to ignore the account by Massouri (2006), which also provides the basis of this section.

release was subordinated to the 'law and order' ideology espoused by the courts themselves. On the one hand, a number of what would now be called 'static' eligibility criteria were put in place (excluding, for example, animal thieves, brigands and, more generally, previously convicted offenders) to ensure that the scheme would be reserved for a small minority of 'low-risk' prisoners. In the absence of social services, on the other hand, 'dynamic' risk classification criteria (for example, the 'character' of the prisoner) were left open to judicial interpretation, which meant in essence that the use of conditional release would remain minimal regardless. All the while, and perhaps more pragmatically, the prospect of conditional release became the first formal mechanism for incentivizing conformity among prisoners detained in Greek establishments. In fact, a ministerial circular directed the judiciary to base their assessment solely on the applicant's custodial behaviour, for this was the only risk factor that could be assessed in practice (for example, by recourse to pertinent prison reports). Albeit limited, the historical evidence demonstrates that judgments by the case-study method (today also referred to as 'clinical judgments') gave rise to an idiosyncratic and unfair system.

No sooner did the measures taken in 1911 expire than the intertwined practical problems of prison overcrowding and institutional order came back to the surface. So much so that, in 1917, the Greek government was forced to reintroduce conditional release, this time explicitly titled as such and on a permanent basis. Although not in an instructive manner, the core law now provided that the main criterion to be assessed consisted of the applicant's custodial conduct. As that was not an essential change which would ensure wider use, decision-making responsibilities shifted from the local judiciary to a newly established Parole Board based at the Ministry of Justice and to the Minister himself. In addition, eligibility was extended to the ever-swelling cohort of prisoners serving sentences longer than three months and up to five years. While the maximum term before eligibility remained at the same high levels as previously – 20 years for lifers and three fourths or two thirds of the sentence for the rest – a low minimum of three months was set to benefit short-term prisoners. Little wonder that the granting of parole quickly underwent a notable expansion. During the period 1917–23, for example, applications were successful at an 88 per cent rate (9,471 out of 10,799).

Among others, conditions imposed on licensees included a specified place of residence and abstinence from troublesome behaviour. Licences were suspended if, during the licence period or

within five years following its expiry, licensees committed a further offence and were sentenced to imprisonment for a term longer than three months. Once again, however, the supervision of licensees was not entrusted to a specialized body. In a knee-jerk effort to remedy for the public concerns thus raised over security, the law reduced the length of the licence period, providing that it could not exceed a quarter of the sentence, or a third in the case of prisoners older than 70 or younger than 18 years of age. In the case of lifers, the licence period was seven years. Operational difficulties led the then Minister of Justice implicitly to gainsay official references to the rehabilitative mission of parole and explicitly to acknowledge its primary function as that of enforcing discipline among prisoners, if still with allusions to humanitarianism on the part of state elites.

The discourse of humanitarianism gained momentum especially after 1922, as parole came increasingly to be conflated with mass amnesty and clemency to the satisfaction of political clienteles (see, further, Kokolakis 1994). This practice, however, soon resulted in virulent political fury. Resolution was found in the blanket adoption of an unprecedentedly punitive rhetoric premised on general deterrence and institutional discipline. Unsurprisingly and, while not bereft of rehabilitative and humanitarian proclamations, subsequent reforms signalled the decline of conditional release. Among the hardest hit were the thousands of communists and trade unionists banished under the *Idionymo* Law (*idionymo* standing for 'special crime'), which was passed by the Liberal government in 1929. Massouri (2006: 190) reports that political prisoners were strictly excluded from conditional release, while Voglis argues that they could only be released at the one-fourth point of sentence after signing a declaration that they had 'repented' and would abstain from activities 'whose manifest purpose [was] the overthrow of the established social order by violent means or the detachment of part from the whole of the country' (2002: 36; see also Panourgia 2008).

In 1933, the granting of parole was restricted to the incongruous category of 'no-risk' prisoners, the required minimum of stay in prison rose to six months, and the maximum term before eligibility moved upwards to two thirds of the sentence. Also, the length of the licence period was divorced from the expiry of the sentence and increased to two years for the general prison population (though brought down to five years for lifers). Licences were suspended if, within two years following the expiry of the licence period (or within five years in the case of lifers), licensees committed a further offence for which they were sentenced to imprisonment for a term longer

than three months. In 1950, decision-making responsibility shifted back to the judiciary and Local Misdemeanours Courts in particular, the required minimum length of stay in prison increased further to twelve months, while the length of the licence period rose to three years for the general prison population and to ten years for lifers. Licences were suspended if, during the licence period, the licensee committed a premeditated offence for which the court imposed an unappealable sentence of imprisonment for a term longer than three months.

Disappointments were still in the future. Inconsistent decision-making practices by local courts, on the one hand, and their limited use of conditional release, on the other, were combining with the inhumane conditions of overcrowded captivity to enhance frustration and anger among prisoners (and undermine the very function of the scheme as a mechanism of prisoner control, for that matter). With a view to pre-empting the impending crisis, a law was passed in 1957 to convey the message that individual prison establishments were by no means involved in the granting of parole. But this was to no avail. If with some delay, caused in part by the ascendancy of the military junta and its seven-year stay in power (1967–74), prisoner riots and hunger strikes started becoming a commonplace occurrence in the early 1980s, the prime demand being the expansion of opportunities for early release. The Greek state first responded by forming inquiry committees of ‘specialists’, some of whom spoke as such while others merely parroted provisions from jurisdictions elsewhere. One way or another, a string of reforms was produced in the 1990s, giving rise eventually to the parole system which is in place today.

We shall shortly turn to those reforms and the current era. First, however, it is important to put the discussion into context by reference to statistical trends in the use of imprisonment and conditional release in Greece over the last three decades or so.

## **2. Data on the use of imprisonment and conditional release in contemporary Greece: 1980s to the present**

Although not themselves devoid of substantive gaps and methodological pitfalls, the yearbooks compiled and published by the National Statistical Service of Greece (NSSG) constitute the most comprehensive and reliable source of information about past and current imprisonment trends in the country. Secondary works, however, fall far short of exhausting NSSG data and reading them

with accuracy.<sup>4</sup> For instance, secondary literature usually relies on one-day snapshots alone (at times also on rather irregular snapshots), to the exclusion of annual caseloads<sup>5</sup> of prisoners and annual totals of admissions to the prison. Evidently, this leaves one in the dark as to the number of offenders held in custody over the course of a year, the number of offenders sent to prison by the courts over that year and the length of their stay in prison. Likewise, what is read as total prisoner population typically refers to the convict population only, despite explicit or implicit claims that the analysis concerns both convicted and remand prisoners. This is no small error, as remand prisoners in Greece comprise one third to one quarter of the total prison population (see Table 9.1) and the vast majority of them are kept in the same facilities as convicted prisoners. What is more, the average length of remand detention (that is, 365 days) far exceeds the minimum custodial sentence and is the highest in the EU (Commission of the European Communities 2006). Whether by relying solely on one-day snapshots or by missing the prison population on remand, secondary works understate the overall scale and severity of imprisonment. Precisely because it is judged in proportion to such understated measurements of imprisonment, the extent to which non-custodial alternatives are implemented in practice is exaggerated. With a view to helping remedy the problem, this section offers a

<sup>4</sup>Space limitations do not allow exploration of the individual reasons lying behind such failures, nor of the attending socio-political consequences, only to note that many – though not all – of those works bear the names of the darlings of the sitting parties: those among academic criminologists whose self-professed expertise is called for to legitimate policy decisions that have already been made by government officials (see, further, Cheliotis forthcoming).

<sup>5</sup>The term ‘caseload’ refers to the total number of cases of offenders (whether convicts or pre-trial detainees) held in custody during a given year. To put it differently, the caseload of offenders held in custody during a given year is the sum total of the number of prisoners remaining in custody at the end of the previous year and the number of prisoners admitted to the prison system during the year at issue. On occasion, multiple cases may regard single individuals who were, for example, discharged, readmitted and discharged again within the same year. Precisely due to the possibility of duplication or multiple counts (a possibility that remains small due to the ever-increasing length of stay in prison), the terms ‘caseload’ and ‘cases of offenders held in custody’ are preferred here to ‘yearly totals of *individual* prisoners held in custody’, which is the description employed erroneously by the NSSG and others (see, further, Cheliotis forthcoming).

**Table 9.1** Caseload of convicted and remand prisoners in Greece, 1980–2006

Year	Total caseload of prisoners		Caseload of convicted prisoners		Caseload of remand prisoners
	(n)	(n)	(%)	(n)	(%)
1980	11,455	8,186	71.4	3,269	28.5
1989	10,763	6,748	62.6	4,015	37.3
1990	11,835	7,588	64.1	4,247	35.8
1991	12,595	7,992	63.4	4,603	36.5
1992	14,242	8,649	60.7	5,593	39.2
1993	14,847	9,866	66.4	4,981	33.5
1994	14,390	9,883	68.6	4,507	31.3
1995	13,944	9,377	67.2	4,567	32.7
1996	13,281	8,786	66.1	4,495	33.8
1997	13,344	8,997	67.4	4,347	32.5
1998	13,912	10,130	72.8	3,782	27.1
1999	13,409	9,910	73.9	3,499	26.0
2000	14,708	11,555	78.5	3,153	21.4
2001	16,446	12,687	77.1	3,759	22.8
2002	16,444	12,684	77.1	3,760	22.8
2003	17,191	12,889	74.9	4,302	25.0
2004	17,227	12,634	73.3	4,593	26.6
2005	17,869	13,082	73.2	4,787	26.7
2006	18,070	13,170	72.8	4,900	27.1

*Sources of primary data:* NSSG, *Statistical Yearbook* and *Justice Statistics*. The data were compiled and analysed by the author.

*Note:* Data for the years 2002, 2003 and 2004 are based on NSSG estimates, as they were published originally. The latest (2007) statistical yearbook of the NSSG provides slightly different estimates that hardly affect the analysis.

summary of basic findings from a broader reanalysis of NSSG data (see, further, Cheliotis forthcoming).

Imprisonment in Greece has grown explosively over the last two decades. Following a modest decline during the 1980s, the annual total caseload of prisoners (including pre-trial detainees) rose by 52.6 per cent between 1990 and 2006, from 11,835 to 18,070. This is not so much due to the rise in the caseload of pre-trial detainees as in that of convicted prisoners. Whereas the caseload of pre-trial detainees increased by 15.3 per cent between 1990 and 2006, from 4,247 to 4,900, the proportion of cases of pre-trial detainees among the total prisoner caseload fell, from 35.8 to 27.1 per cent. By contrast, the

caseload of convicted prisoners rose by a massive 73.5 per cent, from 7,588 in 1990 to 13,170 in 2006. Correspondingly, the share of cases of convicted prisoners among the total prisoner caseload increased from 64.1 to 72.8 per cent (see, further, Table 9.1). As one would expect, prison admissions have also been on the rise. Following an important decline of 22.4 per cent, from 8,490 in 1980 to 6,585 in 1989, the annual total of admissions grew by 13.2 per cent between 1990 and 2006, from 7,242 to 8,199. The rise, in this case, is modest and relates to convicted prisoners only. Unlike what is commonly assumed, the total of admissions of pre-trial detainees is on the decline. Between 1990 and 2006, it fell by 32.1 per cent, from 2,690 to 1,824, while the proportion of prison admissions of pre-trial detainees among the total of admissions of all prisoners dropped from 37.1 to 22.2 per cent. The total of admissions of convicted prisoners, on the other hand, rose by an impressive 40 per cent, from 4,552 in 1990 to 6,375 in 2006, while the share of admissions of convicted prisoners among the total of prisoner admissions increased from 62.8 to 77.7 per cent (see Table 9.2).

In and of themselves, then, prison admissions do not suffice to account for the growth in the caseload of prisoners. In the same vein, the rise in prison admissions under conviction cannot alone adequately explain the increased caseload of convicted prisoners. Most notably, the drop in prison admissions on remand appears to contradict the rise in the caseload of pre-trial detainees. The key variable here is length of sentence. From 1990 to 2006, for example, there was a fall in the caseload of prisoners sentenced to terms of less than a month (by 76.6 per cent, from 476 to 111), between six and twelve months (by 17.4 per cent, from 1,201 to 991) and between one to three years (by 31.5 per cent, from 2,788 to 1,909). But there was a huge expansion in the caseload of prisoners sentenced to terms of one to six months (by 122.4 per cent, from 616 to 1,370), three to five years (by 323.3 per cent, from 616 to 2,608), five to twenty years (by 332.7 per cent, from 1,246 to 5,392) and life imprisonment (by 155.1 per cent, from 270 to 689). The caseload of prisoners sentenced to a term of five to twenty years was by far the highest (40.9 per cent) in 2006. Turning to the annual caseloads of offenders admitted to the prison during the period 1990–2006, there was a fall for terms of less than a month (by 77.7 per cent, from 462 to 103), between six and twelve months (by 19.8 per cent, from 947 to 759) and between one to three years (by 35.6 per cent, from 2,003 to 1,289). But again, there was a huge expansion in the caseload of offenders admitted to the prison for a term of one to six months (by 127.1 per cent, from 535 to

**Table 9.2** Prison admissions of convicted and remand prisoners in Greece, 1980–2006

Year	Total number of admissions		Admissions of convicted prisoners		Admissions of remand prisoners	
	(n)	(n)	(%)	(n)	(%)	
1980	8,490	5,846	68.8	2,644	31.1	
1989	6,585	3,757	57.0	2,828	42.9	
1990	7,242	4,552	62.8	2,690	37.1	
1991	7,462	4,455	59.7	3,007	40.2	
1992	8,880	5,250	59.1	3,630	40.8	
1993	8,402	5,779	68.7	2,623	31.2	
1994	7,580	5,099	67.2	2,481	32.7	
1995	8,326	5,429	65.2	2,897	34.7	
1996	7,524	5,015	66.6	2,509	33.3	
1997	8,105	5,504	67.9	2,601	32.0	
1998	7,819	6,035	77.1	1,784	22.8	
1999	6,403	5,308	82.8	1,095	17.1	
2000	8,563	7,142	83.4	1,421	16.5	
2001	11,921	8,901	74.6	3,020	25.3	
2002	8,473	6,610	78.0	1,863	21.9	
2003	9,347	6,803	72.7	2,544	27.2	
2004	9,057	6,485	71.6	2,572	28.3	
2005	8,851	6,702	75.7	2,149	24.2	
2006	8,199	6,375	77.7	1,824	22.2	

*Sources of primary data:* NSSG, *Statistical Yearbook* and *Justice Statistics*. The data were compiled and analysed by the author.

*Notes:* Data for the years 2002, 2003 and 2004 are based on NSSG estimates, as they were published originally. The latest (2007) statistical yearbook of the NSSG provides slightly different estimates that hardly affect the analysis. Data for the year 2001 should be treated with caution: the calculations on which they are based use data for the year 2000 that do not include 2,036 cases of convicted prisoners and 777 cases of remand prisoners about whom no information was provided by the authorities in charge.

1,215), three to five years (by 699.4 per cent, from 186 to 1,478) and five to twenty years (by 305.3 per cent, from 374 to 1,516). Overall, admissions to prison for a term of life imprisonment remained stable. Of the caseloads of prisoners admitted to the prison in 2006, the highest were for terms of five to twenty years (23.7 per cent), three to five years (23.1 per cent), one to three years (20.2 per cent) and one to six months (19 per cent). Not, then, that the judiciary has become

more liberal in recent years, but their traditionally punitive mentality manifests itself in the excessive use of long custodial sentences, more so than in the use of custodial sentences as such. This, as we shall see later, is the case especially with petty drug-related offences.

With insignificant variation over time, cases of convicted prisoners in Greece are overwhelmingly of male and adult individuals (for example, 93.4 and 99.2 per cent of the total prisoner caseload in 2006, respectively). As regards the nationality of convicted prisoners in the total caseload, however, the temporal variation is significant. Between 1996 and 2006, for example, the annual total caseload of non-Greek convicts rose by 140.5 per cent, from 2,253 to 5,420. Correspondingly, the proportion of non-Greeks among the total caseload of convicts increased from 25.3 to 41.1 per cent. This is four times higher than the estimated proportion of non-Greeks in the general population of the country, but the level and nature of their criminal involvement fail to justify the discrepancy (see, further, Cheliotis forthcoming; Karydis forthcoming). During the same period, the annual total caseload of Greek convicts increased by 16.8 per cent, from 6,632 to 7,750, yet fell in reference to the annual total of cases of convicted prisoners, from 74.6 to 58.8 per cent.

In parallel, the annual caseload of convicted and remand prisoners released for any reason increased by 16.9 per cent during the period 1990–2006, from 6,607 to 7,725, but fell in proportion to the annual caseload of convicted and remand prisoners, from 55.8 to 42.7 per cent. To differentiate between convicted and remand prisoners, the annual caseload of convicted prisoners discharged for any reason increased by 46.1 per cent during the period 1990–2006, from 4,021 to 5,876, but fell in proportion to the annual caseload of convicted prisoners, from 52.9 to 44.6 per cent. As concerns remand prisoners, the annual caseload of discharges for any reason during the same period fell by 28.4 per cent, from 2,586 to 1,849, and from 60.8 to 37.7 per cent in proportion to the annual caseload of remand prisoners. In conclusion, the rise in the rate of discharge for any reason has proved too low to put a halt to the increase in the caseload of prisoners.

The same could not but be true of the narrower category of release on parole (which is also the major reason for release from prison). For instance, the caseload of convicted and remand prisoners released on parole increased by 17.8 per cent between 1998 and 2006, from 3,035 to 3,578, but fell in proportion to the annual caseload of convicted and remand prisoners, from 21.8 to 19.8 per cent. During the same period, the caseload of convicted prisoners released on parole rose by 17.4 per cent, from 2,515 to 2,954, but dropped in proportion

to the caseload of convicted prisoners, from 24.8 to 22.4 per cent. The caseload of remand prisoners released on parole increased by 20 per cent, from 520 to 624, but fell in proportion to the caseload of remand prisoners, from 14.2 to 12.7 per cent.<sup>6</sup> One might deduce that the judiciary still exhibits far greater propensity to pass custodial sentences than to grant release on parole, or that parole eligibility is delayed in good part due to the ever-increasing length of custodial sentences. Or, as Karydis and Koulouris (2002) go on to suggest, that lengthier sentences may well be the means by which judges manage to control the release process even before offenders are put behind bars. Unfortunately, these themes have yet to be subjected to thorough and methodologically reliable empirical scrutiny.

### 3. Conditional release in contemporary Greece: 1990s to the present

We are now in a position to address the reforms of the law on conditional release since the 1990s as well as the practical effects, if any, that those reforms have generated in turn. In 1991, the maximum term required before parole eligibility was reduced to three fifths of the sentence for the general prison population and to half the sentence for prisoners aged over 70. Owing to conservative resistance on the part of the judiciary, however, the use of conditional release actually fell. The caseload of convicted prisoners released on licence, for example, decreased by 25.4 per cent, from 440 (or 6.1 per cent of the total annual caseload of convicted and remand prisoners released) in 1991 to 328 (or 4.2 per cent of the total annual caseload of convicted and remand prisoners released) in 1992. The corresponding rate *vis-à-vis* all reasons for release of convicted prisoners dropped from 9.6 per cent in 1991 to 7.2 per cent in 1992. What is worse, prison admissions of convicted and remand prisoners concurrently rose by a significant 16.1 per cent, from 7,462 (or 73 per 100,000 inhabitants) in 1991 to 8,880 (or 86 per 100,000 inhabitants) in 1992, thereby feeding a 13 per cent rise in the caseload of convicted and remand prisoners, from 12,595 (or 123 per 100,000 inhabitants) in 1991 to 14,242 (or 137 per 100,000 inhabitants) in 1992 (see Tables 9.1 and 2). Further outbreaks of prison unrest were on their way.

<sup>6</sup>Data for earlier years are not available or calculable (see, further, Cheliotis forthcoming).

In response, 1993 witnessed the introduction of automatic early release for prisoners fulfilling the pertinent criteria, particularly that of orderly custodial behaviour. Certainly, this provision reinvigorated the control powers of prison officials, as they now appeared to hold the fate of prisoners tightly in their hands. At the same time, the judiciary was seemingly relegated to a mere 'approving body'. A great many judges vocalized their opposition and many even actively resisted compliance with the law, continuing to process cases at will (Massouri 2006: 287–8). The outcome was that the caseload of convicted prisoners released on licence only went up by 3 per cent, from 328 (or 4.2 per cent of the total annual caseload of convicted and remand prisoners released) in 1992 to 338 (or, again, 4.2 per cent of the total annual caseload of convicted and remand prisoners released) in 1993. The corresponding rate *vis-à-vis* all reasons for release of convicted prisoners fell from 7.2 per cent in 1992 to 6.7 per cent in 1993. At the same time, prison admissions of convicted and remand prisoners also fell, by 5.3 per cent, from 8,880 (or 86 per 100,000 inhabitants) in 1992 to 8,402 (or 80 per 100,000 inhabitants) in 1993. Yet they remained high enough, especially for convicted prisoners, to feed a modest rise of 4.2 per cent in the caseload of convicted and remand prisoners, from 14,242 (or 137 per 100,000 inhabitants) in 1992 to 14,847 (or 142 per 100,000 inhabitants) in 1993 (see Tables 9.1 and 2). Naturally, rioting erupted in prisons once again.

A new law was passed in 1994 to help alleviate the tension. Parole eligibility was extended to prisoners serving appealable sentences. The maximum term required before parole eligibility was reduced to two fifths of the sentence for prisoners aged over 70 and to eighteen years for lifers of the same age group. More importantly, the required minimum of stay in prison was brought down to two fifths of the sentence for prisoners earning 'good-time' credits for participation in either educational and vocational training programmes or prison work. But, in practice, opportunities for placement on to 'good-time' schemes were so few that their function changed quickly from a means by which prisoners could expedite release to a powerful mechanism of prisoner control in the hands of allocating authorities in prison. Because the problem of overcrowding was thus bound to persist, the law also introduced a new, one-off, 'exceptional' type of automatic release, whereby short-term prisoners could be released at the one-quarter point of their sentence. As an immediate result, the caseload of convicted prisoners released on licence shot up by 382 per cent, from 338 (or 4.2 per cent of the total annual caseload of convicted and remand prisoners released) in 1993 to 1,630 (or 18.9 per

cent of the total annual caseload of convicted and remand prisoners released) in 1994. The corresponding rate *vis-à-vis* all reasons for release of convicted prisoners rose from 6.7 per cent in 1993 to 28.1 per cent in 1994. Meanwhile, however, judicial use of custody remained excessively high, which meant that imprisonment rates could only slightly be affected by the rise in the use of conditional release. More specifically, prison admissions of convicted and remand prisoners fell by 9.8 per cent, from 8,402 (or 80 per 100,000 inhabitants) in 1993 to 7,580 (or 72 per 100,000 inhabitants) in 1994, yet remained high enough to confine the drop in the corresponding annual caseload to a mere 3 per cent, from 14,847 (or 142 per 100,000 inhabitants) in 1993 to 14,390 (or 136 per 100,000 inhabitants) in 1994 (see Tables 9.1 and 2). The eruption of further prison unrest came as a logical consequence.

As if to undercut disparity in decision-making, a law passed in 1995 introduced two innovations. First, parole assessments were entrusted to three-member prison-based boards consisting of governors and specialist staff with a 'welfarist' mentality (for example, social workers, psychologists, criminologists). And, secondly, prosecutors were assigned to individual prison establishments to supervise the internal operations thereof. But the very lack of specialist professionals, coupled with the punitive outlook predictably brought to the process by prosecutors, afforded prison governors abundant leeway to continue deploying parole as a tool of prisoner control. Judges, all the while, persisted in imposing their own preferences on the granting of early release, even as they were threatened with disciplinary proceedings (Massouri 2006: 298–9). It comes as no surprise that the caseload of convicted prisoners released on licence dropped by 27.4 per cent, from 1,630 (or 18.9 per cent of the total annual caseload of convicted and remand prisoners released) in 1994 to 1,182 (or 14.7 per cent of the total annual caseload of convicted and remand prisoners released) in 1995. The corresponding rate *vis-à-vis* all reasons for release of convicted prisoners fell from 28.1 per cent in 1994 to 21.7 per cent in 1995. Prison admissions of convicted and remand prisoners rose by 9.8 per cent, from 7,580 (or 72 per 100,000 inhabitants) in 1994 to 8,326 (or 78 per 100,000 inhabitants) in 1995. An insignificant 3 per cent drop can be observed in the corresponding annual caseload, from 14,390 (or 136 per 100,000 inhabitants) in 1994 to 13,944 (or 131 per 100,000 inhabitants) in 1995.

Further laws were passed in 1996 and 2001, whereby parole eligibility was redefined according to length of sentence and seriousness of offence, respectively. With variation only in particulars,

the provisions of these laws are still in force today. The most radical change in the law of 1996 was the abolition of a minimum term required of prisoners serving five years or less, while the maximum term required before eligibility was reduced to two fifths of the sentence. For prisoners serving between five and twenty years, the minimum term required before eligibility was set at a third of the sentence, and the maximum term at three fifths. The minimum term for lifers was set at sixteen years and the maximum remained twenty. Maximum terms were lowered to two fifths of the sentence for prisoners serving between five and twenty years, and to sixteen years for lifers, in the case of prisoners over 70 years of age. Provisions were also made that prisoners aged over 65 earn double credit for each day spent in actual custody, and that juveniles (that is, persons aged between 13 and 18) be eligible for conditional release at the one-third point of their sentence.<sup>7</sup>

In 2001, the minimum and maximum terms before eligibility were, respectively, raised to two thirds and four fifths of the sentence for drug-related offenders serving between five and twenty years. The minimum term before eligibility was set at twenty-five years for prisoners serving a life sentence for a drug-dealing offence. A law passed in 2002 provided that foreigners subject to deportation orders following imprisonment are eligible for conditional release, but are to be deported immediately after conditional release is granted. When deportation is not possible, foreigners may stay in the country under conditional release. The latest legislation (see below) mandated that the minimum term before eligibility for those convicted of terrorist acts be twenty-five years (Kaiafa-Gbandi *et al.* 2008: 491), but it set no minimum for prisoners convicted of high treason. At the same time, automatic release for reasons of ill-health was extended to include prisoners diagnosed with one of the following: AIDS; long-term kidney failure which requires regular dialysis; resistant tuberculosis; quadriplegia; cirrhosis of the liver with a degree of disability that exceeds 67 per cent; dementia at the age of 80 or over; or final-stage malignant neoplasms (cancer). But the list was drafted in such a way as to disqualify controversial cases: from a half-blind and nearly deaf amputee, Savvas Xiros, a captive member of the terrorist group November 17, to elderly and terminally ill junta officers still alive in prison (see, for example, Ministry of Justice 26 November 2008).

<sup>7</sup>Irrespective of age, each day of work in prison counts as one and a half days towards the sentence.

At the time of writing, applications for conditional release are submitted by prison governors to Local Misdemeanours Councils one month prior to the eligibility date.<sup>8</sup> If the applicant is deemed unsuitable for release, prison governors may also submit to the Council a pertinent account, along with a report drafted by the social services authorities of the establishment. At least ten days prior to the hearing, prisoners are invited to attend, whether in person or via their chosen legal representative. Despite expressing concerns over what they depict as their declining role in the decision-making process (Karydis and Koulouris 2002), judges enjoy as wide discretion as ever. On the one hand, the law provides for the grant of conditional release as a general rule and stipulates that negative decisions can only be an exceptional means by which to prevent further re-offending, in which case the burden of proof rests with the judiciary. On the other, risk of reoffending is to be assessed by resort to subjective court rulings. This is why risk assessments remain tightly and exclusively tied to such a slippery criterion as that of 'custodial behaviour', even though it bears a tenuous link with recidivism. It is indicative that, while most judges equate good custodial behaviour with the absence of prior disciplinary record, there is no consensus as to whether past failure to comply with the conditions of home leave should count against the applicant (Massouri 2006: 340–1; see also Papacharalambous 1999).

In the event of conditional release being granted, conditions may be imposed upon the parolee regarding his 'lifestyle and especially his place of residence'. These conditions may be revoked or modified upon the request of the parolee. As concerns adult prisoners, if the remainder of the sentence to be served is three years or less, the licence stays in force for three years. If the remainder of the sentence to be served exceeds three years, the licence stays in force until the entire sentence has expired. In the case of lifers, the licence stays in force for ten years. As concerns juvenile prisoners, the licence stays in force until the entire sentence has expired. Responsible for the supervision of parolees is the newly established body of probation officers (see below). The law draws a technical distinction between recall and suspension of conditional release. Licences are *recalled* by the Local Misdemeanours Council following the recommendation of the supervising authorities when parolees fail to abide by the conditions imposed. In such cases, the time spent on licence does not count towards the sentence. Licences are *suspended* when parolees

<sup>8</sup>Juvenile cases are dealt with in three-member juvenile tribunals.

commit premeditated offences punishable by imprisonment for a term longer than six months. In such cases, parolees are returned to prison to serve both the new sentence and the whole of the period between release on licence and the expiry of the original sentence.

Thanks to the law passed in 1996, the caseload of convicted prisoners released on licence rose by an impressive 47.6 per cent within a single year, from 1,182 (or 14.7 per cent of the total annual caseload of convicted and remand prisoners released) in 1995 to 1,745 (or 22 per cent of the total annual caseload of convicted and remand prisoners released) in 1996. The corresponding rate *vis-à-vis* all reasons for release of convicted prisoners increased from 21.7 per cent in 1995 to 33.6 per cent in 1996. Meanwhile, prison admissions of convicted and remand prisoners fell by 9.6 per cent, from 8,326 (or 78 per 100,000 inhabitants) in 1995 to 7,524 (or 70 per 100,000 inhabitants) in 1996. The corresponding annual caseload dropped by 4.7 per cent, from 13,944 (or 131 per 100,000 inhabitants) in 1995 to 13,281 (or 124 per 100,000 inhabitants) in 1996. To assess the impact of the 1996 reform on a longer-term basis, the caseload of convicted prisoners released on licence rose by 116.5 per cent, from 1,182 (or 14.7 per cent of the total annual caseload of convicted and remand prisoners released) in 1995 to 2,560 (or 35 per cent of the total annual caseload of convicted and remand prisoners released) in 2000. The corresponding rate *vis-à-vis* all reasons for release of convicted prisoners increased from 21.7 per cent in 1995 to 45.1 per cent in 2000. All the while, prison admissions of convicted and remand prisoners saw a slight increase of 2.8 per cent, from 8,326 (or 78 per 100,000 inhabitants) in 1995 to 8,563 (or 78 per 100,000 inhabitants) in 2000. The corresponding annual caseload rose by 5.4 per cent, from 13,944 (or 131 per 100,000 inhabitants) in 1995 to 14,708 (or 109 per 100,000 inhabitants) in 2000 (see Tables 9.1 and 2). It is reasonable to conclude that the rather modest increase in the use of custodial sentences, on the one hand, and the significant rise in the use of conditional release, on the other, helped minimize the growth of the prisoner caseload during 1995–2000.

Turning to the impact of the law passed in 2001, the caseload of convicted prisoners released on licence rose by a tiny 3 per cent, from 2,560 (or 35 per cent of the total annual caseload of convicted and remand prisoners released) in 2000 to 2,639 (or 31 per cent of the total annual caseload of convicted and remand prisoners released) in 2001. The corresponding rate *vis-à-vis* all reasons for release of convicted prisoners fell from 45.1 per cent in 2000 to 40.2 per cent in 2001. All the while, the annual total caseload of convicted and remand prisoners rose by 11.8 per cent, from 14,708 (or 109 per 100,000

inhabitants) in 2000 to 16,446 (or 150 per 100,000 inhabitants) in 2001.<sup>9</sup> On a longer-term basis, the caseload of convicted prisoners released on licence rose by 15.3 per cent, from 2,560 (or 35 per cent of the total annual caseload of convicted and remand prisoners released) in 2000 to 2,954 (or 38 per cent of the total annual caseload of convicted and remand prisoners released) in 2006. The corresponding rate *vis-à-vis* all reasons for release of convicted prisoners increased from 45.1 per cent in 2000 to 50.3 per cent in 2006. At the same time, prison admissions of convicted and remand prisoners fell by 4.2 per cent, from 8,563 (or 78 per 100,000 inhabitants) in 2000 to 8,199 (or 73 per 100,000 inhabitants) in 2006. The corresponding annual caseload rose by 22.8 per cent, from 14,708 (or 109 per 100,000 inhabitants) in 2000 to 18,070 (or 162 per 100,000 inhabitants) in 2006 (see Tables 9.1 and 2). In stark contrast, then, with the previous six years, the low rise in the use of conditional release contributed by default to the significant growth in the prisoner caseload, even as prison admissions fell.

#### 4. Concluding remarks

The prison system of Greece was shaken to its roots in November 2008. For 18 consecutive days, some 6,000 prisoners, or half the prison population at the time, either abstained from prison food or, as became increasingly the case, went on complete hunger strike. During this time, two prisoner deaths were reported and there was one attempted suicide, while tens of others sewed their lips together. It was a desperate mass protest directed against the underuse and unfair administration of parole and temporary release, overcrowded and degrading conditions, inadequate medical provision and abusive prison staff, to name but a few of the grievances. A significant minority among the Greek public sympathized with the protesters. With marches and motorbike rallies through city centres, demonstrations outside prisons, open-air concerts featuring well-known Greek artists and Internet blogging, supporters joined prisoners in calling not only for reforms but also for the eventual abolition of prisons (Cheliotis and Xenakis 2008). Opposition extended outside the country's borders, as the then Minister of Finance, Yorgos Alogoskoufis, discovered at the London School of Economics, where he came under sustained egg-pelting from Greek anti-prison agitators.

<sup>9</sup>For reasons relating to the accuracy of the data for the year 2001, reference is not made to admissions data in this case (see, further, Cheliotis under review).

The government responded spasmodically. A new law was passed within less than a month, introducing various measures of a one-off character.<sup>10</sup> Most notably, the maximum term before eligibility for discretionary conditional release was lowered from four fifths to three fifths of the sentence for prisoners serving drug-related sentences between five and twenty years. Prisoners convicted of serious, organized drug dealing were exempted, but the authorities declared emphatically that the remaining two thirds (or 4,900) of drug convicts would still benefit from the new law (Ministry of Justice 19 November 2008). Further provisions included the automatic conditional release of misdemeanour offenders (after serving a fifth of sentences up to two years or a third of sentences over two years) and the discretionary conversion of sentences up to five years into monetary penalties at a minimum rate of 3 euros per day. Eligible prisoners lacking the necessary financial resources were given the alternative to opt for early release on a community-work order.

Following what was described as a thorough examination of the records of all 12,315 offenders held in prison at the time, the Minister of Justice, Sotiris Hadjigakis, announced that 5,500 were to be released by April 2009 at the latest (*Kathimerini* 1 January 2009). Of those, 3,720 were to be released imminently so that they could 'spend Christmas and New Year's with their significant others'. All this, Hadjigakis asserted in a speech he gave to Parliament, was a gesture of '[Aristotelian] leniency', 'sin-forgiving' and 'benefaction', a 'second chance [to petty offenders] to start their lives afresh' (Ministry of Justice 25 November 2008). Official predictions were made concurrently that the overall capacity of the prison estate would quickly overtake the number of prisoners behind bars (8,243 vs. 6,815, respectively, by April 2009; Ministry of Justice 26 November 2008).

But it was only by way of heuristic analogy that state authorities compared the promised reduction of the prison population by half with 'closing down three large prison establishments' (*Kathimerini* 1 January 2009). Prison population forecasts were based on the two-fold assumption that the courts would suddenly cease passing custodial sentences (for releases and releases alone could hardly ever suffice to bring the prison population down to 6,815), and that the use of early release would expand according to plan. If the former was false by definition, the latter was bound to be disproved very

<sup>10</sup>The sole exception were the aforementioned provisions for early release on the grounds of ill-health, which were given a permanent character.

soon. Anticipating the obvious, Hadjigakis coupled his discourse of generosity and open-heartedness with stern assurances that four new prison establishments (or an additional 1,290 places) would be ready to operate before the end of 2009 (*Kathimerini* 1 January 2009).

Indeed, the new law was replete with self-defeating features. Though referred to as the major 'beneficiaries' of the new law, petty drug-possession offenders could only rarely fall under the provisions for conditional release at the three-fifth point of sentence. The reason was that most had been penalized so harshly by sentencing courts as to be convicted of serious, organized drug dealing (a phenomenon on which see, further, Lambropoulou 2003). Not dissimilarly, the conversion of prison sentences into monetary penalties was a real possibility solely for the tiny minority of prisoners who could find the financial means required (see, for example, Aloskofis 2005). For want of a permit to stay in the country, the majority of foreign prisoners were not even entitled to a tax number (similar to a UK Schedule D number), the latter being a necessary prerequisite for the conversion of their prison sentence into a monetary penalty. The alternative to opt for community work was essentially a non-option, given that opportunities for work of this kind were few and far between. To top it all off, with its discretionary powers untouched, the judiciary could in any case ensure that 'front-door' entries would not be offset by 'back-door' conversions of sentences into monetary penalties or community-work orders.<sup>11</sup>

Further difficulties were to be found beyond the narrow confines of the law. Leaving aside the pockets of public sympathy to prisoners and their struggles, the broader socio-political climate could not have been less conducive to the application of decarcerative reforms on the shopfloor. Before the new law was even ratified formally, the fatal shooting of unsuspecting 15-year-old Alexandros Grigoropoulos by a police officer sparked three weeks of violent civil unrest across Greece. Unwilling to address the root causes of the crisis (that is, a mixture of police brutality and impunity, political corruption, unemployment and precarious labour under conditions of neoliberalism, and degraded education), the Greek government spoke of 'acts of blind violence' resulting from 'the exploitation of the anxieties of the youth by extreme elements' (Athens News Agency 12 December 2008). Pledges to exhibit 'zero-tolerance' and restore 'law and order' followed suit

<sup>11</sup>This is not to negate the possibility of professional resistance (on which, see further Cheliotis 2006b), only to doubt the degree of its applicability in the case at issue.

(see, for example, *The Sunday Times* 14 December 2008; see, further, Cheliotis forthcoming). The cacophony of warring voices sounded like music in the ears of judges, for they were now abler than ever to legitimate and enhance their long-standing punitive stance.

It comes as no surprise that a mere 370 prisoners were released under the new law by the end of 2008 (Ministry of Justice 29 December 2008), and only 968 by 10 April 2009 (*Eleftherotypia* 10 April 2009), not to mention that most of them would have been released under previous law anyway. Nikos Dendias, who took over as Minister of Justice in the mean time, was forced to admit to what he termed a 'partial failure'. Yet he also absolved himself and his predecessor by blaming the missed target on a 'tragic mistake in the calculations owing to the lack of a dedicated statistical service at the ministry' (*Eleftherotypia* 10 April 2009). Explaining away failures is deeply ingrained in everyday practice throughout contemporary Greece. As Herzfeld says of Greek bureaucrats, for instance, 'the buck-passing is consistent: clerk to supervisors, registrar to superiors, deputy mayor to mayor, mayor to prefect and minister' (1992: 92). And minister to no one, we may now add.

At first sight, more constructive steps seem to have been taken towards helping parolees in the transition between imprisonment and discharge. Following a 13-year period of gestation, for example, the establishment of a nationwide probation agency entrusted with responsibilities for aftercare supervision was finally brought into effect in 2004. Ever since, however, street-level practice has been fraught with difficulties, from ill-defined duties for practitioners and their lack of training to understaffing and disproportionately high caseloads (see, further, Giovanoglou 2006: 204–13; see also Pitsela forthcoming). It is plausible to suggest that the small but growing body of probation officers is mainly preoccupied with running routine checks on parolees for technical infractions, more so than with demanding tasks of a welfarist, aftercare orientation (for example, assistance in securing employment, housing or placement on to professional training schemes).

The emerging gap is said to have been filled by a private-law, state-supervised organization named EPANODOS, meaning 're-entry', which was inaugurated amid a great fanfare in 2007. In this case, too, however, there is a yawning abyss between theory and practice. It is not so much that EPANODOS suffers from insufficient resources (certainly human and possibly financial) nor the flawed presumption underlying its rhetoric (and reflected in its very name) that prisoners were once included in mainstream society. It is principally that the

organization itself lacks conviction in the possibility of rehabilitation for the vast majority of prisoners. In a paper presented at the retraining programme of the National School of Judges in 2005, for example, the academician later appointed head of EPANODOS declared that the problems faced by young prisoners in seeking employment after discharge 'appear insurmountable'. In good part, he went on to explain by reference to a self-exonerative conventional wisdom, this is due to chronic drug addiction and the attribute of 'laziness' instilled into the youth as a result of their incarceration, to such an extent that they would rather choose prison over life on the outside. If there is any rehabilitative hope for young prisoners, he concluded, it is to be placed mainly with the youngest of them, 'there where the branch is not yet crooked' (Courakis 2005: 11).<sup>12</sup> Were all this to be true, then riots and hunger strikes would merely be games by which 'lost causes' break their monotony, rather than generalized struggles for dignity and freedom.

But there is more. While high fear of crime among Greeks remains stubbornly disproportionate to the objective risk of victimization (see, for example, Tseloni and Zarafonitou 2008; Zarafonitou forthcoming), the head of EPANODOS led the publication of a state-funded manual instructing 'active citizens' as to the 'best practices' of minimizing vulnerability: from installing bolt-type locks on home doors and avoiding riding in elevators with strangers, to parking cars adjacent to pavement edges lest thieves plan to tow vehicles away (see Courakis 2006: 21–42). It requires quite a stretch of the imagination to believe that such an organization can actually help prisoners find their way back into a community that never wished to incorporate them anyway. It is, instead, more likely that the function of EPANODOS is to provide an evermore punitive system with a veneer of humanism – a 'human face', as the suggestive buzzword of the day has it. Ostensibly in opposition to the beautification of penalty, a group of self-dubbed anarchists went so far as to interrupt violently a conference organized by EPANODOS in central Athens in February 2009.

There is no inherent contradiction to the fact that legal and practical restrictions on parole fuel unrest in prisons and beyond, or that mixing increased surveillance of parolees with inadequate provisions to them is destined to push recall and suspension rates higher, or that rises in the use of imprisonment may well be causally related to

<sup>12</sup>For a multifaceted analysis of the relationship between youth and crime in contemporary Greece, see Papageorgiou and Cheliotis forthcoming.

recidivism (see, for example, Cheliotis 2008). The buck, in this case, is passed to the victims. Cohen puts the point astutely when he writes that, in the same way as the health industry attributes iatrogenic illness to purported faults of patients, so crime-control ideologues blame systemic failure on offenders, be they captive or otherwise: 'A special group of offenders is particularly to blame: the incorrigibles, the hard cores, the career criminals who so ungratefully persist in keeping recidivism rates so high. If only they would cooperate!' (1985: 169). Ultimately, and utterly paradoxically, the misfires of penalty legitimate its own existence, aggrandizement and harshening at the expense of decarceration.

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