



**EUROPEAN
PRISON
LITIGATION
NETWORK**

ANNUAL REPORT
2019



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I_ACCESS TO JUSTICE

Research and Campaign on procedural guarantees for detainees

In 2019, the research on access to justice for detainees in Europe that EPLN was coordinating with CNRS was completed, with the publication in June of a [white paper, mainly addressed to the European Union institutions](#). This research, initiated in 2017, brought together ten partners from European countries : CNRS (Laboratories SAGE and CESDIP), European Prison Litigation Network, University of Utrecht, Helsinki Foundation for Human Rights, University of Applied Sciences and Arts of Dortmund, University of Florence, Bulgarian Helsinki Committee, University of Ghent, General Council of the Spanish Bar, University of Comillas.

Following the publication, EPLN developed an advocacy campaign to address the main barriers to prisoners' access to justice i.e. lack of knowledge of the law and procedures, and vulnerability to pressure from the prison administration and work for the recognition of procedural guarantees for the benefit of prisoners, including access to legal information, the right to free legal aid, and the right to access a translator if necessary. Thanks to joint efforts of EPLN, its partners across Europe and the involvement of Spanish and Belgian Bars, the Council of Bars and Law Societies of Europe (CCBE) dedicated in 2019 the [European Lawyers Day](#) to the issue of defense of detainees and access to a lawyer for detainees. At this occasion, EPLN members mobilized to organize several events in [Berlin](#), [Roma](#) and [Brussels](#).

As a follow up on the European Lawyers Day mobilization, an advocacy campaign was launched by EPLN with MEP from the LIBE commission aiming at encouraging the European Commission to initiate a legislative process to strengthen procedural guarantees for detainees.

Access to Internet and digital technology in prison

On May 23, 2019, EPLN, the University of Paris 1 – Pantheon Sorbonne, ISJP Research Unit, and the association La Quadrature du Net organised the conference “Prison and new technologies : what protection of fundamental rights?” The conference aimed at discussing the integration of prisons into the digital world, from the perspective of strengthening access to legal information, legal aid and access to effective remedy, but also from the perspective of the risks it entails for the right to privacy and data protection and the potential impact of automated data processing on disciplinary procedures or sentences adjustment.

The [conference](#) benefited from the special contribution of Christiaan van Veen, Special Advisor on new technologies and human rights to the U.N. Special Rapporteur on Extreme Poverty and Human Rights and brought into dialogue 40 social scientists, legal scholars, lawyers, medical doctors, civil society actors and national policy makers from France, Ukraine, Poland, the UK, Spain, Italy, Russia, Belgium, the Netherlands, Germany.

The conference was awarded the Paris label Europe prize by the Deputy Mayor of Paris. It was realized in partnership with the Ecole Supérieure des Interprètes et Traducteurs [ESIT](#) at the University of Paris 3 Sorbonne Nouvelle.

Following the conference Sofia Ciuffoletti, Researcher at the University of Florence, president of the NGO L'Altro Diritto and board member of EPLN published the article “Out of the cage, into the net. Understanding access to the internet in prison as a human rights”, and was published in Russian and English in the [Legal Dialogue Journal](#) in 2020.

II_ACCESS TO HEALTH CARE

EPLN established in 2018 the Prison Health & Rights Consortium together with the Eurasian Network of People who Use Drugs and national NGO partners in six European countries (Bulgaria, Georgia, Kosovo, Moldova, Russia, Ukraine). The Consortium aims at advocating for the recognition of fundamental human and patient rights for the detained persons, in particular detainees living with HIV and drug users by fostering cooperation between human rights defenders and communities of civil society activists who use drugs heavily affected by incarceration and violation of health and human rights in detention. The Consortium is supported by the Robert Carr Fund until end of 2021.

In 2019, the project enabled to monitor and document **42 cases of violations of health and human rights** in the six countries, which were followed by complaints to local control organs or courts, led by national partners of the project. **4 cases were brought to the ECtHR**. In addition, national partners produced 6 analytical reports on systemic problems and domestic norms relating to the protection of health and human rights of detainees living with HIV and who use drugs.

In the frame of the project, 20 members from the six countries of the Consortium met for a seminar on 10-11 December 2019 in Sofia, Bulgaria to discuss the results of the project and identify avenues for an advocacy and litigation strategy in 2020-2021. Through

monitoring and analytical work the consortium partners have indeed identified two key barriers to access to care in prison: 1) a weak linkage between prison medicine and the general health system, resulting in limited access to specialized care, particularly for serious pathologies, and delays in diagnoses and treatments, in particular antiretroviral therapy, TB treatment and opioid substitution therapy.; 2) and complex and ineffective procedures of release on medical grounds. particular antiretroviral therapy, TB treatment and opioid substitution therapy.

The seminar was closed by a special lecture of Yuri Paltsev, lawyer at the Registry of the ECHR, specialized on Eastern European countries and on the issue of access to care in detention, presented the perspective of the European Court on the protection of health and human rights of detainees, in particular detainees living with HIV. The Legal Officer spoke on procedural issues relating to the referral of cases to the European Court (locus standi, exhaustion of remedies, formal requirements) and on various issues central to the handling of the litigation at stake, such as, in particular, the rules of evidence, techniques for applying the Convention in the presence of victims belonging to vulnerable categories, the technique of examining the cumulative effects of prison conditions, etc.

III_PRISON VIOLENCE

Coalition of NGOs from Russia, Ukraine, Germany and France for fighting violence in prison

In 2019, EPLN launched with the Prisons' Archive at the Dortmund University of Applied Sciences and Arts a coalition of German, French, Russian and Ukrainian prisoners' rights defenders and researchers to strengthen mechanisms of protection of rights of detainees and advocate for the eradication of violence and ill-treatment in prison.

During the year, Russian and Ukrainian partners of the project carried out **57 visits of prison** facilities in 5 regions of Ukraine and Russia and provided **247 legal consultations** on the basis of alerts received through relatives of detainees, detainees themselves or and independent prison observers. On the basis of consultations, **43 judicial or extrajudicial actions** were undertaken by the partners to address the reported and observed violations of rights to regional control organs and require investigation and protection measures for the victims.

The project also aimed at developing protection strategies for detainees incarcerated in territories of the Donbass out of control of the Ukrainian government. Ukrainian partners identify some particularities in the types of violations of rights, specific to the uncontrolled territories : injuries from war (contusions, injuries, etc.) ; poor conditions of detentions, in particular, periods when prisoners suffered from hunger ; lack of access to water, heat, electricity; ill-treatment; violation of the right to liberty in various forms, e.g. staying in detention without a court decision, failure to apply the amnesty and Savchenko's law, due to which many convicts stayed

in detention for a much longer period than they should have; inability to see relatives living in the controlled territory; etc. Due to the impossibility of accessing prison facilities in uncontrolled territories, Ukrainian partners need to develop special approaches to collect information on violations of rights and defend detainees. This project also enabled to explore with a coalition of Ukrainian and Russian NGOs the issue of the access of civil society to disputed territories and the role of civil society for the protection of detainees rights in Donbass. This reflexion served the preparation of a Briefing Paper which was submitted early 2020 to the Expert Council on NGO law at the Council of Europe.

On 25-26 October 2019 the project gathered 56 prisoners' rights defenders, lawyers, researchers from the four countries to dialogue on the fundamental rights of detainees in Europe and in particular possible ways for reforms to prevent and eradicate prison violence, at the occasion of the European Lawyers' Day. [The conference](#) enabled an - in Germany unprecedented - cross-border mobilization of civil society actors and researchers for the cause of prisoners. Although the intensity of problems are not comparable between prisons of Germany, France and Eastern Europe, bringing into dialogue prisoners' rights defenders and scholars from the four very different contexts and countries enabled to point out some similarities in the structural problems affecting fundamental rights in prison, namely the issue of accessing to a lawyer and to legal assistance in case of violations of rights, the refraining of detainees from going to court, the question of access to health care, including mental health care, and the independency of prison medicine, the treatment by the prison administration of inter-prisoner violence. The conference also enabled to underline an important structural problem common to post-soviet countries only and hindering any

attempt to reform the penitentiary system in Ukraine and Russia, namely a conception of punishment dominated by an exclusively punitive rationality, and the considerable weight of prison subculture inherited from the Soviet era, with a common phenomenon of delegation of authority by the prison administration to informal authorities and auxiliary prisoner groups (“watchers”) to maintain order, very often at the cost of systematic ill-treatment practices.

The learnings from the conference will be published in 2021 in the publishing house Springer.

Communication of a coalition of NGOs in the case Buntov vs. Russia

In August 2019 EPLN with a coalition of NGOs jointly submitted a [communication](#) to the Committee of Ministers of the Council of Europe in the frame of the implementation of the ECtHR judgment Buntov v. Russia. The communication was drafted based on the analysis by Russian partners of their access to places of detention and the impact of the undermining of the mechanism of Public Monitoring Commissions for the prevention of ill-treatment and torture in prison. Following the communication of the coalition, the Secretariat of the CoE Committee of Ministers confirmed the Coalition’s observations in September 2019 and the Committee of Ministers asked Russian authorities for corrective measures.

Right to protest for detainees victims of torture

EPLN monitored between 2015 and 2018 the trial of Kopeysk prisoners, who had collectively protested against torture in 2012 in Penitentiary Colony No.6 of Kopeysk, Ural, Russia. The case highlighted the need for protection against judicial reprisals by detainees peacefully protesting against ill-treatment in a context of impunity and complete lawlessness.

In 2019 EPLN provided technical [support to the defence](#) in Supreme Court of the 17 detainees sentenced to up to 5 years imprisonment for what was qualified of mass riots at first instance by the Chelyabinsk Regional Court. Regrettably, the Supreme Court refrained from responding to the arguments developed in this case. EPLN's jurors have been appointed to represent the defendants before the European Court.

Based on the monitoring and litigation work, EPLN is currently initiating a strategic litigation campaign aimed at questioning the scope of the protection afforded by the ECHR to victims of torture, and more specifically, whether persons who have broken the law in order to rebel against a widespread torture regime in prison and alert the outside world to their fate can avail themselves of the protection of the European Convention in the context of criminal proceedings brought against them.

IV_LIFE IMPRISONMENT

Life imprisonment in Ukraine

Ukraine is the leading European country in terms of the number of prisoners sentenced to life imprisonment. To date, these detainees have no access to a release measure.

Since 2018 EPLN is associated with the Ukrainian NGO Kharkiv Human Rights Protection Group (KHPG) in a campaign aimed at abolishing life imprisonment without the possibility of release or indefinite detention measures. In view of the importance and complexity of the problems resulting from the execution of life sentences in Ukraine, an action including academic events with universities, public awareness events and the participation of detainees was conceived and implemented from March to May 2020 in Kyiv and Kharkiv.

On April 11, 2019, a conference was organized in Kyiv at the University Taras-Chevchenko with the participation of Nikolay Gnatovskiy, president of the CoE CPT, judges from the Ukrainian Supreme Court and researchers. The conference put into discussion the implications of European case-law and in particular of the ECtHR decision Petukhov No. 2, the aspects of Ukrainian legislation concerning life sentences (both the parole mechanism and the detention regime) that need to be questioned and the possible avenues for reform. The event was covered by [TV Magnolia](#) and [Radio Free Europe](#).

On April 26, 2019, a second conference was organized at the Ukrainian National Academy of Law - Yaroslav the Wise. The [conference](#) brought together eminent specialists in penitentiary matters and the issue of life sentences, in particular Jean-Marie Delarue, at the time President of the French National Consultative Commission on

Human Rights (CNCDH), and former Controller General of Places of Deprivation of Liberty (CGLPL), and Dirk Van Zyl Smit, Professor of Law at the University of Nottingham, expert in charge of supporting the Committee of Ministers of the Council of Europe in the process of rewriting the European Prison Rules and author of the first worldwide study of life sentence systems. The conference was attended by lawyers, regional representatives of the penitentiary administration, association leaders, lecturers and students.

On April 27, 2019, a round-table was held at the Kashchanov Penitentiary Colony No. 54 with women serving life sentences. In addition to the foreign speakers present at the conference the day before, the round table was also joined by Françoise Tulkens, former Vice-President of the European Court of Human Rights and current judge at the Administrative Tribunal of the Council of Europe. The participants discussed first the meaning and consequences of the ECtHR decision Petukhov No. 2. The detainees then explained how the prison and the judicial system function in practice, in particular how the corruption rampant in the judicial system is biasing procedures and the purely punitive approach of the sentence enforcement system.

In addition, and in order to raise awareness among the general public, EPLN and KHPG have set up a project with the Theatre Platform association, combining a documentary show, co-written with women serving life sentences, and lectures ([Довічно важливо: соціальний проєкт](#)). The show was performed in Kyiv (11 April/11 May), Odesa (21 April), Dniepro (23 April), and Khakiv (26 April). Some 1,100 spectators attended these various performances. As part of this project, a workshop took place on 24 March 2019, as part of the Docudays Festival in Kyiv, and a discussion at the TEO theatre space in Odesa on 3 March

SUPPORT AND RESOURCES TO PRISONERS' RIGHTS DEFENDERS IN EUROPE

Dissemination of the ECHR jurisprudence on prison

EPLN continued in 2019 to monitor and disseminate to its members and partners a newsletter on the ECtHR case law with regards to prison. The newsletter is published in partnership with the [Institute for Criminal Policy Research](#) (London University).

In 2019, 4 quarterly newsletters were published.

Campaign of support to the Bulgarian Helsinki Committee

Following pressures the Bulgarian Helsinki Committee has been undergoing from the Bulgarian nationalist party due to its human rights activities, EPLN together with the Fédération internationale des droits humains (FIDH), the Organisation mondiale contre la torture (OMCT), the Ligue des droits de l'homme (LDH) and l'Association Européenne pour la défense des Droits de l'Homme

(AEDH) jointly published on 16 October 2019 an open letter addressed to the French presidency of the Council of Europe calling them to take action at the Committee of Ministers.

Online training on submissions to the European Court of Human Rights

In partnership with the lawyer Anton Burkov and the Strategic Litigation Center, EPLN offered an online course of 5 weekly modules from 7.11.2019 to 5.12.2019 on "How to apply to the European Court of Human Rights". The online course gathered 10 Russian, Ukrainian and Moldovan jurists and activists having a regular practice of assisting detainees in the protection of their rights and in the need of strengthening their knowledge for litigating at the ECtHR.

FINANCIAL REPORT

2019 REVENUE

EARMARKED GRANTS AND DONATIONS	314 499
OTHER REVENUE	10
FINANCIAL AND EXTRAORDINARY INCOME	382
TOTAL	314 891

2019 EXPENSES PER PRIORITY

ACCESS TO JUSTICE	28 122
ACCESS TO HEALTH CARE	178 903
PRISON VIOLENCE	71 516
LIFE IMPRISONMENT	5 308
ADMINISTRATIVE AND CORE COSTS	18 145
TOTAL	301 994

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IMPRINT

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