

PRISON SERVICE JOURNAL

November 2015 No 222



Special Edition
Prison Management

Between human standards and institutional efficiency:

The regulation and deregulation of strip-searches in Belgium

Dr Tom Daems Associate Professor of Criminology at Leuven Institute of Criminology (LINC),
University of Leuven.

In total institutions, so Erving Goffman wrote over half a century ago, there is a ‘...constant conflict between human standards on one hand and institutional efficiency on the other’.¹ Since the publication of Goffman’s 1961 classic *Asylums* penal institutions in the West have experienced major transformations. Goffman’s analysis therefore no longer applies in full to 21st century prison life. Nonetheless, even in today’s ‘post disciplinary’² or ‘post authoritarian’³ penal institutions, where some of those total and oppressive characteristics have become more relaxed and where new techniques of prison management have transformed prison life, the question of striking a balance between dignity and security is still a daily preoccupation.

This so-called constant conflict between human standards and institutional efficiency surfaces in particular when inmates are being subjected to strip searches. A strip search typically implies that prisoners have to undress fully and that their naked bodies are exposed to — and inspected by — prison staff in order to verify whether no forbidden substances or weaponry are being smuggled into the prison. Such security procedures are an integral and indispensable part of prison management but these are also, by nature, invasive and potentially degrading measures. It should not come as surprise, then, that strip searches are controversial and contested security measures and that they have been widely debated and regulated.

In this article we will first briefly discuss how strip searches have become the object of European regulation. We will then reconstruct how strip searches have been regulated and, subsequently, deregulated in Belgium. Throughout this article we will illustrate that

the regulation of strip searches is far from self-evident: because strip searches are perceived to be a central and indispensable part of security by prison administrations and staff alike attempts to restrict their application and promote parsimony often tend to fail.⁴

Dynamic security and the European regulation of strip searches

Nowadays the regulation of strip searches usually forms part of a larger set of issues of prison management and security which touch upon the legitimacy of decision-making and procedures as well as the quality of life behind bars, that is, dynamic security. Penal Reform International defines dynamic security as follows: ‘...an approach to security, which combines positive staff prisoner relationships with fair treatment and purposeful activities that contribute to their future reintegration into society’.⁵ The *UN Prison Incident Management Handbook* formulates it as follows:

Prison staff members need to understand that interacting with prisoners in a humane and equitable way enhances the security and good order of a prison ...Irrespective of staffing ratios, each contact between staff and prisoners reinforces the relationship between the two, which should be a positive one, based on dignity and mutual respect in how people treat each other, and in compliance with international human rights principles and due process.⁶

Such an approach towards prison management and security, in fact, seems to be backed up

1. E. Goffman (1961). *Asylums*. London: Penguin, 76.
2. G. Chantraine (2006). La prison post-disciplinaire. *Deviance et Société*, 30(3), 273-288.
3. D. van Zyl Smit & S. Snacken (2009). *Principles of European Prison Law and Policy: Penology and Human Rights*. Oxford: Oxford University Press.
4. This article is a shorter and reworked version of a previously published paper. For a more elaborate discussion of the subject of this paper, see my original full-length chapter: T. Daems (2014). ‘Ceci n’est pas une fouille à corps’: The denial of strip searches in Belgian prisons. In: Deflem M. (Eds.), *Punishment and Incarceration: A Global Perspective (Series: Sociology of Crime, Law and Deviance, vol. 19)*. Bingley, UK: Emerald Group Publishing, 75-94.
5. Penal Reform International (2013). *Balancing security and dignity in prisons: A framework for preventive monitoring*. London: Penal Reform International, 4.
6. United Nations (2013). *Prison Incident Management Handbook*. New York: United Nations. 21-22.

empirically by the findings of recent studies on prison life. Indeed, over the past two decades or so the sociology of imprisonment has increasingly become interested in issues of legitimacy, that is, '...the extent to which the staff of different prisons succeed or fail in legitimating their deployment of power and authority and the techniques and strategies which they deploy in seeking to secure such legitimacy'.⁷ Relatedly, prison researchers have drawn attention to the so-called 'moral performance' or 'moral climate' of prisons. This type of research aims to go one step further than the question about legitimacy because, as Alison Liebling suggests, '...prisons are about more than power relations'.⁸ Indeed, as she explains, '...what matters to those who live and work 'where the action is' in prison is a set of concepts that are all about relationships, fairness, and order, and the quality of their respective treatment by those above them'.⁹

In Europe we find the clearest support for dynamic security in the European Prison Rules of 2006, which emanate from the Council of Europe. Rule 49 and rule 51.2 stipulate the following:

49. Good order in prison shall be maintained by taking into account the requirements of security, safety and discipline, while also providing prisoners with living conditions which respect human dignity and offering them a full programme of activities in accordance with Rule 25.

51.2 The security which is provided by physical barriers and other technical means shall be complemented by the dynamic security provided by an alert staff who know the prisoners who are under their control.¹⁰

It should not come as a surprise that strip searches have come to be debated and regulated within such a context of striving toward improving the moral performance of prisons. Indeed, strip searches are an

integral yet controversial part of prison systems across the globe as they are deemed to be indispensable in order to detect prohibited or dangerous items or substances. But how can such procedures be made more fair and legitimate? Rule 54 of the European Prison Rules offers the following guidelines to member states of the Council of Europe:

54.1 There shall be detailed procedures which staff have to follow when searching:

- a. all places where prisoners live, work and congregate;*
- b. prisoners;*
- c. visitors and their possessions; and*
- d. staff.*

54.2 The situations in which such searches are necessary and their nature shall be defined by national law.

54.3 Staff shall be trained to carry out these searches in such a way as to detect and prevent any attempt to escape or to hide contraband, while at the same time respecting the dignity of those being searched and their personal possessions.

54.4 Persons being searched shall not be humiliated by the searching process.

54.5 Persons shall only be searched by staff of the same gender.

54.6 There shall be no internal physical searches of prisoners' bodies by prison staff.

54.7 An intimate examination related to a search may be conducted by a medical practitioner only.

54.8 Prisoners shall be present when their personal property is being searched unless investigating techniques or the potential threat to staff prohibit this.

54.9 The obligation to protect security and safety shall be balanced against the privacy of visitors.

... strip searches are an integral yet controversial part of prison systems across the globe as they are deemed to be indispensable in order to detect prohibited or dangerous items or substances.

7. R. Sparks, A. Bottoms & W. Hay (1996). *Prisons and the Problem of Order*. Oxford: Clarendon, 35.
 8. A. Liebling (2004). *Prisons and their Moral Performance. A Study of Values, Quality, and Prison Life*. Oxford: Oxford University Press, 473-474.
 9. A. Liebling (2004). *Prisons and their Moral Performance. A Study of Values, Quality, and Prison Life*. Oxford: Oxford University Press, 458.
 10. Council of Europe (2006). *Recommendation Rec(2006)2 of the Committee of Ministers to member states on the European Prison Rules (Adopted by the Committee of Ministers on 11 January 2006 at the 952nd meeting of the Ministers' Deputies)*. Strasbourg: Council of Europe.

54.10 Procedures for controlling professional visitors, such as legal representatives, social workers and medical practitioners, etc., shall be the subject of consultation with their professional bodies to ensure a balance between security and safety, and the right of confidential professional access¹¹

Next to such explicit guidelines, as formulated in the European Prison Rules, it is interesting to note how a number of European institutions which are active in the field of the protection of human rights and the prevention of torture have drawn attention to the issue of strip searches. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), for example, which regularly visits and inspects detention centres across the 47 member states of the Council of Europe, has at several occasions reflected upon the practices of strip searches which it has observed during its visits. In its report about a recent visit to the Netherlands (10 to 21 October 2011) it commented as follows on the fact that it received numerous complaints concerning the frequency of strip searches in Dutch prisons:

A strip search is a very invasive — and potentially degrading — measure. Therefore, resort to strip searches should be based on an individual risk assessment and subject to rigorous criteria and supervision. Every reasonable effort should be made to minimise embarrassment; detained persons who are searched should not normally be required to remove all their clothes at the same time, for example a person should be allowed to remove clothing above the waist and to get dressed before removing further clothing. In addition, more than one officer should, as a rule, be present during any strip search as a protection to detained persons

*and staff alike. Further, inmates should not be required to undress in the presence of custodial staff of the opposite sex.*¹²

The European Court of Human Rights has dealt at several occasions with the question whether strip searches are acceptable under Article 3 of the European Convention of Human Rights.¹³ In principle, prisoners continue to enjoy all the fundamental rights and freedoms guaranteed under the European Convention; they should not forfeit their Convention rights merely because of their status as persons detained following a conviction. Restriction on those rights must be justified in each individual case.¹⁴ The Court acknowledges that strip searches may at times be necessary to ensure prison security or prevent disorder in prisons. Nonetheless, they must be conducted in an appropriate

manner and show respect to the human dignity of the inmate.¹⁵ Moreover, they should not be conducted in an arbitrary way.¹⁶ In addition, the Court has argued that strip searches should not take place in a systematic way and need to be precisely motivated with reference to the behaviour of the inmate who is subjected to such a procedure.¹⁷

The Court acknowledges that strip searches may at times be necessary to ensure prison security or prevent disorder in prisons.

The regulation of strip searches in Belgium

In the previous section we have briefly discussed how strip searches have come to be regulated within a European context and how such safety procedures relate to dynamic security. But, obviously, this does not imply that state authorities automatically conform to such European regulation and that they obediently adapt their safety procedures accordingly. In the remainder of this article we will reconstruct the recent history of the regulation and deregulation of strip searches in Belgium in order to illustrate how the constant conflict between human standards and institutional efficiency, as discussed by Goffman, has interfered with attempts at regulating strip searches.

11. Council of Europe (2006). *Recommendation Rec(2006)2 of the Committee of Ministers to member states on the European Prison Rules (Adopted by the Committee of Ministers on 11 January 2006 at the 952nd meeting of the Ministers' Deputies)*. Strasbourg: Council of Europe.
12. European Committee for the Prevention of Torture (2012). *Report to the Government of the Netherlands on the visit to the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 21 October 2011*. Strasbourg: Council of Europe, 23.
13. For a discussion of this issue, see e.g. D. van Zyl Smit & S. Snacken (2009). *Principles of European Prison Law and Policy: Penology and Human Rights*. Oxford: Oxford University Press, 285-290.
14. See e.g. European Court of Human Rights (2011). *Stummer v. Austria*, Decision n° 37452/02 of 7 July 2011, para 99.
15. European Court of Human Rights (2001). *Iwanczuk v. Polen*, Decision n° 25196/94 of 15 November 2001, para 59.
16. European Court of Human Rights (2007). *Frérot v. France*, Decision n° 70204/01 of 12 June 2007, para 47.
17. European Court of Human Rights (2010). *Ciupercescu v. Roumania*, Decision n° 35555/03 of 15 June 2010, para 117.

It has taken a very long time before Belgium adopted its first prison law. In June 1996 the then Minister of Justice published a white paper on prison policy and penal policy which acknowledged that Belgium lagged behind within Europe in terms of the enactment of prisoners' rights. In this white paper the Minister argued that immediate legislative action was necessary in order to fulfil Belgium's international treaty obligations. The Minister had requested Lieven Dupont, a professor in criminal law and penitentiary law at the University of Leuven, to write a draft text for Belgium's first prison act. One year later, in September 1997, professor Dupont finalised his assignment. In his draft proposal Dupont observed that strip searches had become routine procedures which were perceived and justified as indispensable instruments in the fight against drug smuggling and drug use inside Belgian prisons. However, so he added, strip searches were not regulated by law and were probably being used way too often. Dupont therefore advised to substantially revise existing practices in order to restrain the use of strip searches.¹⁸

Dupont's recommendations were subsequently forwarded to a newly created commission of experts, chaired by Dupont himself, whose task was to evaluate, elaborate, rework and translate the contents of his report into a draft legal text. In February 2000 this commission published its report which supported Dupont's recommendation to restrain the use of strip searches. To this end the commission advised to introduce an extra procedural barrier: strip searches should no longer be possible without an individualized decision of the prison governor, based on an individual case-by-case assessment.

After several years of parliamentary debate the Prison Act of 12 January 2005 was eventually adopted. Article 108 of the Prison Act introduced a clear distinction between a search of an inmate's clothes on the one hand, and a search of the body, that is, a strip search, on the other. The searching of clothes has as objective to verify that the inmate does not have any objects or substances in his possession that are forbidden or potentially dangerous. In case such a search of a prisoner's clothes is judged to be

insufficient, the prison director could by means of an individual decision, order for a search of the body. This includes, if necessary, stripping an inmate of his clothes and inspecting his naked body without touching it. It was explicitly stated that such searches of the body are particularly invasive measures of control and that they should never be executed in a routine way:

*The search of the body is ...a much more intrusive measure which is in itself an encroachment of the feeling of honour. Such a search may certainly never be executed in a routine way and is only justified when given specific circumstances or suspicions a search of the prisoner's clothes is not sufficient.*¹⁹

Moreover, it was emphasised that there is an important, gradual difference between the search of an inmate's clothes and the search of the body. Searching one's clothes could therefore never include the obligation to fully undress:

The search of an inmate's clothes means that the clothes are touched and searched in order to verify that the inmate does not have any objects or substances in or underneath his clothes that are forbidden or dangerous. In

*this respect, one can request an inmate to take of his outer clothes, but one cannot force him to fully undress. The search of the body is a measure that goes much further. This measure not only gives prison staff the permission to force an inmate to fully undress but even to inspect the cavities of his body externally without touching the body.*²⁰

These new rules for strip searches were explicitly related to the concept of dynamic security (see above), as formulated in Article 105 of the Prison Act.

The deregulation of strip searches in Belgium

On 15 January 2007 Article 108 of the Prison Act came into force but it rapidly became the object of

Moreover, it was emphasised that there is an important, gradual difference between the search of an inmate's clothes and the search of the body.

18. L. Dupont (1998). *Op weg naar een beginselenwet gevangeniswezen*. Leuven: Universitaire Pers Leuven, 224.
 19. House of Representatives (2001). Final Report of the Commission 'Principles Act on the prison system and the legal position of detainees'. *Parliamentary Documents of the House of Representatives*. DOC 50 1076/001, 179 (translated from Dutch).
 20. House of Representatives (2001). Final Report of the Commission 'Principles Act on the prison system and the legal position of detainees'. *Parliamentary Documents of the House of Representatives*. DOC 50 1076/001, 250 (translated from Dutch).

serious controversy. Indeed, notwithstanding the law's rationale to restrict the use of strip searches prisoners were still forced to strip naked as a standard procedure. On 19 February 2007 the prison administration sent a Collective Letter (n° 86) to all Belgian prisons in order to explain and clarify the new framework for executing strip searches. This Collective Letter introduced a distinction between three different searches of an inmate's clothes: a summary search, a thorough search, and a full search of the clothes. In the last case, that is, the full search of an inmate's clothes, prisoners were instructed to fully undress and to hand over their clothes to a prison officer. The prison officer, then, verified — by looking briefly at the naked body of the detainee — whether the inmate had handed over all his clothes and subsequently inspected his clothes. According to the prison administration there was no individual decision of the prison director required for such a procedure since it was, in its opinion, a search of the clothes and not a search of the body.²¹

This interpretation, however, provoked critical responses. A number of prisoners openly disagreed with these new procedures and objected that they violated Article 108. Because some prisoners were sanctioned by local prison governors for lack of cooperation with the safety procedures, they filed formal complaints with the Council of State in order to nullify such sanctions arguing that a legal basis was absent because the evidence that led to the disciplinary sanctions was obtained by means of searches that violated Article 108. Between 2007 and 2013 a substantial number of disciplinary sanctions were nullified by the Council of State. In line with the argumentation of the prisoners and their lawyers, the Council of State argued in a large number of cases that the prison administration's so-called 'full search of an inmate's clothes' was, in fact, a search of the body which required an individualized decision of the prison governor. This interpretation was also supported in a number of commentaries on judicial decisions by Belgian legal scholars.²²

This situation proved to be annoying for the Minister of Justice and her prison administration. In April 2012 the Minister of Justice declared in the

House of Representatives that she planned to revise the whole policy of strip searches. In the wake of a number of violent incidents in prisons and various strikes of prison officers throughout the country, she promised to amend the Prison Act of 12 January 2005 in order to make it possible for prison officers to strip search inmates without prior order from the prison governor. In February 2013 the Council of Ministers approved a draft law that would make the necessary adaptations to Article 108. In May 2013 the House of Representatives approved the new rules. On 16 September 2013 the law of 1 July 2013, which introduced a number of important changes to the policy of searches, came into force.

The new Article 108 no longer formulated the search of the inmate's body as an exceptional control measure that was only permitted after an individualized order by the prison governor. Rather, the search of the prisoner's body became standard procedure in three cases: upon entrance in the prison; prior to being detained in a safety or disciplinary cell; and after a visit at a table in the visiting room or after a conjugal visit. In these cases a separate order from the prison governor was no longer required. In a new Collective Letter (n° 125) of 6 September 2013 the prison administration explained that searches of the prisoner's body were permitted without order

This interpretation, however, provoked critical responses. A number of prisoners openly disagreed with these new procedures and objected that they violated Article 108.

from the governor when an inmate had been in contact with persons that were not to be considered as prison staff.²³ It was hoped that this legal change would discourage inmates to challenge the strip searches before the Council of State since they were deprived of their ammunition to contest the now legalized practice of standard strip searches. Moreover, the government added an additional justification for making searches of the prisoner's body a standard procedure: it was not only necessary for security reasons but it also helps protecting vulnerable prisoners since they are often put under pressure to smuggle forbidden goods and substances into the prison.

Nonetheless, this legal reform aimed at rewinding the clock proved to be quite controversial. In its advice of 14 March 2013 the Council of State had already formulated serious objections to the draft law. In

21. Prison Administration (2007). *Collective Letter n° 86 of 19 February 2007*. Brussels: FOD Justitie.

22. See, e.g., K. Hanouille & F. Verbruggen (2009). 'Fouille'-arrest? Foei, arrest! Het schaamteloos uitkleden van (de rechten van) gedetineerden. *Nullum Crimen*, 208-211; P. De Hert (2011). Onderzoek van gevangenskledij of fouillering op het lichaam? *Tijdschrift voor Strafrecht*, 80-83.

23. Prison Administration (2013). *Collective Letter n° 125 of 6 September 2013*. Brussels: FOD Justitie.

particular the standardization of the search of the inmate's body, with no possibility to abstain from such a procedure when there is no threat for security, could possibly violate Article 3 of the European Convention of Human Rights, so the Council of State warned. Moreover, the Council of State was very critical about the paucity of the justification for the planned changes to the procedures: the government restricted her explanation to some vague notions about 'multiple problems' and the 'inefficiency' of existing procedures but failed to clarify clearly why the substantial changes were necessary. In addition, some Members of Parliament had objected that the new procedures would be detrimental to the philosophical foundations of the Prison Act and raised doubts about whether it would pass the test of Strasbourg.²⁴ Expressions of concern about the changes were also heard in other corners of Belgian society: in August 2013 a major Flemish newspaper published a critical article about the standardized strip searches on its cover page²⁵ and, one month later, the Belgian section of the *Observatoire International des Prisons* criticized the law of 1 July 2013 and warned, again, that the new policy would violate Article 3 of the European Convention of Human Rights.²⁶

Against the background of the earlier post-2007 phase of prisoners' litigation against the rules as introduced by the prison administration (see above), it was to be expected that inmates and their lawyers would also challenge this new policy. And, indeed, on 12 September 2013, less than a week after the publication of the law of 1 July 2013 in the *Belgian Official Journal*, and just a couple of days before these rules entered into force, a former inmate who ran the risk of being returned to prison, filed a complaint with the Constitutional Court, arguing *inter alia* that the new policy violated Article 3 of the European Convention of European Rights. With its arrest of 30 October 2013 the Constitutional Court suspended the new rules relating to strip searches: it found that the automatic strip searches in the three cases mentioned in the reformulated Article 108, were not sufficiently justified on the basis of the behaviour of the detainee and, therefore, went beyond what is strictly necessary.²⁷

...it was to be expected that inmates and their lawyers would also challenge this new policy.

Shortly thereafter also the UN Committee Against Torture (CAT) joined the debate. Under the heading 'Full body searches' the CAT adopted the following concluding observations at its 1201st meeting, held on 18 November 2013, when it considered the third periodic report of Belgium:

The Committee is concerned about the amendments made to the Principles Act by the Act of 1 July 2013, which authorizes routine full body searches when a detainee has been in contact with the outside world. Although the Constitutional Court has ruled that the application of these measures should be suspended, the Committee is still concerned that they have not yet been repealed and could be implemented in the future... The Committee urges the State party to repeal the provisions of the Act of 1 July 2013 which authorize systematic body searches. The State party should ensure that body searches are conducted only in exceptional cases and by the least intrusive means possible, with full respect for the dignity of the person. The State party should take steps to adopt precise and strict instructions to restrict the use of body searches.²⁸

On 29 January 2014 the Constitutional Court, which had provisionally suspended the new rules related to strip searches in October 2013, repealed the relevant sections of Article 108, based on its earlier reasoning, that is, that systematic strip searches which are not being justified precisely with reference to an inmate's behaviour, are excessive measures of control.²⁹

The repeal of the relevant passages of Article 108 may, at first sight, seem like a victory for those inmates (and their lawyers) who have fought a long battle over the admissibility of strip searches in Belgian prisons. However, the story does not end here. The day after the decision of the Constitutional Court the prison administration issued a new Collective Letter (n° 126) of 30 January 2014 which intended to clarify the new rules on strip searches. In this Letter the prison administration introduced a new distinction, that is, between the so-

24. T. Daems (2013). De geest is uit de fles: wijzigingen titels V, VI en VII van de basiswet gevangeniswezen en rechtspositie van gedetineerden. *Panopticon*, 34(6), 513-522.

25. N. Van Hecke (2013). Harde kritiek op naaktfouilles. *De Standaard*, 12 August.

26. Observatoire International des Prisons (2013). *Notice de l'état du système carcéral belge*. Brussels: OIP – section belge, 56-57.

27. Constitutional Court (2013). Decision n° 143/2013 of 30 October 2013, para B.9.

28. Committee against Torture (2014). *Concluding observations on the third period report of Belgium*. CAT/C/BEL/CO/3, 5.

29. Constitutional Court (2014). Decision n° 20/2014 of 29 January 2014, para B13.

called 'one-off search of the inmate's body' on the one hand, and the 'recurrent search of the inmate's body' on the other. In the latter case, the prison governor can decide that an inmate's body has to be searched systematically, over a fixed period of time, on a number of occasions, as mentioned in the decision.³⁰

Conclusion

Our reconstruction of the recent history of the regulation — and deregulation — of strip searches in Belgium demonstrates how the intended effects of legal reform aimed at restricting the use of strip searches have become neutralized by bureaucratic manoeuvres which intend to redefine what goes on when prisoners are forced to strip naked. This seems to be a classical case, then, of what Stan Cohen once referred to as interpretive denial:³¹ since 2007, when Article 108 came into force, inmates (and their lawyers) and the prison authorities (and their lawyers) have disputed the meaning of what actually happens when inmates are being searched. The Collective Letter n° 86 of 19 February 2007 clearly intended to neutralize the innovative aspects of the Prison Act of 12 January 2005 and to prevent realizing its overall objective, that is, to restrict the use of strip searches. By introducing a new figure (the 'full search of an inmate's clothes'), which was neither mentioned in Article 108 nor in the Parliamentary preparatory documents, the prison administration circumvented the procedural barriers that the legislator had erected: it cleverly re-classified what it was doing and continued forcing prisoners to strip naked.

The large number of disputes that inmates brought before the Belgian courts since 2007 demonstrates how

vigorously this interpretation came to be challenged — and partly with success. The government's attempt to stop prisoners' litigation by turning strip searches into a standard procedure via the law of 1 July 2013, backfired. The Constitutional Court re-instated the original wording of Article 108 and therefore endorsed the original objective of the Prison Act of 12 January 2005, that is, that strip searches should not be treated lightly. Nonetheless, as we have seen, the story does not end here. One day after the decision of the Constitutional Court the prison administration conjured up yet another creative manoeuvre by introducing the so-called 'recurrent search of the inmate's body' which is, arguably, again violating the original intentions of the legislator.

Framing the history of strip searches as a history of interpretive denial helps us better appreciate the limits of legal reform and top down (European) regulation of strip searches. Undoubtedly, some major progress has been made throughout Europe in terms of prisoners' rights. Moreover, the basic fact that rules that are written in law books can be challenged before the courts, is a major step forward, in particular in an area of social life that has for too long been literally closed off from legal regulation. Nonetheless, new rules and stricter regulations are no guarantee for practices to change or disappear. A focus on processes of denial demonstrates that, notwithstanding major legal reform, the same old practices can continue happening but that they are just named differently. Moreover, as the Belgian case demonstrates, such struggles to define reality can go on for many years with various twists at the level of discourse, but with little changes in the field.

30. Prison Administration (2014). *Collective Letter n° 126 of 30 January 2014*. Brussels: FOD Justitie.

31. For more details on this application of Stanley Cohen's sociology of denial, see my original full-length chapter: T. Daems (2014). 'Ceci n'est pas une fouille à corps': The denial of strip searches in Belgian prisons. In: Deflem M. (Eds.), *Punishment and Incarceration: A Global Perspective (Series: Sociology of Crime, Law and Deviance, vol. 19)*. Bingley, UK: Emerald Group Publishing, 75-94.