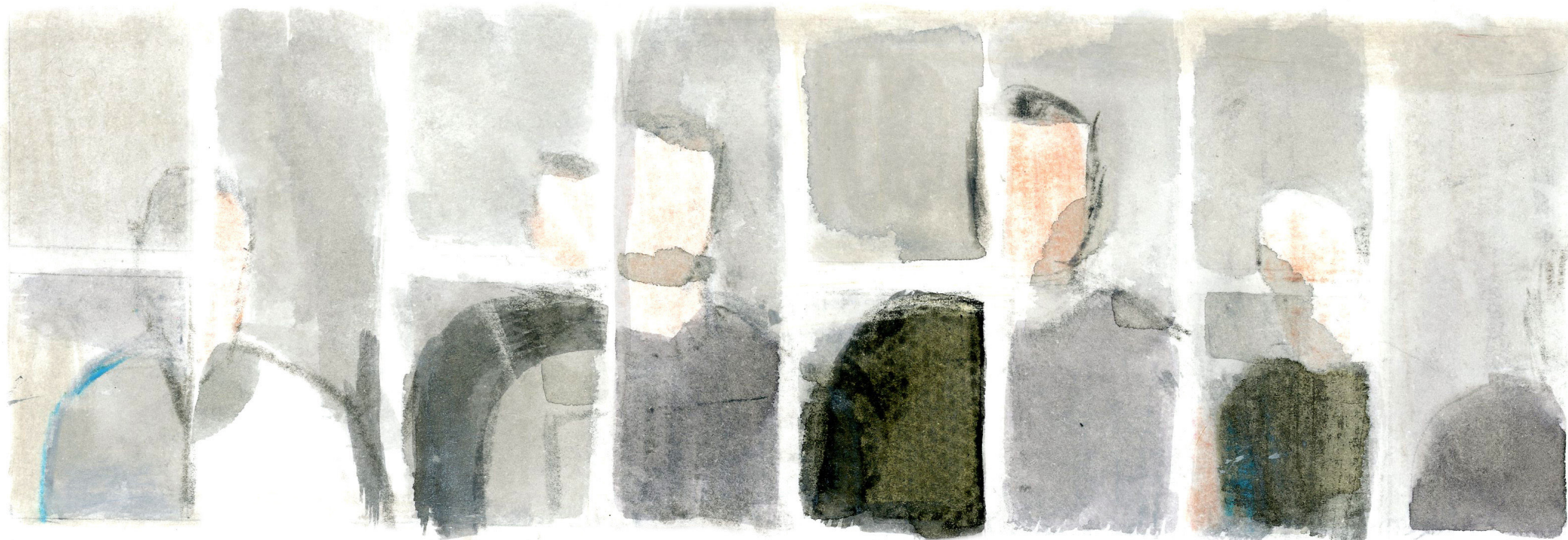




EUROPEAN
PRISON
LITIGATION
NETWORK

ANNUAL
REPORT
2018



OUR MISSION

The European Prison Litigation Network (EPLN) is an international non-governmental organisation (INGO) granted participative status with the Council of Europe.

EPLN was founded in 2013 by a network of NGO jurists, lawyers and researchers active in the penitentiary field in different countries. The Network aims at heightening the judicial protection of prisoners' fundamental rights in Member States of the Council of Europe.

EPLN defines its orientations by combining a double approach:

- consultation among legal professionals on the main problems affecting the use of rights in prison, in order to identify the issues requiring a coordinated intervention at European level;
- dialogue and exchange between specialized NGOs and academic centres on major developments in penal and penitentiary policies in Europe in order to orient research and litigation on priority topics.

On this basis, EPLN conducts its action in several forms:

- comparative research in order to promote the circulation of most protective normative models in Europe on the concerned issues, and to show national convergences likely to justify a development of the jurisprudence of the European Court of Human Rights (ECtHR);
- research in law and social sciences, to analyse the actual conditions for the use of rights in detention and the real impact of legal developments;

- coordination at the European level of litigation action before national courts and the ECtHR, building, where appropriate, on the results of the produced research;
- advocacy towards national authorities and international bodies;
- capacity building between specialised NGOs.

EPLN brings together 18 non-governmental organisations from 12 countries and develops partnerships with several European research centres.

In 2018, EPLN focused its action on five priority areas:

- 1- access of the detained persons to the law and to court
- 2- access to health care in detention
- 3- prevention of ill-treatment and torture
- 4- support to prisoners' rights defenders in Europe
- 5- life imprisonment

OUR ACTION IN 2018

Access of detained persons to the law and to court

Action-research project on access to legal aid for pretrial detainees

In September 2017 the EPLN, in coordination with the Research Unit SAGE (French National Centre for Scientific Research – CNRS/University of Strasbourg) and CESDIP (CNRS/Ministry of Justice/ University of Versailles Saint-Quentin-en-Yvelines), launched together with partner universities and NGOs from nine European countries a research project aiming at strengthening the judicial protection of fundamental rights of remand prisoners in the European Union and promoting harmonisation of national legislations in the field of access to rights and to court for remand prisoners.

The project was supported with funds of the European Union's Justice Programme for eighteen months.

The project brought together a team of experienced scholars in Law and Social sciences, which made it possible to combine methods of legal analysis with methodologies used in social sciences. A survey of European and national law in each country became the first goal of the research. To this end, researchers from the EPLN, University of Ghent and University of Florence reviewed European law and ECtHR jurisprudence regarding access to judicial aid for prisoners

and for pre-trial detainees specifically. Under the supervision of EPLN coordinator, all nine partners reviewed national legislation (Germany, Belgium, Bulgaria, Poland, Spain, France, Italy, Czech Republic, the Netherlands). Further, EPLN coordinator and the General Council of Spanish Bars designed a questionnaire targeting bars in all 28 member-states. The empirical obstacles to effective access to legal remedies urged researchers to complement the description of existing formal mechanisms with an empirical survey of the actual conditions of access to legal information and assistance in each country. Two researchers from CESDIP developed a research design in which they mobilised several complementary qualitative methods for collecting information. In all nine countries, research was carried out by each partner organisation with key stakeholders, including judges, lawyers, NGOs, prisoners, and prison personnel, to understand the conditions for the effective protection of rights.

These interdisciplinary approaches and different entry-points allowed to draw a precise picture of both legal provisions regarding access of remand prisoners to justice and legal aid and of the actual enforcement of those provisions on the ground, in the nine EU members states which were part of the study.

The findings of the study were published through [nine national reports and a White Paper](#). The research concluded in the urgent need for a committed policy by all stakeholders, which would operate the various levers available. Such a policy should be initiated at the European level, bringing together legal requirements and soft law defined by Council of Europe and EU institutions, but it should include binding provisions guaranteeing effective access to

law in police custody and penal detention and facilitating mutual recognition and cooperation between Member States. As stated in this report, these initiatives do not only imply the mere political awareness and will to act; they also require a change of perspective when designing legal texts and organising their enforcement.

Before the publication of the White Paper, the findings were presented at a **conference held in Strasbourg at the European Court of Human Rights, entitled: Overcoming the Obstacles to Access of Detained Persons to Rights and to Court: European Perspectives, 6 - 7 December 2018**. The conference, chaired by G. Raimondi, president of the European Court, gathered 150 persons (social scientists, legal scholars, judges, lawyers, civil society actors and EU and national policy makers) from more than 15 countries of Europe.

Publication of the proceedings of 2016 conferences “Prisoners’ rights in Europe”

The journal *La Revue des Droits de l’Homme* [published in its 14th edition “The protection of prisoners’ rights in Europe”](#) proceedings of two conferences of the constitutive project of the European Prison Litigation Network.

In 2016 EPLN co-organised two conferences: on 21 April 2016 at the University Paris 1 Panthéon Sorbonne under the direction of Nicolas Ferran (OIP-SF), Isabelle Fouchard (ISJPS, University Paris I), Anne Simon (ISJPS, University Paris I) and Hugues de Suremain (EPLN) and on 14-15 June 2016 at the European Court of Human Rights under the direction of Emilio Santoro (University of Florence /Altro Diritto), Gaëtan Cliquennois (SAGE, University of Strasbourg) and Hugues de Suremain (EPLN).

These conferences presented and put into discussion results of a comparative research on systems of remedies available to detained persons and aiming at tackling structural or systemic problems in prison (such as prison overcrowding, inhuman material conditions of detention, access to healthcare).

The following persons contributed : Guido Raimondi, Colombine Madelaine, Elisabeth Lambert Abdelgawad, Sonja Snacken, Simon Creighton, Paulo Pinto de Albuquerque and Sofia Ciuffoletti, Krassimir Kanev and Dylana Angelova, Ioan Durnescu, Rosaria Piroso, Anne Simon, Clara Rey Sánchez and Esther Pascual Rodríguez.

Innovation Prize of the Paris City Hall "Paris Label Europe" - Tackling the prison digital divide

On May 12, 2018, the organization was awarded the Paris label Europe prize by the Deputy Mayor of Paris. The purpose of this prize is to reward actions promoting citizen participation, collective commitment and the emergence of a European public space. The Paris City Hall thus honoured the association's commitment to fight against the isolation of detainees in a context where a large number of rights, but also participation in public life as a citizen, is exercised through digital tools.

This prize will make it possible to hold a European Forum on the subject in Paris in 2019, as well as a working seminar with activists and academics involved in the subject.

This action brings together the organisations “Quadrature du Net”, (France), Kharkiv Human Rights Protection Group (Ukraine), Helsinki Foundation for Human Rights (Poland), Prisoners’ Advice Service (UK), Bulgarian Helsinki Committee, the General Council of

Spanish Bars, the Universities of Paris 1 Sorbonne (ISJPS, France), Florence (Italy), Ghent (Institute for International Research on Criminal Policy, Belgium), FH Dortmund (Germany), and Saint-Quentin en Yvelines (CESDIP, France).

Access to health care in detention

Third party intervention before the ECtHR in the case Cosovan vs. Moldova

EPLN submitted [a third party intervention in the case Cosovan vs. Moldova](#).

The purpose of the third party intervention is to invite the court to further clarify the positive health obligations of states. In particular, the Court is asked to strengthen the requirement for equivalence of care and to impose an obligation to integrate (functionally if not statutorily) the system for administering care to prisoners into the general health system, so that the specific needs of the prison population are taken into account as part of general public health action and that the requirements of continuity of care are duly taken into account.

Establishment of the Prison Health & Rights Consortium

During the summer 2018, EPLN established the Prison Health & Rights Consortium together with the Eurasian Network of People who Use Drugs. 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 in six European countries (Bulgaria, Georgia, Kosovo, Moldova, Russia, Ukraine) 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 has started to develop joined activities in 2019 with the financial support of the Robert Carr Fund.

Ill-treatment and torture in detention

Establishment of a coalition of NGOs from Russia, Ukraine, Germany and France for fighting violence in prison

In 2018, EPLN initiated the establishment of 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. In partnership with the Prisons' Archive at the Dortmund University of Applied Sciences and Arts, and building on the research and monitoring experience of the project partners in Russia and Ukraine, the coalition started its activities in 2019 with financial support of the German Federal Foreign Office, and the French Ministry of Foreign Affairs.

Monitoring of the appeal trial of Kopeysk prisoners, who had collectively protested against torture in 2012 in Kopeysk penitentiary colony, Ural, Russia.

In 2018, EPLN continued its monitoring of the trial of prisoners of the Penitentiary Colony No.6 of Kopeysk. Seventeen of them were on trial after they participated in a protest that took place in 2012 in response to systematic torture practices and extortion in the colony. After a trial that lasted two years and ten months, the Chelyabinsk Regional Court sentenced the 17 participants in the protest to sentences ranging between 4 and 5 years for “mass riots”.

The EPLN international mission has been observing the hearings between 2015 and 2018. It published a [report of the monitoring mission](#), together with the publication of a dedicated website www.kopeyskjustice.info to support the dissemination of the observation results.

Beyond the circumstances of the case, the report highlights the need for protection against judicial reprisals by detainees peacefully protesting against ill-treatment in a context of impunity and complete lawlessness.

In addition, in 2018 again, the organisation has brought three applications before the European Court of Human Rights in connection with this case.

They concern the unjustified detention and the breaches of the guarantees that should surround its judicial review. They also call into question the violations of freedom of expression and peaceful assembly caused by the criminal proceedings in this case. Another case concerns the material conditions of detention during transport to the court and the use of glass boxes during hearings.

Support to prisoners' rights defenders in Europe

European Forum “Breaking the silence on prison: reaffirming the key role of civil society in monitoring and protecting detainees' rights”

On 5 December 2018, ahead of its international conference on prisoners' rights at the European Court of Human Rights in Strasbourg, EPLN organised the European Forum "*Breaking the silence on prison: reaffirming the key role of civil society in monitoring and protecting detainees' rights*" to address the increasing hostile attitude of authorities towards prisoners' rights defenders in Europe. Monitoring and reporting on the prison reality and taking judicial action for the protection of human rights in detention exposes detainees' rights defenders to increasing pressures and risks, and even in some countries to retaliation. The forum brought together leading NGOs from Russia (Legal Basis, Russia Behind bars, Interregional Center for Human Rights), Hungary (Hungarian Helsinki Committee), Bulgaria (Bulgarian Helsinki Committee), France (Observatoire international des prisons) and Italy (Altro Diritto), to discuss the current challenges they face in the exercise of their protection mandate. The event was co-organised by EPLN, the International Protection Center and the Public Verdict Foundation. The event was opened by the Head of the Civil Society Division of the Council of Europe.

Third party intervention before the ECtHR in the case Maglevannaya v. Russia

The EPLN submitted a [third party intervention in the case Maglavennaya v. Russia](#).

The case concerns the conviction for defamation of a journalist who reported acts of torture in prison. The third intervention calls on the Court to take into account, on the one hand, the exceptional difficulties surrounding the conduct of a journalistic investigation into ill-treatment in prison and, on the other hand, the imperative need for such information to be published to prevent impunity.

Dissemination of the ECHR jurisprudence on prison

EPLN continued in 2018 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 2018, 6 bimonthly newsletters were published as well [a special issue](#) issued at the beginning of 2019 on most important decisions of the year 2018.

Life imprisonment

Preparation of a project on 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.

In 2018 the EPLN associated with the Ukrainian NGO Kharkiv Human Rights Protection Group (KHPG) to run a project to get the Ukrainian authorities to abandon this system. This project includes the organisation of a conference at Shevchenko University in Kiev and an international colloquium at Yaroslav Mudryi National Law University. In addition, a round table has been scheduled within the Kachanovsk colony with women sentenced to life imprisonment. This project received the support of the French Ministry of Foreign Affairs.

These activities are linked to the creation of a documentary performance, "important for life". The project, led by Tetyana Kytsenko was implemented by the NGO Theatre Platform in partnership with the European Prison Litigation Network, Kharkiv Human Rights Protection Group (KHRPG), Ukrainian Composers' Union, Kyiv Camerata. This project is implemented under the Culture Bridges Programme.

In addition, the organisation supports the submission of a case against Ukraine before the European Court of Human Rights questioning the impossibility for life-sentenced prisoners to obtain a measure of release.

NETWORKING AND REGIONAL COOPERATIONS

Networking with prisoners' rights defenders in Europe

On 20 September 2018, EPLN participated in the conference "Civil Society Networks and Criminal Justice Reforms" organised in Kosovo on 20 September 2018 by the Civil Rights Defenders and the Kosovo Rehabilitation Center for Torture Victims, with participants from non governmental organizations from Albania, Bosnia and Herzegovina, Belgium, Bulgaria, Hungary, Kosovo, Macedonia, Montenegro, Netherlands, Serbia, Sweden and Turkey.

On 1-3 November 2018, EPLN participated in the 3rd International Legal Dialogue Symposium "Precarious U-turn in Rights and Justice. How to Protect our Achievements" organised by the EU-Russia Civil Society Forum in Berlin. Hugues de Suremain facilitated a round table on legal aid for suspected and accused persons in criminal proceedings in Germany with an input from the German Ministry of Justice and Consumer Protection.

Relationship with the Council of Europe

In addition to the Conference organised within the European Court of Human Rights in December 2018, EPLN continues to maintain regular relations with the various bodies of the Council of Europe concerned by the prison and in particular the Committee for the

Prevention of Torture. Various meetings were held, in particular in January 2018, in connection with the project on access to the law and the judge.

EPLN participated in both sessions of the Conference of INGOs of the Council of Europe, of which it is a member.

Moreover, EPLN participated in meetings between the ECtHR and NGOs, which provided an opportunity to raise in particular the difficulties encountered by applicants while submitting applications.

Finally, EPLN presented its observations as part of the process of revising the European Prison Rules, with some success as it obtained the inclusion of the requirement of a right to legal aid in the comments.

Cooperation with Ural Human Rights Schools, Yekaterinburg, Russia

In 2018, EPLN was again partner of the organisation [Sutyajnik](#) for the organisation of the 13th Ural Human Rights School in Yekaterinburg on 7-10 December 2018 on the topic of "Security of the Human Rights Defender and Anti-Discrimination Law of Russia and the European Court of Human Rights".

SPECIAL THANKS

To our affiliated NGO partners in Europe L'altro diritto (Italy), Observatoire International des Prisons - Section française, Observatoire International des Prisons – Belgique, Ban Public (France), Ligue belge des droits humains (Belgium), Grupul Roman pentru Apararea Drepturilor Omului GRADO (Romania), Bulgarian Helsinki Committee (Bulgaria), Prisoner's Advice Service (UK), Sutyajnik (Russia), IRIDIA Centre de Defensa de Drets Humans (Spain), Interregional Center of human rights (Russia), Strafvollzugsarchiv eV (Germany), Vereinigung Österreichischer StrafverteidigerInnen (Austria), Promo LEX (Moldova), Legal Basis (Russia), Ural Human Rights Group (Russia), Kosovo Rehabilitation Center for Torture Victims (Kosovo).

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Réseau Européen de Recherche et d'Action en Contentieux Pénitentiaire (RCP)

European Prison Litigation Network (EPLN)

21 ter rue Voltaire

75011 Paris

France

contact@prisonlitigation.org

www.prisonlitigation.org

facebook.com/EuropePLN

<https://twitter.com/EuropePLN>

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