

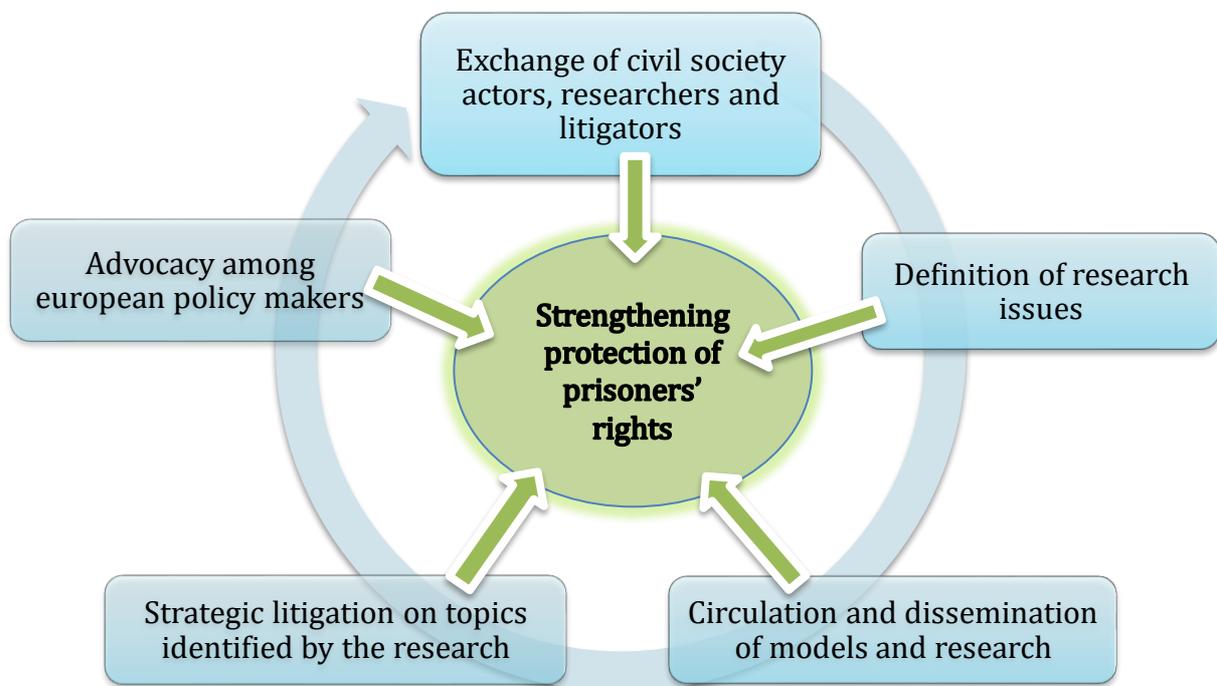
European Prison Litigation Network Strategic plan for 2018-2019

A. Recall of the objectives of the PLN

Overall objective: to strengthen the protection of prisoners' rights, diminish the use of incarceration and decrease the length of sentences.

Sub-objectives :

- 1- to raise networking and strengthen capacities of NGO engaged in the protection of prisoners' right
- 2- To develop research in order to :
 - a. improve knowledge on national law and thus promote circulation of most protective normative models
 - b. develop litigation on identified topics
 - c. analyse implications of the entry of law in prison, to distinguish between real transformation and formal adjustment and deter and anticipate possible adverse evolution for the incarcerated persons.



B. Thematic orientations and types of activities for action in 2018-2019

The action of the EPLN is focusing on 4 types of action :

- Litigation and advocacy
- research
- capacity building of prison practitioners and civil society actors through trainings and seminars
- provision of legal tools to prisoners and their relatives

After having established an overview of the remedy mechanisms available to prisoners in Europe within the framework of a project (2014-2016) funded by the European Union in 11 States, EPLN is engaged in a series of actions intended to promote more profound transformations of the legal and concrete situation of prisoners in Europe, first by enabling them to mobilise to defend their rights, then by promoting links between society and prison and finally by reconnecting the question of rights with the orientation of national criminal policies.

1. Empowerment of prisoners : strengthening access to the law and recognition of prisoners' collective rights

Justification:

This axis is at the heart of the association's emancipatory conception of prisoners' rights. Detainees must be able to reclaim their fundamental rights, both in terms of their conception and their use. This requires access to the law - and from this point of view access to the Internet is essential - and the recognition of collective rights that will give strength to their demands.

Objectives:

- integrate the issue of prisoners' access to the Internet into the Council of Europe's soft law (with the work of the bodies concerned placed on the agenda in 2020) and develop litigation on this issue before the domestic courts from 2020 onwards;
- to promote the recognition of the right of association and collective expression of detained persons in the case law of the European Court of Human Rights (ECtHR);
- promote the participation of prisoners in the activities of NGOs active in prison matters and increase the role of prisoners' and former prisoners' organizations in the debate on criminal and prison issues;
- recognition of the right to protest peacefully against torture and ill-treatment.

Activities:

A.1. In spring 2019, thanks to a prize on social innovation received from the Paris City Hall, EPLN will hold a European Forum on Prisons and Digital Technology, involving NGOs or universities from 11 countries. It will serve as a platform to support **prisoners' access to Internet**. It will then identify the issues (especially in terms of digital law, right

to privacy) that the prospect of such recognition and create the basis for further action research and identify the actors and stages of a litigation campaign.

A2. With regard to **the right of prisoners to participate in associations in the community**, and in order to initiate recognition of the right of association of prisoners, EPLN will take over in 2018 a case pending before the European Court (Basyrov and Others v. Russia, No. 51064/13) concerning the legal prohibition of associations in Russia from accepting prisoners as members. The ECtHR may object that an appeal to the Russian Constitutional Court is necessary beforehand. If it is the case, such action will be undertaken in 2019.

A3. EPLN will explore in 2018/2019 joint actions with existing prisoner and former prisoner organisations in Europe. At this stage it is planned to collect information on the conditions of their legal existence, their mode of operation and their activities. The aim is to prepare future actions for **the recognition of the right of association of prisoners**. In this perspective, the association will also analyse the conditions of possibilities for the development of therapeutic communities in prison.

A4. At the end of 2018/beginning of 2019, in a trial before the Supreme Court of Russia, EPLN will support the defence of those accused of having seriously disturbed the order of colony No. 6, despite having protested against systematic torture practices. The defence will try to invoke the principle of necessity to challenge the sentence handed down at first instance (up to 5 years in prison). Above all, EPLN prepares the litigation before the ECtHR. It will be a question of asking the Court to recognize a **right to peaceful protest in the context where complaint systems are ineffective in the face of credible information of torture**.

2. Breaking the isolation of the prison

Justification:

A sine qua non condition for the exercise of rights in prison is that the latest functions both under the eyes of society and that the different components of society enter the prison with their own rationalities. It is on this condition that the law will be able to reduce the primacy of the institution's security and discipline.

Objectives:

- recognition in European Union legislation procedural safeguards linked to prison litigation, in particular with regard to legal aid (especially in the frame of the 2020-2025 criminal law road-map);
- ensuring civilian control over Russian prisons and allow complaints to be forwarded to domestic courts and the ECtHR.
- ensuring full recognition of the patient's status in the exercise of care in prison and impose independence of the health service from the prison administration.

Activities/Projects

A.1. Until February 2019, continuation of **comparative research on systems providing access to the law and the courts in Europe**, conducted in 10 European Union countries. The comparative study will be completed in the fall of 2018. In December 2018, EPLN will organise with its partners a conference at the European Court of Human Rights, with the participation of the judges of the Court, and representatives of the institutions of the European Union. The results of this research will be published in an academic book, to be published in 2019. At the same time, specific advocacy work is being carried out in conjunction with the French and Spanish Bars, so that the European Bars Council (CCBE) can take stand in favour of the inclusion of procedural guarantees, in particular legal aid, in the framework of the European Commission's criminal roadmap for the years 2020-2025. Similar work is being carried out in parallel with Council of Europe bodies.

A.2. After the book "*Monitoring penal policy in Europe*", published by Routledge in 2017, a second book should be published in 2019 based on the work of the project on the impact of remedy mechanisms in criminal and prison matters, carried out between 2014 and 2016. Here again, the aim is to push ahead with **the requirement to strengthen legal aid and other mechanisms for mobilising lawyers in the prison field**, and also to encourage the European Court to strengthen its supervision in criminal matters.

A.3 After the undermining of the civil prison control commissions, in Russia, which are now totally dependent on the prison administration, EPLN and some of its partners in Russia (Public Verdict, Legal Basis, Ural Democratic Group, Siberia Against Torture, Russian Justice Initiative) have set up a two-year project to set up **an alternative system for monitoring places of detention**. The aim will be to collect information on ill-treatment in detention through visits by lawyers and the proceedings initiated by them; to structure the processing and analysis of the information collected in order to draw up a report on the operation of prisons for international human rights protection bodies; to conduct strategic litigation actions concerning the most problematic aspects of the detention regime in Russia; and to provide judicial protection for victims of torture, as well as for defenders of the rights of detainees harassed by the authorities. The first stage of the project will cover the Irkutsk, Ekaterinburg and Chelyabinsk regions.

A.4 EPLN will intervene in 2018 before the European Court of Human Rights to ask European judges to establish a **positive requirement of independence for doctors practicing in prison vis-à-vis the prison administration**, a requirement deriving from the principle of equivalence of care between prison and the outside world.

A.5 In 2018, EPLN will present a project in the field of HIV in Central and Eastern European countries aimed at **promoting access to evidence-based prevention measures and specialized care services, and promote the integration of health services in prisons to the general health system**.

3. Articulating prisoners' rights with criminal policies

Justificatios:

To understand the question of fundamental rights in prison independently of the analysis of criminal policies is to favor a purely theoretical approach to rights, detached from the question of the social functions of the prison, the fundamental questions of the length of sentence and the sectors of the population sent to prison.

Objectives:

- fight against the instrumentalization of psychiatry for punitive and neutralizing purposes in health and criminal policies;
- promote the monitoring of criminal policies in the process of supervision by the Committee of Ministers of the Council of Europe of the execution of judgments of the ECtHR.
- fight against the dismantling of fundamental rights in prisons in the process of conducting counter-radicalization policies in prisons;
- to obtain the abolition of the real life sentence in Ukraine and the enshrinement of the right to social reintegration in the case law of the ECtHR.

Activities/projects:

A.1. As a follow-up to the intervention presented by EPLN in 2017 in the *Ilmseher v. Germany* case, the association will develop in 2019 (with a view to a presentation in 2020) a project (tentatively with the University of Dortmund) aimed at **analysing violations of fundamental rights specific to preventive detention measures** (after the execution of the sentence), and in particular the questioning of fundamental ethical principles through the use of psychiatry for judicial, punitive/neutralizing purposes. This project could involve German, French, Belgian and Norwegian research centres and NGOs.

A.2 EPLN will participate in 2019 in a project led by the Bulgarian Helsinki Committee **on the execution of judgments of the European Court on cases subject to the enhanced supervision procedure**. This is an 4-year project, involving 7 countries (RU, UA, BG, PL, HU, GR, RO) of Central and Eastern Europe. In this context, EPLN will analyse the extent to which the judgments of the European Court are taken into account in criminal policies.

A.3. EPLN and the University Paris 1 Sorbonne will form in 2018 a consortium of European research centres to work, from 2020, on the degree to which the fundamental rights requirements are taken into account by international cooperation instruments on the **prevention of radicality in prison environments**, as well as on the public supervision to which these instruments are subject to.

A.4. EPLN will present in 2018 a procedure before the ECtHR to establish the systemic problem of the lack of **access of life sentenced-prisoners to parole in Ukraine** (*Panasenko v. Ukraine*). Together with Kharkiv Human Rights Group and with the participation of the Ukrainian Supreme Court and the Training school for Magistrates, EPLN will organise a conference in October 2018 on parole mechanisms accessible to persons serving life sentences in Europe, with the support of the French Embassy.