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The Reviewability of Life Sentences from a Comparative Perspective

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Abstract: This paper examines life sentences from a comparative perspective, drawing on some of the results and materials obtained through the RIMES instrument. The analysis covers thirteen European and Anglo-American jurisdictions and focuses on the distinction between reviewable and irreducible life sentences. Particular attention is paid to the legal requirements governing access to release. The paper argues that the reviewability of life sentences cannot be adequately assessed solely on the basis of the minimum period that must be served before review. Although this temporal dimension remains relevant, the actual prospects of release also depend on substantive requirements. The comparative analysis reveals considerable differences in the nature and restrictiveness of these requirements. The paper therefore proposes a broader approach to life sentence reviewability that considers both temporal and substantive requirements when assessing the actual prospects of release and the degree of social exclusion associated with life imprisonment.

Keywords: *life imprisonment; reviewability; comparative criminal policy; social exclusion; RIMES.*

1. Introduction

This paper aims to analyse, from a comparative perspective, life imprisonment sentences in a selection of countries, focusing on whether or not such sentences are subject to review.

The study draws on the findings obtained through the well-established RIMES instrument, a comparative criminal policy measurement instrument which analyses specific items relating to the rules and practices of criminal justice systems (organised into nine thematic pools), using social exclusion as its assessment criterion (Díez-Ripollés, 2011, 2019; Díez-Ripollés and García-España, 2019; Arenas-García, 2021). To date, the RIMES instrument has been applied to 13 Western countries/states in Europe and the Anglo-Saxon world. In a first stage, the instrument was applied to Spain (García-España and Díez-Ripollés, 2021, pp. 259–281). Subsequently, in a second stage, it was applied to Germany, Italy, England and Wales—excluding Scotland and Northern Ireland—Poland, and the states of New York and California (García-España and Cerezo-Domínguez, 2023). It was later applied to Finland, Romania, Portugal, France, and the states of Florida and Texas. In addition, a recent research work has used the instrument to analyse criminal policy within the Latin American context (Prado Manrique, n.d.). Over time, its progressive extension to other countries can be expected.

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This paper focuses exclusively on sentences of life imprisonment, which are examined in Pool No. 4 of RIMES (maximum penalties). This pool comprises four items analysing specific aspects of life imprisonment and the death penalty, which currently constitute the most severe sanctions generally provided for by modern legal systems, at least in the Western world. Table 1 sets out each item and its corresponding definition.

Table 1. RIMES Pool No. 4

ITEMS AND DEFINITIONS
Item 42 (rule): *Death penalty is legally available* *"This item refers to the existence of death penalty as a sanction in Criminal or Military Laws, regardless of its application in times of peace or war. The item does not include informal death penalty practices (e.g. lynching, enforced disappearances…) as they are not covered by the formal social control system."* **Item 43 (rule)**: *Life imprisonment without release is legally available* *"This item refers to the situation in which a person can be sentenced to life imprisonment and the sentencing authority (judge or jury) does have the possibility to order the absence of parole for the whole penalty period. This item does not include situations in which inmates serve an actual life imprisonment without any release because of a conflation of circumstances (either usual or unusual) such as advanced age, sanctions during imprisonment, etc. The item does not consider as "release" temporary leaves due, for instance, to special holidays, weekends, death of relatives or medical leaves, or any other leave when the return date to prison is stated on the permission."* **Item 46 (rule)**: *A minimum of 20 years served is required before claiming release from life imprisonment* "*Release means definitive freeing of the lifer, notwithstanding revocation of the decision in case of non-fulfillment of legal conditions for remaining at liberty.* *Usually, this freeing is implemented through parole or conditional release, but other penitentiary institutions are possible. Furloughs, temporary leaves, and other prisoners' privileges, which mean to be at liberty with a set time limit are not included. The minimum of 20 years served refers to the period the lifer must be deprived of liberty before being freed. The periods at liberty enjoying prisoners' privileges are counted as time served. The previous term since he may legally ask for release is also counted as time served. The item is also met if the minimum serving period of 20 years is only legally provided for certain kind of lifers, or for certain crimes punished with life imprisonment, or for certain accumulation of crimes or penalties punished with life imprisonment. Legal provisions, no matter how general or specific they are, regarding life imprisonment without review, are not included in this item.*" **Item 50 (practice)**: *Those sentenced to life imprisonment regularly serve more than 25 years* "*This item refers to whether those sentenced to life imprisonment regularly serve more than 25 years in custody. "Regularly" means that over 35% of all lifers actually serve more than 25 years in custody.*"

Comparative law studies are common in the fields of criminal law and criminal policy, as they make it possible to examine how a particular country addresses criminal phenomena and to draw comparisons with our own justice system (Becerra-Muñoz, 2023). RIMES facilitates this type of research and, through comparative analysis, provides a more comprehensive picture of criminal justice systems by placing them within a broader context. Comparative research remains particularly useful in the field of life imprisonment, a penalty whose use has expanded rather than diminished in recent decades. The usefulness of Pool No. 4 for the comparative study of different degrees of social exclusion across countries can therefore hardly be questioned.

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However, this paper does not seek to analyse the specific results obtained for this pool, some of which have already been examined in previous research works (Corral-Maraver, 2023a), notwithstanding their intrinsic interest and their contribution to demonstrating the value of RIMES as a useful tool for comparative criminal policy research. Instead, the aim is to go a step further and draw on both these results and the materials collected in the course of obtaining them to explore and explain a number of relevant issues that emerged from the assessment of the items.

In this regard, we will observe how recent years appear to have witnessed a trend towards both the increasing use of life sentences and the adoption of harsher forms of this penalty. The increasing severity of the harshest criminal sanction —except for the death penalty— is often achieved by restricting the possibilities for sentence review. Such restrictions may be absolute, in jurisdictions that provide for life imprisonment without the possibility of review, or partial, in those that provide only for a reviewable form of life imprisonment. Both situations will be examined, with particular attention, in the latter case, to the legal requirements governing the review of life sentences.

The aim is therefore to assess how accessible the different review regimes actually are, rather than focusing exclusively, as is often the case, on the applicable time limits. Although such time limits are undoubtedly relevant, the imposition of additional requirements constitutes another means of increasing the severity of life sentences and may render them, in practice, either irreducible or extremely difficult to review. This dimension of review regimes has generally received less attention.

2. Maximum Penalties and Social Exclusion: The Particular Relevance of Life Sentences

Today, when we think of severe criminal sanctions in Western countries, we fortunately no longer have in mind certain punishments used in ancient times, such as cruel methods of execution, shaming punishments, or corporal penalties that inflicted serious harm on the honour or physical integrity of the convicted person, even though some of these practices remain in force in certain parts of the world.

In most legal systems, the maximum penalties take the form of imprisonment, except in those that continue to retain capital punishment. The death penalty is, of course, the ultimate manifestation of social exclusion, as it entails the physical elimination of the individual. Long-term and life sentences, in turn, result in isolation from society for life or for very long periods. In addition to seeking retributive and certain deterrent purposes, these sentences seek to incapacitate individuals, hindering their return to society, severing or weakening their ties with the outside world, and thereby affecting their personality. Both the death penalty and life sentences are among the most severe sanctions in most criminal justice systems and represent the highest degree of social exclusion in the contemporary world.

The use of the death penalty has declined, even though executions are still carried out in numerous countries. According to Amnesty International, 2,707 people were executed worldwide in 2025, a figure regrettably much higher than in previous years due to the sharp increase in executions in Iran and those resulting from ongoing international armed conflicts (Amnesty International Global Report, *Death Sentences and Executions 2025*, published in 2026,

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pp. 6–8). In Europe, the death penalty has been virtually abolished in all states in recent decades, with the exception of Belarus, as its prohibition is expressly enshrined in the various charters of rights and international treaties applicable in this part of the world; most countries have also incorporated this prohibition into their national constitutions. Among the jurisdictions studied by RIMES, only three US states score positively on the item concerning the retention of capital punishment: California, Texas, and Florida.

However, as capital punishment has gradually been abandoned in many Western countries, life sentences, both with and without the possibility of review, have become increasingly widespread. As a result, a growing number of countries have enacted legislation allowing persons convicted of certain offences to spend extremely long periods in prison, which may exceed 20 or 30 years and, in some cases, continue until death. According to some estimates, more than 183 countries currently provide, at least formally, for life imprisonment. Of these, around 65 provide for irreducible life sentences (*Global Prison Trends 2021*, p. 18). Current estimates indicate that more than half a million people worldwide are serving life sentences (*Global Prison Trends 2025*, p. 15).

Life imprisonment has a long historical tradition in many countries, while others incorporated it into their legal systems when they abolished capital punishment. In other cases, it has been introduced more recently, as in Spain, where it had been abolished a century earlier and was reintroduced in 2015 (Corral-Maraver, 2015, pp. 67, 241 et seq.). At the same time, however, there has been a trend towards harsher regimes for serving these sentences, particularly through restrictions on the possibilities to obtain release. Even in the case of determinate sentences, there has been a considerable increase in sentence length or the introduction of fixed periods before review. These developments give rise to informal or *de facto* life sentences or, in the case of reviewable life sentences, may render the prospect of review merely illusory (*Global Prison Trends 2025*, p. 15).

Among the countries and jurisdictions studied by RIMES, some provide for irreducible life sentences (Item 43), while almost all provide for some form of reviewable life sentence (Items 46 and 50), although their specific configurations vary considerably. The sole exception is Portugal, which does not provide for any form of life imprisonment. The following sections examine the general framework revealed by the RIMES instrument, identifying those countries that provide for irreducible life sentences and those that provide for a reviewable form. With regard to the latter, in addition to examining the different minimum periods that must be served before release may be considered, we will also analyse whether additional requirements are imposed that may effectively make it more difficult for prisoners to obtain release. In doing so, we aim to draw attention to these sanctions which, in most of the countries examined, constitutes the most severe penalty available under the legal system and the ultimate manifestation of social exclusion.

3. Irreducible Life Sentences

Among the countries analysed by RIMES, a distinction can be drawn between those that provide for irreducible life sentences and those that allow review subject to certain requirements. Item 43 is specifically designed to measure this distinction (Table 2).

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Table 2. Results from Item 43

Item 43. ***Life imprisonment without release is legally available***		
Result	**Nº**	**Countries /states**
The item is not met (NO)	**7**	**GERMANY (GE), SPAIN (SP), POLAND (PO)*, FINLAND (FI), PORTUGAL (PT), FRANCE (FR), ROMANIA (RO)**
The item is met (YES)	**6**	**ITALY (IT)*, ENGLAND AND WALES (E&W), CALIFORNIA (CA), NEW YORK (NY), FLORIDA (FL), TEXAS (TX)**

The results show that seven of the countries do not meet the item, meaning that their legal systems do not provide for irreducible life sentences. These countries are Germany, Spain, Poland, Finland, Portugal, Romania, and France, although, as discussed below, the situation has subsequently changed in one of them. Almost all of these countries provide for life imprisonment, although the sentence is subject to review after a certain period and subject to certain requirements (see below). Portugal is the only country that does not provide for any form of life imprisonment.

The absence of irreducible life sentences in European countries must be considered in the context of their membership of the Council of Europe and their ratification of the European Convention on Human Rights (ECHR), whose Article 3 prohibits inhuman or degrading punishment. The European Court of Human Rights (ECtHR) has developed extensive case law on Article 3, particularly in relation to life sentences. The Court has been criticised for its ambiguous approach to reviewable life sentences and for being overly tolerant of sentences with very long periods before review (Núñez-Fernández, 2020, pp. 267–306; Rodríguez-Yagüe, 2017, pp. 225–275). Nevertheless, the ECtHR has developed an important legal doctrine in this field, the so-called *right to hope*, which derives from the inherent human dignity of every individual (Grand Chamber judgment in *Vinter and Others v. the United Kingdom*, 9 July 2013). According to this doctrine, no person, irrespective of the offence committed, may be sentenced to a penalty that deprives them of any genuine possibility of one day regaining their freedom, provided that the relevant conditions are met. On this basis, the ECtHR has held that Article 3 of the Convention is violated both by life sentences that lack a mechanism for review—the mere possibility of pardon being insufficient for this purpose (see *László Magyar v. Hungary*, May 2014)—and by sentences for which a review procedure formally exists but does not, *de iure* and *de facto*, offer the individual concerned a genuine possibility of release. Depriving a person of the possibility of ever being released is considered inhuman. Consequently, for Council of Europe member states, irreducible life sentences are incompatible with their international obligations. Furthermore, the fundamental right not to be subjected to inhuman or degrading punishment is expressly recognised in Article 4 of the Charter of Fundamental Rights of the European Union (CFREU), which is binding on all Member States. A violation of this right may therefore also constitute a breach of EU law.

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Despite this framework, some European countries have departed from this approach by introducing forms of *de facto* life imprisonment into their legal systems and have consequently received adverse judgments from the ECtHR. Notable examples include the United Kingdom, Italy, and Hungary (see the above-mentioned judgments *Vinter and Others v. the United Kingdom*, 9 July 2013, and *László Magyar v. Hungary*, May 2014). The United Kingdom and Italy will be examined below. Hungary, despite its considerable interest (Corral-Maraver, 2024a, pp. 27 et seq.), falls outside the scope of this study because it is not one of the countries covered by RIMES. The particular case of Poland, however, requires closer attention.

Poland is one of the Central European countries that have experienced political and legislative developments in recent years that have been described as illiberal and as manifestations of *democratic backsliding*. Among other significant consequences, these developments have led to the reintroduction of genuinely irreducible life sentences. When the RIMES results were validated, Poland did not meet Item 43, as its legal system did not provide for an irreducible life sentence at that time. Subsequent legislative reforms, however, show that this assessment can no longer be maintained. As had previously occurred—and more extensively—in Hungary, a series of reforms to the Polish criminal justice system affected a range of areas, including the judiciary and the protection of certain civil rights, leading to conflict with the European Commission and the Court of Justice of the European Union (Corral-Maraver, 2024a, pp. 12 et seq.). Under Article 78.3 of the Polish Criminal Code, life sentences were, with some exceptions, eligible for review after 25 years of imprisonment (Kładoczny and Wolny, 2013, p. 40; Stańdo and Kawecka, 2014, pp. 222 et seq.). In 2019, the government, controlled by the nationalist and conservative Law and Justice Party (PiS), proposed a reform of the Polish Criminal Code which, among other significant changes, increased this period to 35 years. At the same time, following the Hungarian example, the reform sought to introduce an irreducible life sentence (Article 77). In June of that year, following the controversy generated by the legislative proposal, it was referred to the Constitutional Court for review, where it remained pending for more than two years without a decision, and the legislation was therefore not adopted (Corral-Maraver, 2023b and 2024A, pp. 25-27). The issue was taken up again in February 2022 through a new reform proposal that was substantially similar to the previous one. With regard to life imprisonment, the minimum period before review was set at 30 years. The reform also extended the range of cases in which life imprisonment could be imposed and introduced the possibility, at the court's discretion, of imposing an irreducible life sentence in cases involving the accumulation of sentences or where the circumstances indicated that the offender was dangerous. Despite political opposition, the reform was ultimately approved by Parliament and entered into force in December 2022. The change of government in Poland in December 2023 may eventually lead to the reversal of these measures and bring the country back into closer alignment with European standards. For the time being, however, the reforms introduced by the previous government have not been repealed, and Poland must therefore be regarded as a country that provides for a genuinely irreducible life sentence.

The countries that do meet Item 43 and provide for irreducible life sentences include all the common-law jurisdictions analysed: England and Wales and the four US states of New

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York, California, Florida, and Texas. This reveals a clear difference between these jurisdictions and their European counterparts, although Italy and, as noted above, Poland also fall within this category.

In England and Wales, courts may impose the so-called *whole life order,* a form of life sentence. This is an order imposed by a court in particularly serious cases involving aggravating circumstances and means that a person sentenced to life imprisonment has no possibility of having the sentence reviewed and must therefore remain in prison until death. Although its imposition is discretionary, Item 43 must be regarded as met, since the legal system allows a life sentence to be imposed without any possibility of review. This sentence has led to several adverse judgments by the ECtHR, most notably the above-mentioned *Vinter and Others v. the United Kingdom* judgment of 9 July 2013, in which the Court found a violation of the European Convention on Human Rights, to which the United Kingdom is a state party. Nevertheless, despite the Court's judgment, this form of sentence remains in force.

The California Penal Code provides for life imprisonment without the possibility of parole in certain particularly serious cases. Whether such a sentence is imposed depends on the offence concerned and the specific provisions of the applicable sentencing laws. A similar situation exists in New York and Texas, where life imprisonment without parole is available for various forms of murder and coexists with reviewable life sentences (Ogletree and Sarat, 2012; *Texas Statistical Report FY 2022,* Gray, 2019). In Florida, by contrast, life imprisonment without the possibility of review has existed since 1983. No reviewable form of life imprisonment is available, and the only possibility of release depends on the exercise of pardon or clemency.

The Italian case deserves particular attention. When RIMES initially assessed this item in Italy, the country was considered to meet it. In recent years, however, significant legislative changes have affected the Italian form of irreducible life imprisonment, the *ergastolo ostativo*, requiring the original assessment to be reconsidered. Italy provides for reviewable life imprisonment, but it also had a special regime, primarily intended for members of *Mafia*, under which prisoners who did not cooperate with the authorities could be excluded from all prison benefits (*ergastolo ostativo*). In such cases, the law established an irrebuttable presumption of dangerousness and a complete absence of rehabilitation. This form of life imprisonment was challenged before the Italian Constitutional Court, which held in two decisions, the latest issued on 15 April 2021, that the regime was unconstitutional and called upon the Italian Parliament to amend it before May 2022, a deadline that was subsequently extended until November of that year. The ECtHR had previously found the regime to be contrary to Article 3 of the European Convention on Human Rights in *Viola v. Italy*, 13 June 2019. The long-awaited reform was introduced by Decree-Law 162/2022 of 31 October, which made the sentence reviewable subject to certain requirements. The previous irrebuttable presumption of dangerousness was replaced by a form of rebuttable presumption.

In principle, this reform should lead to a change in the assessment of the item, from positive to negative. However, given the highly restrictive nature of the regime and the view expressed in the literature that proving the absence of dangerousness amounts in practice to

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a *probatio diabolica* that is extremely difficult to satisfy, the RIMES research team decided to maintain the original assessment. Italy may therefore still be considered, although with certain nuances, to provide *de facto* for an irreducible life sentence (Sánchez-Benítez, 2024).

4. Reviewable Life Sentences: Legal Requirements for Release

4.1. Preliminary Considerations on the Reviewability of Life Sentences

Comparative studies of the different forms of reviewable life imprisonment tend to focus almost exclusively on the point at which the sentence may first be reviewed. National legislation is generally compared on the basis of the number of years that must be served before a sentence becomes eligible for review —20, 25, 30, or 40 years— with this figure being used as the main indicator of the relative rigour of each system.

The length of the period before review is undoubtedly one of the most relevant factors to consider, as it determines the point at which release may, at least in theory, become possible. It is also a relatively easy indicator to identify, since it is generally established in the criminal codes and legislation of the different countries. In my view, however, this approach is incomplete, since the reviewability of a sentence does not depend solely on the point at which release may be sought, important though this may be. Legal systems generally establish a number of additional requirements or conditions that determine whether release may actually be granted.

To properly assess the severity of a reviewable life sentence, comparative studies should therefore distinguish between two complementary dimensions. The first concerns the temporal requirement, that is, the minimum period that must be served before the review procedure and subsequent release may be considered. The second comprises the substantive requirements that, together with the temporal requirement, determine access to release. These requirements vary and may include a favourable prognosis for reintegration, dangerousness, the fulfilment of civil liability arising from the offence, remorse, or cooperation with the authorities, among others. Only by examining these two dimensions together is it possible to properly assess the degree of reviewability of a life sentence and, consequently, the level of social exclusion it produces.

Items 46 and 50 of Pool No. 4 of the RIMES instrument assess different aspects of reviewable life imprisonment, although both focus on the first of these requirements: the period that must be served before release. As already noted, this is undoubtedly a highly relevant factor. Item 46 examines whether the statutory period before review exceeds 20 years of imprisonment. Item 50 goes further by examining legal practice in addition to statutory provisions and seeks to determine whether individuals actually remain in prison for more than 25 years, irrespective of the period established by law. This second item therefore seeks to identify whether, despite the applicable statutory provisions, release occurs later in practice or whether some prisoners are not released at all. However, the item does not examine the possible reasons for these outcomes, largely because identifying them is extremely difficult, or even impossible, due to the lack of reliable data.

The following sections examine how reviewable life sentences are legally regulated in the different countries, taking into account the two dimensions identified above: the period

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before review and the existence of additional substantive requirements. The analysis focuses on the legislation of the different countries, since these aspects are generally regulated by statutory provisions, without examining, at this stage, the practices that may have developed in each jurisdiction. The aim is to provide a deeper and more comprehensive analysis.

4.2. Different Periods for the Review of Life Sentences

The point at which a life sentence becomes eligible for review is one of the main factors used to assess the severity of these systems and, consequently, their level of social exclusion. The attention paid to minimum periods of imprisonment is largely explained by their close relationship with the possibility that prisoners may retain an expectation of one day regaining their freedom, in line with the ECtHR case law and the so-called *right to hope* discussed above.

As already noted, Item 46 measures the length of the period before review of reviewable life sentences in the different countries. As a measurement instrument, RIMES requires items to be assessed dichotomously (yes/no), and it was therefore necessary to select a specific number of years as the threshold for determining whether the item was met. This threshold was set at 20 years of imprisonment. The results show that many of the countries analysed exceed this limit in their statutory provisions on the minimum period before a life sentence first becomes eligible for review (Table 3).

Table 3. Result from Item 46

Item 46. *A minimum of 20 years served is required before claiming release from life imprisonment*		
Result	**Nº**	**Countries /states**
The item is not met (NO)	**3**	**GERMANY (GE), FINLAND (FI), PORTUGAL (PT)**
The item is met (YES)	**10**	**ITALY (IT), SPAIN (SP), POLAND (PO), ENGLAND AND WALES (E&G), ROMANIA (RO), FRANCE (FR), CALIFORNIA (CA), NEW YORK (NY), FLORIDA (FL), TEXAS (TX)**

The RIMES instrument provides a valuable basis for comparison. However, an examination of the different legal systems reveals considerable diversity in the length of the minimum periods that must be served. Although RIMES does not establish different levels, these differences are relevant from a criminal policy perspective. The countries analysed may therefore be classified according to the following criteria:

a) Countries with short periods before review
b) Countries with moderate periods before review
c) Countries with long periods before review
d) Countries with no review periods

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a) Countries with short periods before review

Only three of the cases analysed do not meet the item, as the period established for the first review does not reach the 20-year threshold set by the instrument: Germany, Finland, and Portugal. Portugal presents a particular case and will be discussed below.

In Germany, persons sentenced to life imprisonment (*lebenslange Freiheitsstrafe*) may be released after serving fifteen years (article 57a of the German Criminal Code, *Strafgesetzbuch*, StGB), with no exceptions to this rule (Dessecker, 2017). Finland has the shortest periods before review of all the legal systems studied. As a general rule, review may take place after twelve years, reduced to ten years where the offender was under twenty-one at the time the offence was committed (Ahti, 2021; Lappi-Seppälä and Tonry, 2011; Helsinki Foundation for Human Rights, 2018). Although both countries provide for an indeterminate life sentence that may potentially keep individuals in prison for the rest of their lives, the period before first review is comparatively short. Provided that the remaining requirements are not excessively demanding, it may be assumed that release will be possible in most cases. In this respect, these systems may therefore be considered less exclusionary.

b) Countries with moderate periods before review

Unlike the cases discussed above, all the other states analysed meet the item, although their legal frameworks differ considerably. Some legal systems establish a general period before review of around twenty or twenty-five years, which may be regarded as the most common standard or moderate period. This is the case in Romania, where Article 99 of the Criminal Code requires at least twenty years to be served before release. Early release is possible for prisoners over the age of 65, but the exceptional nature of this provision does not alter the assessment of the item.

Most of the countries analysed have more complex systems for the review of life sentences, with different periods depending on the offence or offences committed or the aggravating circumstances. This is the case in Spain, where the regulation of reviewable permanent prison (*prisión permanente revisable)* establishes a system of access to prison benefits and conditional release that varies according to the type of offence and the accumulation of sentences. Although the general period before review is twenty-five years, it may be extended in certain cases (see infra). A similar situation exists in France, where the general period before review of a life sentence is eighteen years, although in some cases—which are not exceptional—it may reach twenty-two years (Article 132-23 of the French Criminal Code); in addition, France also has a special regime called *perpétuité incompressible* (see infra). The system in England and Wales is highly complex and case-specific, since the minimum period to be served depends on the circumstances and the seriousness of the offence, and in many cases may exceed twenty or twenty-five years. For instance, this may occur in cases involving murder committed with a knife or other weapon brought to the scene with the intention of using it (Sentencing Council, n.d.).

This diversity is even more pronounced in the US states analysed. California has a general seven-year period before review, but this does not apply where the law establishes a different period for certain serious offences. In these cases, which are numerous, the minimum period may reach twenty-one or twenty-five years. For example, a person sentenced to twenty-five

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years to life for first-degree murder will not be eligible for review until twenty-five years have been served. Where several sentences are imposed, these periods may reach twenty-one years of imprisonment. In New York, persons serving reviewable life sentences must generally stay in prison a minimum period of between fifteen and twenty-five years, although the law establishes other periods depending on the offence committed and the circumstances of the case (see infra). More specifically, in cases of first-degree murder, the period that must be served before release ranges from twenty to twenty-five years.

c) Countries with long periods before review

Among the countries that meet the item, some establish a single, particularly long period before review, while others provide for different periods, some of which are also very long. The first group includes Italy, where conditional release is possible after twenty-six years of imprisonment, although certain prison benefits may be granted after twenty years. Poland also falls within this group. Article 78.3 of the Polish Criminal Code previously provided that a person sentenced to life imprisonment could become eligible for review after serving twenty-five years. However, the 2022 criminal law reform changed this situation by increasing the period before review, which currently reaches thirty years, and introducing an irreducible form of life imprisonment (see supra).

The second group also includes Spain, which provides for periods before review of twenty-eight, thirty, or thirty-five years. The twenty-eight- and thirty-five-year periods apply exclusively to convictions for terrorist offences. However, a thirty-year period applies in cases of aggravated murder involving multiple sentences. This is not an exceptional situation, as several individuals have already received sentences subject to this period before review (Corral-Maraver, 2024b, pp. 40-47). France also provides for review after thirty years in cases involving a sentence of *perpétuité incompressible*, introduced into the French Criminal Code in 1994 (Article 221-3 of the French Criminal Code) (Tournier, 2012; Vannier, 2016).

In the United States, Texas also establishes different periods depending on the offence committed, which in numerous cases reach thirty or forty years before release becomes possible. Similarly, in New York, these periods may be extended to forty years in some cases.

d) Countries with no review periods

Finally, although Portugal and Florida are included in the assessment of Item 46 of the RIMES instrument, neither can genuinely be said to have periods for the review of life sentences.

Portugal presents a different situation, since its negative response to the item results from the absence of life imprisonment from its legal system, as already noted. It is one of the few European countries —and the only one analysed here— that does not provide for life imprisonment, which was abolished together with capital punishment and is expressly prohibited by Article 30.1 of the Constitution. The maximum determinate prison sentence is twenty-five years, even where several sentences are imposed.

Florida also presents a particular situation, since life imprisonment without the possibility of review has been the general rule since the abolition of parole in 1983. There is therefore no genuine system of review. Although clemency remains possible, it constitutes an exercise

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of the discretionary power of pardon. In addition to other requirements, a prisoner must have served at least twenty years to be eligible.

The results obtained through the RIMES instrument and examined above therefore show the central role played by the temporal dimension in both the regulation and analysis of reviewable life sentences. The length of the minimum period to be served is a first indicator of the severity of the system and necessarily affects whether prisoners can keep an expectation of release within their lifetime. From this perspective, allowing a first review after twelve or fifteen years is clearly different from postponing it until thirty, thirty-five, or forty years have been served.

However, the comparative analysis also reveals the limitations of using the period before review as the main indicator of the reviewability of a life sentence. The considerable diversity among the legal systems studied makes comparisons based exclusively on the length of minimum periods difficult. General periods frequently coexist with exceptions, stricter regimes, and specific rules applying to particular offences or categories of prisoners, resulting in a wide variety of situations. Most importantly, the actual possibility of regaining freedom does not depend solely on the point at which a prisoner first becomes eligible for review. As the following section will show, additional requirements must also be met before release can actually be granted. The temporal dimension must therefore be considered alongside the substantive requirements established by each legal system.

4.3. Substantive Requirements for Release

As noted above, the possibility of release for persons serving life sentences does not depend solely on the point at which the legal system first allows the sentence to be reviewed. Once the statutory minimum period has been served, the different systems make release conditional upon compliance with additional requirements, whose nature and stringency vary considerably across countries. Meeting the temporal requirement merely allows the review procedure to begin; it does not in itself determine whether release will actually be granted.

Indeed, two legal systems with similar minimum periods before review may offer substantially different prospects of release depending on the additional requirements that must be met. A comprehensive analysis of the reviewability of life sentences cannot therefore be limited to comparing minimum periods of imprisonment, as is often the case in comparative law studies. Pool No. 4 of RIMES does not examine these additional requirements due to the structure of the instrument itself, which consists of items that must be answered either yes or no. Examining the different requirements for release calls for a more detailed analysis and some degree of assessment or gradation. Despite these limitations, however, the information needed to answer Item 46 on minimum periods of imprisonment often also provides useful information on these additional criteria. A closer examination of the relevant legal provisions therefore makes it possible to address these issues.

Despite the differences in the requirements for the release of life-sentenced prisoners across the countries studied, the comparative analysis reveals a number of common criteria. These include, most notably, an assessment of the prisoner's prospects of reintegration, dangerousness or risk of recidivism, conduct in prison and progress during the sentence and, less frequently, other requirements relating to remorse, attitudes towards the offence, or

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reparation. However, these factors are neither present in all the legal systems analysed nor given the same weight.

The following sections examine the different types of requirements identified in the legal systems studied, excluding Florida, which does not provide for the review of life sentences, and Portugal, which does not provide for this type of sentence. It should be noted that this study considers only the rules laid down in the criminal, procedural, and penitentiary legislation of the different countries. It does not examine the different practices of judicial and prison authorities, which may also have a considerable impact on whether people serving life sentences are ultimately released.

4.3.1. Prospects of Reintegration, Dangerousness, and Risk of Recidivism

The assessment of the prospects of reintegration and the risk that the prisoner may pose to society is central to release decisions in most of the legal systems analysed. However, national legislation does not formulate this requirement in the same terms or establish the same criteria for assessing such risk or prospects of reintegration.

We will first examine France, where the period before review may be reduced or lifted when the prisoner demonstrates serious evidence of social rehabilitation (*gages sérieux de réadaptation sociale*) (Article 720-4 CPP). The decision on release therefore requires an assessment of the progress made during the sentence and the prisoner's prospects of adapting to life after release. However, in the most serious cases, generally those in which the minimum period is increased to thirty years, French legislation also expressly requires the prisoner's dangerousness to be assessed by a panel of three medical experts appointed by the Court of Appeal (Articles 720-4 and 720-5 CPP). Additional requirements also apply in these cases (see infra).

Romania follows a similar approach. Article 99.1(d) of its Criminal Code requires, in addition to the minimum period of imprisonment, that the court be satisfied that the prisoner has made sufficient progress towards rehabilitation and is able to reintegrate into society. Although the legislation does not expressly refer to dangerousness, this factor must clearly be considered. Other additional requirements, which apply cumulatively, are also established (see infra).

In Poland, release is also based on a prognosis of social reintegration. Article 77.1 of the Criminal Code provides that, once the review period has been served, release may be granted where the circumstances of the case and those relating to the prisoner support the conclusion that the prisoner will comply with the law and, in particular, will not commit further offences. The provision establishes a wide range of factors to be considered in this assessment: the prisoner's attitude, personal characteristics and circumstances, lifestyle before the offence, the circumstances of the offence, and the conduct both after the offence and while serving the sentence. The extensive list of circumstances considered under Polish law deserves particular attention, as it may make the review regime more restrictive. The assessment goes considerably beyond the risk of future offending. Particularly striking is the reference to the prisoner's lifestyle and conduct before the offence. The use of these factors raises some concerns, since they may lead to release being denied on the basis of circumstances or events that have little connection with the prisoner's subsequent progress. The same applies to the

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circumstances of the offence, which are relevant when determining the severity of the sentence but not necessarily when assessing future dangerousness. Unlike many of the other countries analysed, Poland does not establish further requirements.

In Germany, Article 57a establishes the requirements for suspending the execution of the remaining part of a life sentence. In addition to the temporal requirement, parole must be justified in the interests of public safety and the convicted person must consent to it, in accordance with Article 57.1(2) and (3), which regulates the suspension of the execution of determinate sentences. The reference to public safety is notable for its vagueness. In making this assessment, the Criminal Code requires consideration of several factors, in particular the prisoner's personality, criminal record, the circumstances of the offence, the legal interests at risk in the event of recidivism, conduct while serving the sentence, living conditions, and the expected effects of suspension.

In Finland, decisions on the release of persons serving life sentences traditionally fell within the President of the Republic's pardon, a system often considered unpredictable and arbitrary. Since the adoption of the Act on the Procedure for the Release of Long-Term Prisoners (2005/781), however, the decision has also been subject to judicial proceedings, with the Helsinki Court of Appeal deciding on conditional release. Following reforms introduced in the early 2010s, a risk assessment must be conducted to determine whether the prisoner poses a danger to others. When considering conditional release, the following circumstances must therefore be taken into account (Chapter 2c, Sections 9 and 10 of the Finnish Criminal Code):

a) the nature of the offence or offences that resulted in the life sentence;
b) other sentences included in the life sentence and periods spent in detention or pre-trial detention as a result of the offence that led to the life sentence;
c) any subsequent criminal activity by the prisoner;
d) an assessment, based on the prisoner's conduct or threats, of whether there is an evident danger that, if released, the prisoner would commit a serious offence against life, health, or liberty;
e) compliance with the sentence plan and the prisoner's conduct while in prison;
f) the prisoner's commitment to comply with the conditions of medical treatment and to undergo other forms of treatment and measures.

The Finnish system provides for relatively short periods before review —only twelve years, or ten for young offenders— but applies a comprehensive system for assessing risk and dangerousness that takes a wide range of factors into account. Some relate to conduct in prison, progress during the sentence, and treatment, while others concern the nature of the offence or the prisoner's conduct before conviction.

Italy, for its part, follows a different approach, as access to conditional release requires the conduct of the convicted person to demonstrate genuine rehabilitation (*ravvedimento*) (Article 176 of the Italian Criminal Code). This raises the question of what exactly is meant by *ravvedimento*. The requirement goes beyond mere good conduct in prison and requires positive behaviour indicating that the convicted person has abandoned previous criminal choices. The Italian Supreme Court (Judgment No. 17831/2021) has stated that establishing the prisoner's *sicuro ravvedimento* is difficult because it relates to the prisoner's inner life and to a process of moral redemption. It must be assessed from an overall perspective that takes

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into account all acts and manifestations of the prisoner's conduct, both material and moral, that may be indicative of the process referred to in Article 176.1. It may therefore be inferred that, alongside more objective circumstances, such as conduct in prison and progress during the sentence or treatment, more subjective factors are also considered, as discussed below.

In England and Wales, once the minimum period of imprisonment has been served, the central question is whether further imprisonment remains necessary. The Parole Board, an independent body, must determine whether the prisoner's release would be compatible with the protection of the public (Section 28(6) of the Crime (Sentences) Act 1997). Although the legislation does not specify the criteria applied by the Parole Board, these are explained in the guidance available on its website. The procedure is complex and may take around six months. The prisoner's file is first examined, including information on the offence, progress made in prison, and the risk management plan. On this basis, release may be refused or an oral hearing before a three-member panel may be scheduled. Before reaching a decision, a wide range of evidence is considered, including those relating to the offence, sentencing remarks, and changes in the prisoner's conduct and attitude resulting from participation in programmes while serving the sentence. The Parole Board guidance sets out some criteria. More specifically, it considers the factors that contributed to the prisoner's criminal behaviour and whether they have been addressed, any progress made in relation to previous problems such as drug or alcohol abuse, the prisoner's plans for life after release —including housing, employment, and family or social support— and their relationship with the Offender Manager, among others. The system in England and Wales is primarily based on risk management and does not appear to impose other requirements, although victims have acquired an increasingly important role in proceedings before the Parole Board (see infra).

In California, Section 3041 of the Penal Code provides that the Board of Parole Hearings shall grant parole unless it determines that the prisoner continues to pose an *unreasonable risk* of danger to public safety. The Board is responsible for deciding whether parole should be granted and whether such a risk exists, and may consider a wide range of criteria. These are developed in greater detail in Section 2281 of Title 15 of the California Code of Regulations. The provision states, for example, that all relevant information must be considered, including "social history; past and present mental state; past criminal history, including involvement in other criminal misconduct which is reliably documented; the base and other commitment offenses, including behavior before, during and after the crime; past and present attitude toward the crime; any conditions of treatment or control, including the use of special conditions under which the prisoner may safely be released to the community; and any other information which bears on the prisoner's suitability for release." The provision then lists further circumstances that may indicate suitability or unsuitability for release. Many of these relate to the offence committed and the prisoner's criminal history rather than necessarily his behaviour in prison or his progress through treatment.

In New York, decisions on conditional release are made by the New York State Board of Parole, which conducts an individual assessment of each case and evaluates the risk posed to society on the basis of multiple criteria established in Section 259-i of the Executive Law. These include conduct while serving the sentence, institutional record, participation in educational and treatment programmes, criminal records, the circumstances of the offence,

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reintegration plans—including employment, housing, and family support— risk to the community, and the impact on victims and their families.

In Texas, prisoners may be released on parole or discretionary mandatory supervision (DMS), although persons serving life sentences are not eligible for the latter. In Texas, parole is regarded not as a right but as a privilege, since release is discretionary rather than mandatory. The Board of Pardons and Paroles decides which prisoners may be released on parole and under what conditions. Texas legislation primarily regulates when a person becomes eligible for parole according to the offence and its circumstances, while the substantive criteria are developed mainly through the practice of the Board of Pardons and Paroles. Most of these criteria are similar to those examined in New York.

Finally, in Spain, the substantive requirements for suspending the execution of a reviewable life sentence are established in Article 92.1 of the Criminal Code. Once the relevant temporal requirement has been met, the prisoner must also have been classified in the third degree and receive a favourable prognosis of social reintegration. The latter must be based on a long list of factors set out in Article 92.1(c): the prisoner's personality; criminal record; the circumstances of the offence; the importance of the legal interests that could be affected in the event of recidivism; conduct while serving the sentence; family and social circumstances; and the expected effects of suspending the execution of the sentence and of compliance with the measures imposed.

The Spanish Criminal Code also requires consideration of progress reports submitted by the prison officials and by the specialists appointed by the court. Furthermore, Article 92.3 of the Criminal Code requires compliance with the conditions established in the second paragraph of Article 80.1. The court must therefore assess whether it is reasonable to expect that continued execution of the sentence is necessary to prevent the commission of future offences, taking into account the circumstances of the offence, the prisoner's personal circumstances, criminal record, conduct after the offence, efforts to repair the harm caused, family and social circumstances, and the foreseeable effects of suspension. This provision appears redundant. Further additional requirements must also be considered in some cases (see infra).

The comparative analysis reveals both similarities and differences between the models examined. They generally take into account the prisoner's conduct while serving the sentence, their progress during this period, and their progress through treatment. It should be noted that conduct in prison is not normally assessed as a requirement in itself, although some countries, such as Romania, treat it separately. Romanian law specifically requires good conduct throughout the entire period in which the sentence is served, independently of the prognosis of social reintegration. This suggests that a disciplinary sanction could automatically prevent a prisoner from obtaining release at a later stage. In most systems, by contrast, conduct in prison is one of the factors considered in determining whether a person is ready for life in society after release, but it is neither the only factor nor necessarily the most important one.

Some systems, however, place greater emphasis on other factors whose relevance to the release of a person serving a long sentence may be questionable. These include circumstances relating to the offence or the prisoner's previous lifestyle, either because they were already

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considered when the sentence was imposed or because they may no longer be relevant after many years of imprisonment. The inclusion of this second type of criteria is questionable from a criminal policy perspective, since they do not actually measure the risk of recidivism or the prisoner's prospects of reintegration, but instead tend to reflect the seriousness of the offence or the public reaction that may result from the release of persons convicted of particularly serious crimes.

Nevertheless, it is impossible to determine how harsh these review systems actually are without examining how they operate in practice. Practices may vary considerably across countries, even where the legal requirements are similar. Such an analysis would require a detailed study and, in some cases, even empirical research, and therefore falls outside the scope of this paper.

It should also be noted that, in recent years, automated risk assessment models based on algorithms have acquired considerable importance in decisions concerning conditional release or the suspension of sentences, whether life or determinate sentences. These tools, which have been subject to considerable academic criticism for their potential to reinforce a preventive logic that may ultimately lead to overcriminalisation, are already widely used in many countries and point towards an uncertain future for risk assessment. (Alemán-Aróstegui, 2026, pp. 318-319).

4.3.2. Requirements Relating to Remorse and the Prisoner's Attitude towards the Offence

In contrast to the factors examined in the previous section, requirements relating to remorse or to the prisoner's attitude towards the offence or the victims are much less common. Nevertheless, some legal systems give legal relevance to these factors, either as a general requirement or only in specific cases. In others, they play an indirect role in assessing the risk of recidivism or the prospects of reintegration.

Italy is one of the countries that expressly requires remorse or a change in the prisoner's attitude, through the requirement of *sicuro ravvedimento* already mentioned in Article 176 of the Criminal Code (see supra). Release is thus made conditional on a factor involving a considerable degree of subjectivity, even though some objective elements must also be considered. The case law of the Italian *Corte di Cassazione* requires evidence of personal change and a critical reassessment of the offence, together with a rejection of past criminal conduct and an awareness of the harm caused to the victims.

In Spain, Article 92.2 of the Criminal Code establishes specific requirements for persons serving a reviewable life sentence for terrorist offences. To obtain suspension of the execution of the sentence, the prisoner must show unequivocal signs of having abandoned the aims and methods of terrorist activity and must also cooperate with the authorities. Although this does not necessarily require a subjective feeling of remorse, the means by which the Criminal Code allows these circumstances to be demonstrated may effectively entail it. The abandonment of terrorist activity and active cooperation may be demonstrated through an express declaration rejecting the prisoner's criminal activities and renouncing violence, together with an express request for forgiveness from the victims of the offence.

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In other cases, remorse is not established as an independent requirement but is one of the factors considered when assessing the risk of recidivism and the danger posed to public safety, which determine access to conditional release. In California, as noted above, signs of remorse are among the circumstances indicating suitability for parole. These include evidence that the prisoner understands "the nature and magnitude of the offense" and has attempted to repair the harm or alleviate the suffering of the victims (Section 2281, Title 15). In other legal systems, including Germany, England and Wales, and Texas, acknowledgement of responsibility, understanding of the harm caused, or the prisoner's attitude towards the offence may also be considered when assessing dangerousness.

Although both approaches —treating remorse as an independent requirement or as one of the factors used to assess dangerousness— may involve the consideration of similar circumstances, they can have different effects on the actual prospects of release. When remorse is established as an additional cumulative requirement, its absence prevents release. When it is instead one of the factors considered in the assessment of dangerousness, it will normally be weighed alongside numerous other factors and will therefore not have such a direct effect on the decision. In any event, the use of this criterion is questionable, since it requires the prisoner to adopt a particular moral position, intrudes into the individual's inner sphere and may, in some cases, even interfere with the prisoner's freedom of thought and conscience.

4.3.3. Cooperation with the Authorities

Active cooperation with judicial or law enforcement authorities is also rarely required for the release of persons serving life sentences, although some countries, such as Spain and Italy, provide for this requirement in specific cases.

In Italy, cooperation with the judicial authorities may be taken into account when assessing dangerousness. In addition, cooperation was traditionally one of the elements that determined the reviewability of sentences under the *ergastolo ostativo* regime. Persons convicted of certain offences, generally related to the *Mafia*, terrorism, and organised crime, could not obtain prison benefits or conditional release unless they cooperated with the judicial authorities (Article 4-bis of the Prison Administration Act). Failure to cooperate was regarded as evidence that the prisoner continued to maintain links with the criminal organisation. In its 2019 judgment in *Marcello Viola v. Italy (no. 2)*, the ECtHR held that making the possibility of release almost automatically dependent on cooperation with the judicial authorities violated Article 3 ECHR by rendering the sentence inhuman. The Italian system improperly presumed that a failure to cooperate demonstrated continuing links with the criminal organisation or dangerousness, even though there could be other reasons for such a refusal, such as fear of reprisals. The subsequent intervention of the Italian Constitutional Court contributed to the adoption of the legislative reform currently in force. Cooperation is no longer an essential requirement for conditional release, which may now be granted where other requirements are met, although the additional requirements are particularly strict and seek to establish that the prisoner no longer maintains links with the criminal organisation.

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Spain also requires cooperation with the authorities for the suspension of the execution of a reviewable life sentence, although only in cases involving terrorist offences. Article 92.2 of the Criminal Code requires active cooperation with the authorities "either to prevent the commission of further offences by the terrorist organisation or group, to mitigate the effects of the offence, to identify, capture and prosecute persons responsible for terrorist offences, to obtain evidence, or to prevent the activities or development of the organisations or associations to which the prisoner belonged or with which he cooperated." As noted above, this requirement applies in addition to that the prisoner must have abandoned the aims and methods of terrorist activity.

4.3.4. Reparation, Compliance with Civil Obligations, and Other Requirements Relating to Victims

Finally, some of the legal systems analysed make access to release dependent on compliance with the civil obligations arising from the offence, that is, reparation for the consequences of the crime, or give particular consideration to the views of victims or other injured parties.

This is the case in Italy, where Article 176 of the Criminal Code makes conditional release subject to compliance with the civil obligations arising from the offence, unless the convicted person demonstrates that he is unable to fulfil them (Article 176 of the Italian Criminal Code). A similar provision exists in Romania, where the Criminal Code requires full compliance with the civil obligations established in the judgment, again with an exception where the convicted person proves that he has been unable to fulfil them (Article 99.1(c) of the Romanian Criminal Code).

In Spain, payment of the civil liability arising from the offence is not a requirement for the suspension of the execution of the remaining part of the sentence (Article 80 of the Criminal Code). It is, however, a requirement for classification in the third degree following a reform of the General Penitentiary Act in 2003. Classification in the third degree is, in turn, required for the suspension of the execution under Article 92.1. However, as in other legal systems, efforts to make payment may be sufficient, and full prior payment is not required for progression to the third degree (Rodríguez-Yagüe, 2018, pp. 114–115).

The inclusion of this requirement raises a potential conflict, since requiring compliance with civil obligations may result in differences between prisoners depending on their financial means. For this reason, legislation generally seeks to avoid applying the requirement automatically and takes into account whether failure to make payment results from a genuine inability to do so. The aim is to prevent the prisoner's financial situation from becoming, in itself, a decisive obstacle to release, although in practice it may still affect the prospects of obtaining it.

Some countries also give considerable weight to the perspective of victims when deciding whether persons serving reviewable life sentences should be released. This reflects the increasing recognition of victims' rights to participate in criminal proceedings, sometimes in accordance with international guidelines in this field. In France, for example, one of the requirements listed in Article 720-5 CPP is that, before release is granted, the views of victims who had the status of civil parties at the time of conviction must be obtained, although they are not binding on the court.

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In Spain, Article 13 of Law 4/2015 of 27 April on the Statute of Victims of Crime grants victims of certain offences a number of procedural rights during the execution of the sentence, including the possibility of appealing a decision suspending its execution. Since the offences covered include homicide and terrorism, among others, this provision may apply to cases involving life sentences. However, victims must have previously requested notification of the relevant decisions. Unlike in France, this is not a substantive requirement that must be met before the court can grant release. Victims may participate in the proceedings, but only by appealing a release decision after it has been adopted by the court.

New York State also gives victims a significant role by allowing them or their relatives to submit written statements, appear before the Parole Board, or oppose the prisoner's release (Section 259-i of the Executive Law). Once again, however, their views are not binding on the authorities. England and Wales give victims a similar role.

Taking victims' perspective into account in these cases may limit prisoners' prospects of release. Life sentences are generally imposed for murder or aggravated homicide, terrorist offences, offences committed by criminal organisations and, in some legal systems, aggravated sexual offences. These are normally offences that cause very serious or irreparable harm to victims, and those who choose to participate in sentence execution proceedings will therefore frequently oppose any measure favourable to the prisoner. Even when an adverse opinion is not binding, it may often operate against release.

4.3.5. Other Indeterminate Requirements

Although, in most countries, the requirements for the release of persons serving life sentences are those examined above, some legal systems contain additional provisions that deserve particular attention. The most significant example is France, where one of the requirements for conditional release is that it must not be likely to cause serious disruption to public order (Article 720-5 CPP). Although this provision might be understood as referring to criminal dangerousness, its vague wording and the indeterminate nature of the concept of *public order* raise concerns from the perspective of the principle of legal certainty. Public order is an indeterminate concept that may be invoked in cases where no actual dangerousness has been established but there is considerable public opposition to the prisoner's release. This may occur in the case of persons convicted of offences related to terrorist or political groups, or in high-profile cases that attract considerable public and media attention and may generate widespread social concern.

Germany, for its part, provides in Article 57a that release may be granted only where the particular seriousness of the convicted person's guilt does not require the continued execution of the sentence. This requirement also involves a considerable degree of indeterminacy. It appears to refer to the particularly serious nature of the offender's culpability rather than to their current dangerousness.

5. Discussion: Assessing the Reviewability of Life Sentences

The comparative analysis of life sentences conducted in the previous sections allows several conclusions to be drawn. The comparative analysis shows that irreducible life sentences persist in some of the legal systems examined. Although they are found in only a minority of

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the countries analysed, their existence constitutes the clearest manifestation of the exclusion associated with maximum penalties—apart from the death penalty—measured by the RIMES instrument, since they deprive convicted persons of any prospect of regaining their freedom. The case of the United States is particularly significant, as life imprisonment without the possibility of parole continues to occupy an important place in its criminal justice system. By contrast, this type of sentence is absent from most of the European countries studied, largely as a result of the influence of ECtHR case law, which requires the existence of genuine review mechanisms for a life sentence not to be considered inhuman. Nevertheless, *de iure* and *de facto* irreducible life sentences can still be found within Europe.

The analysis also shows, however, that the distinction between reviewable and irreducible life sentences cannot always be drawn in absolute terms, since some countries provide for extraordinary mechanisms of release, such as pardon or clemency, which are insufficient to constitute a genuine system of review. Furthermore, although the usual distinction between reviewable and irreducible life sentences is necessary, it is insufficient to reflect the diversity and complexity of the existing legislation. As the analysis has shown, the category of reviewable life sentences encompasses models offering very different prospects of release and, consequently, presenting different degrees of severity and social exclusion.

Studies of life imprisonment generally place considerable emphasis on the period that must be served before the first possible review. This is undoubtedly a relevant indicator of the severity of a life sentence, since there is a considerable difference between a system that allows release after fifteen or twenty years and one that requires forty years of imprisonment. Excessively long periods before review already reduce the real possibility that a prisoner will ever be set free, particularly where the person was already of a certain age when the offence was committed. Despite the importance of this temporal dimension, however, the results of this study reveal the limitations of an analysis focused exclusively on it. As is well known, serving the statutory minimum period does not lead to automatic release but merely determines the point at which it may first be considered. The actual possibility of release therefore depends on compliance with additional requirements, whose nature and number vary considerably among the legal systems studied. Two of them with similar periods may therefore offer substantially different prospects of release depending on the substantive requirements that must also be met.

The analysis of these substantive requirements has received far less attention in the literature, particularly from a comparative perspective. This paper has therefore sought to use the data and materials collected for the RIMES instrument to go further and examine the specific requirements for release established in the legislation of the different countries studied.

The first finding is that most of the criminal systems examined place the prisoner's prospects of reintegration or the risk that his freedom may pose to society at the centre of the decision on release once the statutory period has been served. Some of them do not specify the criteria on which this assessment must be based, while others identify particular considerations in greater or lesser detail, such as conduct while serving the sentence, participation in treatment programmes, personal progress, or prospects of adapting to life in society after release. Although the requirements vary, the most relevant question is the extent

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to which they relate to the prisoner's progress while serving the sentence and the extent to which they pursue other considerations. As shown above, some countries take into account criteria relating to the seriousness of the offence, the degree of culpability, the circumstances of the offence, the prisoner's criminal record, or their lifestyle before imprisonment. These circumstances were already considered at the time of trial and sentencing and, in some cases, may also have contributed to determining the minimum period to be served in a life sentence. Their usefulness in assessing future risk is questionable, particularly after periods of imprisonment that, even in the least severe cases, generally exceed a decade. Furthermore, these are immutable circumstances from the past that cannot be changed by the prisoner's subsequent conduct or progress through treatment. Their inclusion in legislation should therefore be rejected, and it is necessary to consider whether, in practice, these criteria prevent or hinder the release of persons serving life sentences.

Some legal systems also establish additional conditions, sometimes as independent conditions for release, requiring the prisoner to demonstrate remorse or adopt a particular attitude towards the offence. These factors introduce a considerable degree of subjectivity and may allow decisions refusing release to be based on the prisoner's inner attitudes or beliefs, without a clear risk of recidivism. In some countries, such as Italy and Spain, cooperation with the authorities may constitute a relevant indication that links with criminal or terrorist organisations have been broken. However, making such cooperation an essential or particularly important condition for release may be excessive, since it may disregard the many reasons why a person may decide not to cooperate.

In other cases, release is made conditional on compliance with civil obligations arising from the offence, while some systems also give particular consideration to victims' views, as occurs, for example, in New York, England and Wales, France, and Spain. These elements may pursue legitimate aims related to reparation for victims, but they must be applied with sufficient safeguards. Differences in prisoners' financial means should not determine their prospects of release, nor should victims' punitive attitudes unduly influence the decision-making authorities.

Finally, particularly problematic is the inclusion of indeterminate criteria that are difficult to connect with the prisoner's personal progress or current dangerousness, such as the possible disruption of public order resulting from release under French law or the particular seriousness of the prisoner's guilt under German Law. In these cases, the indeterminate nature of the requirements leaves considerable room for discretion and may allow social pressure, media attention surrounding the offence, or opposition to the release of particular prisoners to acquire excessive importance and influence decisions on release.

All these considerations show that the severity of a reviewable life sentence does not depend on a single element, but on the interaction between all the components of the system: the existence of a review mechanism, the length of the minimum period to be served, and the substantive requirements for release. To these must be added the practices and legal cultures of the judicial, administrative, and penitentiary authorities responsible for sentence review in each country, which may determine the actual prospects of release. On the basis of these considerations, it may be possible, albeit on a very preliminary basis, to distinguish between different levels or models of life sentence reviewability. Models of broad

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reviewability would be those in which review takes place after relatively moderate periods and the decision is based primarily on circumstances relating to the prisoner's progress. Models of moderate reviewability would establish longer periods or additional requirements that make release more difficult. Finally, models of restrictive reviewability would combine very long periods of imprisonment with particularly demanding substantive requirements, thereby considerably reducing the prospects of release.

This classification is, however, only an analytical proposal and must be approached with caution. Its application to specific legal systems would require the development of criteria for assessing and weighing the different elements that determine reviewability. Determining which requirements justify placing a country in one category rather than another is difficult, particularly without a detailed examination of practices in each jurisdiction and specific data on release, which are not always available or accessible. Nevertheless, this classification may provide a useful basis for future comparative studies that could conduct a more detailed analysis.

From the perspective of measuring social exclusion, the fundamental question is whether a person sentenced to life imprisonment may one day be released. An approach that also identifies and assesses the substantive requirements for release can therefore provide a more accurate means of answering this question. It may allow us to better determine whether the possibility of reviewing a life sentence is merely formally recognised in legislation in order to address the possible objections of international bodies, or whether it offers the prisoner a genuine prospect of one day regaining his freedom.

References

Alemán-Aróstegui, L. (2026). Aproximación crítica al uso de instrumentos algorítmicos en la ejecución penitenciaria desde la perspectiva del Derecho penal. In J. Aldaz Arregui & A. Martínez González (Eds.), *La predicción del riesgo y el riesgo de la predicción en los sistemas penitenciarios* (pp. 317-347). Cizur Menor: Aranzadi.

Ahti, R. (2021). Life imprisonment and other long-term sentences in the Finnish criminal justice system: Fluctuations in penal policy. In K. Ghanayim & Y. Shany (Eds.), *The quest for core values in the application of legal norms. Essays in honor of Mordechai Kremnitzer* (pp. 201-217). Cham, Switzerland: Springer.

Arenas-García, L. (2021). Constructing and validating an instrument for comparing national criminal justice policies. *Revista Criminalidad, 63*(3), 107-125.

Becerra-Muñoz, J. (2023). La utilidad de la política criminal comparada. In E. García-España & A. Cerezo-Domínguez (Eds.), *La exclusión social generada por el sistema penal. Su medición internacional por RIMES* (pp. 21-42). Valencia: Tirant lo Blanch.

Corral-Maraver, N. (2015). *Las penas largas de prisión en España. Evolución histórica y político-criminal*. Madrid: Dykinson.

Corral-Maraver, N. (2020). *La política criminal de la Unión Europea. Especial referencia a su influencia en el Derecho penal español*. Madrid: Editorial Reus.

International e-Journal of Criminal Sciences

ISSN: 1988-7949 UPV/EHU Press www.ehu.eus/inecs

Corral-Maraver, N. (2023a). Cesta 4. Penas máximas. In E. García-España & A. Cerezo-Domínguez (Eds.), *La exclusión social generada por el sistema penal. Su medición internacional por RIMES* (pp. 243-268). Valencia: Tirant lo Blanch.

Corral-Maraver, N. (2023b). Nacionalismo, punitivismo y penas de prisión perpetuas. Reflexiones con ocasión de las recientes reformas penales en Polonia. In C. Rodríguez Yagüe (Ed.), *Penas perpetuas* (pp. 755-782). Valencia: Tirant lo Blanch.

Corral-Maraver, N. (2024a). Autoritarismo y penas de prisión perpetuas en Europa central. Un estudio de las recientes reformas en las Repúblicas de Hungría y Polonia. *Revista Electrónica de Ciencia Penal y Criminología, 26*-07, 1-44.

Corral-Maraver, N. (2024b). Aplicación de la pena de prisión permanente revisable en España (2015-2023). In N. Corral-Maraver (Ed.), *Personas condenadas a prisión permanente revisable en España. Cuestiones penales y penitenciarias* (pp. 15-58). Madrid: Dykinson.

Dessecker, A. & Hoffmann, A. (2019). *Die Vollstreckung lebenslanger Freiheitsstrafen. Dauer und Gründe der Beendigung in den Jahren 2016 und 2017*. KrimZ, BM-Online, Band 16. [URL: https://www.krim-z.de/fileadmin/dateiablage/E-Publikationen/BM-Online/bm-online16.pdf]

Dessecker, A. (2017). *Die Vollstreckung lebenslanger Freiheitsstrafen. Dauer und Gründe der Beendigung im Jahr 2015*. KrimZ, BM-Online, Band 9. [URL: https://www.krimz.de/fileadmin/dateiablage/E-Publikationen/BM-Online/bm-online9.pdf]

Díez-Ripollés, J. L. & García-España, E. (2019). RIMES: An instrument to compare national criminal justice policies from the social exclusion dimension. *International E-Journal of Criminal Science, 13*, Article 1, 1-27.

Díez-Ripollés, J. L. (2011). La dimensión inclusión/exclusión social como guía de la política criminal comparada. *Revista Electrónica de Ciencia Penal y Criminología, 13*-12, 1-36. [URL: chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/http://crimi-net.ugr.es/recpc/13/recpc13-12.pdf]

Díez-Ripollés, J. L. (2019). Overuse of the criminal justice system: Rules and practices. *European Criminal Law Review, 9*(1), 40-58.

European Parliament. (2019). *Resolution A8-0251/2017 on prison systems and conditions reaffirms the role of the EU*.

García-España, E. & Cerezo-Domínguez, A. (Eds.). (2023). *La exclusión social generada por el sistema penal. Su medición internacional por RIMES*. Valencia: Tirant lo Blanch.

García-España, E. & Díez-Ripollés, J. L. (2021). La exclusión social generada por el sistema penal español: Aplicación del instrumento RIMES. *InDret, 1*, 259-281.

Gray, E. (2019). Decades in death's twilight: Cruel and unusual punishment on Texas's death row. *New Criminal Law Review, 22*(2), 140-163.

Helsinki Foundation for Human Rights. (2018). *Prison Insider. Annual report*. [URL: https://www.prison-insider.com/files/9614b50a/fp_pologne_en.pdf]

Kładoczny, P. & Wolny, M. (2013). *Prison conditions in Poland*. European Prison Observatory. [URL: http://www.prisonobservatory.org/upload/Prison_Po-land.pdf]

International e-Journal of Criminal Sciences

ISSN: 1988-7949 UPV/EHU Press www.ehu.eus/inecs

Klimczak, J. & Nielaczna, M. (2020). Extreme criminal penalties: Death penalty and life imprisonment in the Polish penal and penitentiary system. *Archiwum Kryminologii, 42*(1), 1-28. [URL: http://czasopisma.inp.pan.pl/in-dex.php/ak/article/view/1944]

Lappi-Seppälä, T. & Tonry, M. (2011). Crime, criminal justice, and criminology in the Nordic countries. *Crime and Justice, 40*(1), 1-32.

Núñez-Fernández, J. (2020). Prisión permanente revisable y el TEDH: Algunas reflexiones críticas e implicaciones para el modelo español. *Anuario de Derecho Penal y Ciencias Penales, 73*, 267-306.

Ogletree, C. J. & Sarat, A. (2012). *Life without parole: America's new death penalty?* New York: New York University Press.

Parole Board. (n.d.). *Parole Board guidelines*. [URL: https://www.gov.uk/government/organisations/parole-board?utm]

Penal Reform International & Thailand Institute of Justice. (2021). *Global Prison Trends 2021*. London: Penal Reform International [URL: https://www.penalreform.org/global-prison-trends-2021/]

Penal Reform International & Thailand Institute of Justice. (2025). *Global Prison Trends 2025*. London: Penal Reform International [URL: https://www.penalreform.org/resource/global-prison-trends-2025/]

Prado-Manrique, B. (n.d.). *La comparación de sistemas penales desde la exclusión social: Aplicación exploratoria del RIMES en Sudamérica* [Unpublished doctoral dissertation].

RIMES Project. (2018). *Memoria ejecutiva* [Unpublished report].

Rodríguez-Yagüe, C. (2017). Los estándares internacionales sobre la cadena perpetua del Comité Europeo para la Prevención de la Tortura y las Penas o Tratos Inhumanos y Degradantes. *Revista de Derecho Penal y Criminología, 17*, 225-275.

Rodríguez-Yagüe, C. (2018). *La ejecución de las penas de prisión permanente revisable y de larga duración*. Valencia: Tirant lo Blanch.

Sánchez-Benítez, C. (2024). La pena de ergastolo o cadena perpetua italiana tras la reforma legislativa de la modalidad agravada (ostativa). *Revista Penal, 54*, 238-269.

Schartmueller, D. (2019). How long is life? Comparing the processes of release for life imprisoned offenders in Denmark, Finland, and Sweden. *European Journal on Criminal Policy and Research, 25*, 391-408.

Sentencing Council. (n.d.). *Offender management statistics bulletin, England and Wales quarterly*. [URL: https://www.sentencingcouncil.org.uk/sentencing-and-the-council/types-of-sentence/life-sentences/]

Stańdo-Kawecka, B. (2014). Poland. In K. Drenkhahn, M. Dudeck & F. Dünkel (Eds.), *Long-term imprisonment and human rights* (pp. 218-235). Abingdon: Routledge.

Texas Department of Criminal Justice. (2022). *Statistical report FY 2022* (pp. 1-63). Available at: [URL: https://www.tdcj.texas.gov/documents/Statistical_Report_FY2022.pdf]

Tournier, P. V. (2012). Condamnation à perpétuité: Quelle espérance de vie? In E. Lecuyer (Ed.), *La perpétuité perpétuelle*. Rennes: Presses Universitaires de Rennes. [URL: http://aum.catho.prison.free.fr/documents/Tournier/perpetuite-25_10_11.pdf]

International e-Journal of Criminal Sciences

ISSN: 1988-7949 UPV/EHU Press www.ehu.eus/inecs

Vannier, M. A. (2016). Right to hope? Life imprisonment in France. In D. van Zyl Smit & C. Appleton (Eds.), *Life imprisonment and human rights* (pp. 207-208). Oregon: Hart Publishing.