

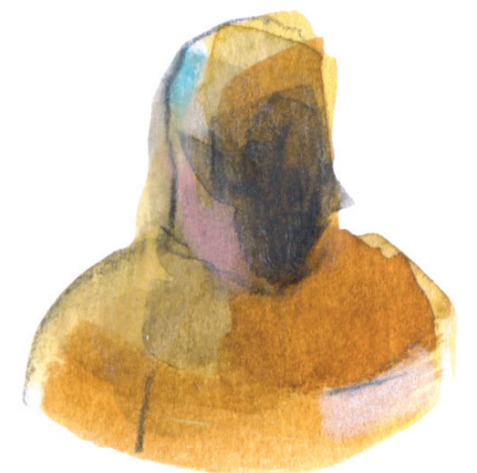
ANNUAL REPORT

2020



2 TABLE OF CONTENTS

I Access to Justice	3
II Access to Health Care and Right to Health	4
III Prison violence and prevention of ill-treatment and torture	8
IV Other cases supported by EPLN	11
V Newsletter on ECtHR case law on prison issues	12
VI Special advocacy action “20 years of European Prison Law”	12
Financial report	13
Impresum	14



3 I ACCESS TO JUSTICE

Advocacy campaign for the elaboration of standards on the procedural rights of detainees in European Union law

As a continuation of the campaign launched in 2019 on the procedural rights of detainees in the European Union, EPLN continued in 2020 to advocate for the development of a specific EU legislation in this area to be put on the agenda (mainly on the issue of **free legal aid**).

This action, initiated by EPLN, is based on cooperation with the Spanish, French, Belgian and Luxembourg Bars. In this context, EPLN met MEPs of the groups of the Greens and the European United Left at the EU Parliament in Brussels.

These two meetings led to prison visits by EU parliamentarians in France and in Belgium and to a [priority question to the Commission](#), signed by 45 MEPs. The Commission was questioned on the issue of detention conditions in Europe and on the need for common procedural guarantees.

This step was followed by the programming of 1) a public hearing on 5 March 2020 at the EU Parliament at the initiative of the European United Left and 2) an exchange of views on "Inhumane prison conditions in the EU" before the LIBE Committee of the European Parliament, on 16 April 2020. Due to Covid-19, these two events were cancelled. In addition, a meeting was to be scheduled between the president of EPLN and Commissioner Reynder, but with the health crisis, the meeting was postponed to a later date still to be determined.



1.2 Impact of Covid-19 pandemic on the health protection and fundamental rights of detainees

Inter-association mobilization in the context of COVID-19

In March EPLN has initiated a [joint appeal](#) with 60 European NGOs calling on international intergovernmental organisations to take urgent action for responding to the Covid-19 outbreak in prisons. This appeal based on an analysis drawn from information collected in 13 countries of Europe through EPLN partners. The aim was to call on international agencies to define guidelines to specify the measures to be taken both in terms of health and penal policies.

Following the appeal, several international bodies were reached out to (WHO, CPT, UNAIDS, OHCHR, CoE Commissioner for Human Rights) who took knowledge of the joint appeal while drafting their own guidance and recommendations.

Following this first appeal of NGOs, EPLN aimed at reaching out to governmental representations at the Council of Europe to impulse a dynamic at the level of the Committee of Ministers or the General Secretariat for responding to the crisis in prisons. EPLN published an opinion with several human rights NGO and European bar associations to call on CoE bodies to take a leading role on policies to address the Covid-19 challenges in prison. The opinion was published in French in the French newspaper Liberation.

Impact of the COVID-19 pandemic on health protection and fundamental rights of detainees in Europe.

The strong mobilisation of EPLN's partners during the pandemic on the issue of health protection allowed EPLN to adapt its strategy as regard to advocacy and litigation on health protection issues.

A coordinated monitoring was launched by partners of the Prison Health & Rights Consortium in Russia, Moldova, Bulgaria and Kosovo on the national responses to Covid-19 in prison and their impact on the health protection and fundamental rights of detainees, especially vulnerable detainees living with HIV and drug users. EPLN therefore developed with its partners in the 6 countries several tools:

A monitoring grid for collecting information and analysing the planning and coordination of national responses to the Covid19 and to which extend prisons are integrated in these response mechanisms.

A monitoring grid for collecting information and analysing the actual implementation of prevention measures in prison and actual access to care for patient with other pathologies than Covid19 in times of pandemic.



The national monitoring reports will feed publications to be released on the issue of right to health in detention within the multimedia special project “20 years of European Prison Law”

In addition, EPLN and its partners coordinated a strategic litigation campaign on access to public data and transparency on prison systems preparedness for the COVID-19 pandemic. Access to this information was denied to EPLN members on the ground that this is restricted information. This refusal is being appealed in national courts, and if the claim is rejected, it is planned to prepare a complaint to the ECtHR for violation of Article 10 of the Convention.

ACCESS TO A LAWYER IN CONTEXT OF COVID-19

In several countries of the network, measures taken to respond to Covid19 pandemic in prisons had led to drastically reduce prisoners' contact with families, external services and CSOs and restricting public monitoring visits. In most countries, during lockdown periods, the only contact possible with the outside world were/are lawyers. In such a context, access to remedies mechanisms is in most cases not ensured as relatives and CSOs play the role of key intermediates of prisoners to access remedies mechanisms and justice.

In Russia, in a case opposing a detainee to the Mordovia prison Department, a District Court recognized the

right to the detainee to legal assistance. In this case, the administration of the penitentiary institution had not allowed the lawyer to meet with his client, seriously ill, citing the resolution of the chief sanitary doctor of the penitentiary institution. This document prohibits long and short visits for preventing the spread of the Coronavirus Pandemic. The detainee, who was seriously ill, was released. However, it seemed necessary to pursue the legal action in order to obtain a landmark ruling on a key issue for the protection of fundamental rights in the context of sanitary lockdown. The Oktyabrsky District Court of Ekaterinburg finally granted the application and gave an interpretation in line with the requirements of the right to legal assistance.

2.2. Health Protection for detainees living with HIV and detainees who use drugs

In 2020, partners of the Prison Health and Rights Consortium have documented 18 cases of violation of detainees health rights which were followed with judiciary and extra-judiciary actions in Russia and Ukraine. In particular : one strategic litigation case was conducted on the issue of access to medical records; 3 litigation cases were carried out on the issue of denial of transfer to civilian hospitals for specialized care; 14 litigation cases were carried out on the issue of access to release under medical grounds for prisoners with serious disease. 12 of the 18 cases concern prisoners who live with HIV.

In addition, 1 investigation research was carried out by the Bulgarian Helsinki Committee on 13 complaints of prisoners regarding inappropriate health care provision and discriminative practices.

On the basis of the documented cases, Consortium members have launched a strategic litigation campaign on three priority areas :

Access to harm reduction services in prisons for people who use drugs

Mechanisms of release under medical grounds for seriously ill detainees, in particular people living with HIV

Access and transfer to civilian health services when the required health care services are not available in the penitentiary system.

SUBSTITUTION THERAPY IN RUSSIA

The issue of prisoners' access to substitution treatment is a priority for EPLN and the PHRC. In the case *Abdyusheva and Others v. Russia* related to the legal ban on methadone or buprenorphine substitution therapy in Russia, the applicant's lawyer, Mr. Golichenko and EPLN jointly developed the reasoning in favor of referring the case back to the Grand Chamber after an unfavorable Chamber judgment. Unfortunately, the panel of five ECtHR judges did not follow the position presented by EPLN and M. Golichenko on the necessity of insurance of access to substitution therapy in Russia. EPLN will seek for alternative levers to change the very conservative position of the Russian authorities in this matter.

2.3. Advocacy campaign for review of supervision methods by the Committee of Ministers on prison issues pertaining to prison health systems.

The Committee of Ministers of the Council of Europe is responsible for monitoring the proper execution by states of European Court's of Human Rights Judgments against them. This mechanism is decisive to eliminate underlying causes of violations found by the Court, beyond the particular situation of the applicant. If this mechanism is deficient, ECtHR judgments may accumulate on a given issue, without causing any change

in the law and practice of the State concerned. The prison sector is the particular area in which so-called repetitive cases occur.

In 2020, the European Prison Litigation and its partner the Kharkiv Human Rights Protection Group made an important step forward in this area, with regard to cases of failure to provide care to prisoners in Ukraine.

On 27 October 2020, the European Prison Litigation Network and Kharkiv Human Rights Protection Group submitted a lengthy and detailed [joint Rule 9 communication](#) in the so-called Nevmerzhiysky case group. The main aim of the communication was to separate the examination of cases concerning the lack of access to health care in prisons from those concerning the conditions of detention in Ukraine. In [its decision of 3 December 2020](#), the Committee of Ministers approved this position. This first

step of the Committee of Ministers in reviewing its monitoring methods in relation to prisons, should result in increased pressure on the state to reform the system of care for prisoners in Ukraine, and probably soon in other countries.

Indeed, until now, in the case of States with major systemic problems in the field of prisons (in particular, Russia, Ukraine and Moldova), the two categories of cases were examined together. In practice, this meant that medical issues were invisible and considered to be of lower priority. Indeed, cases concerning the material conditions of detention, which are much easier to present because of the rules of evidence and argumentation, encumber the European Court of Human Rights. The Court uses specific proceedings in this area, the pilot and quasi-pilot judgments, which are more prescriptive for States as to their execution. As a result,

the Committee of Ministers focused on these issues, to the detriment of health issues.

EPLN and KHPG successfully argued that the approach of looking at prison issues as a whole was irrelevant. Prison care reform is about different actors, responses and time-frames. They also demonstrated that the Committee of Ministers should review the level of priority given to health matters, as the state of prison health was described by the Council of Europe's Committee for the Prevention of Torture as life-threatening. The Committee of Ministers has decided on a high frequency review as the case is again on its agenda in June 2021. The

two partners will therefore keep the pressure on the authorities by submitting new observations.

In addition, EPLN and the Prison Health and Rights Consortium will seek to have this new approach extended to cases in Russia and Moldova.

In 2020, EPLN also associated to its partner Promo-LEX for the submission on 20 April of a communication to the Committee of Ministers (CM) in the group of cases *I.D. v. Moldova* (no. 47203/06) on poor conditions of detention and access to care. This case has the peculiarity that it concerns a case monitored by the CM

partly on the effectiveness of remedies - case for which the Court has already rendered a decision of inadmissibility. The communication points out the structural problems of penitentiary medicine, the fragility of changes in penal policy to reduce the prison population and the ineffectiveness of remedies due to their bureaucratic treatment by courts. Despite these unfavorable circumstances, the CM, taking into account the Promo-LEX material, extended the examination of the case [asked relatively pressing questions](#) about the reforms undertaken and in particular questioned the effectiveness of remedies.



Legal aid to detainees victims of ill-treatment and torture in Ukraine and Russia

In 2020 partners of the “Coalition for fighting violence in prison” continued monitoring violations of fundamental rights and defending victims of ill-treatment and torture.

Partners of the coalition have provided 1621 consultations on the basis of alerts received through relatives of detainees, detainees themselves or fellow detainees, or prison monitors in Russia and Ukraine, and despite restrictions due to the pandemic have carried out 132 visits (through their lawyers, jurists, or prison monitors in prisons, penitentiary colonies and pre-trial detention centers. This monitoring has led to launching 161 judicial or extrajudicial actions to address the reported and observed violations of rights to regional control organs (prosecutor office, regional

ombudsperson, investigation committee etc.) and require investigation and protection measures for the victims of torture and ill-treatment.

Repression against detainees who complaint or protest against torture and ill-treatment

In 2020, EPLN and its partners worked mainly on three cases of reprisals against detainees who had complained or protested against torture practices and ill-treatment.

In the group of cases **Karabet group v. Ukraine, EPLN and its partner the Kharkiv Human Rights Protection Group have associated to prepare a communication to the Committee of Ministers**

FOCUS ON THE SITUATION IN OLEKSIIVSKA CORRECTIONAL COLONY NO. 25 IN KHARKIV, UKRAINE

In Ukraine, early 2020, the Kharkiv Human Rights Protection Group (KHPG) received several complaints of prisoners from Oleksiivska Correctional Colony No. 25 in Kharkiv on facts of torture, ill-treatment, forced labor and money extortion. Prisoners who complained about torture to KHPG were threatened with physical reprisals if they don't retract reports of torture. A punitive operation by Penitentiary Service special forces was even organised targeting those prisoners who had spoken to KHPG monitors.

These cases concern principally large-scale violence against prisoners with the involvement of special forces, rapid reaction units and prison staff either as punishment or during training exercises as well as absence of effective investigations. The communication will be submitted in 2021. An intervention by the Committee of Ministers is all the more important as the NGO KHPG is working since the beginning of 2020 on large-scale cases of torture, with episodes involving special forces to prevent the victims from speaking, in the Kharkov colony No. 25.

Defense of detainees victims of violent repression in the penitentiary colony IK-15 of Angarsk, Russia

EPLN is supporting its partners for filing of complaints to the ECtHR for the legal protection of victims of a violent repression in Colony IK-15 of Angarsk in Irkutsk region. EPLN Partner have organised since the repression the counseling for relatives of 132 convicts of the colony, and legal assistance was provided to 60 convicts in exhausting national remedies to appeal against the use of force. This legal process is accompanied by an active report in media on the situation. In particular, the TV channel France 24 devoted several reports to this event.

FOCUS ON THE PENITENTIARY COLONY IK-15 OF ANGARSK, RUSSIA

In Russia, Irkutsk region, a brutal repression occurred on 9 April of a collective movement of prisoners in colony IK-15 following the torture of a detainee. A large number of detainees were beaten and at least one died. In the months following the riot, prisoners were prevented to see human rights defenders and relatives, as well as lawyers. Prisoners were transferred to other facilities in Irkutsk region and were not told their relatives about their whereabouts.

Application to the ECtHR in the Kopeysk case, Russia

EPLN has taken over the filing of an application in the so-called Kopeysk case. The case primarily concerned the compatibility with articles 10 and 11 ECHR (freedom of expression and assembly) of the sentence of imprisonment imposed on detainees who had peacefully rebelled against systematic torture in their prisons. The application has been registered, which bodes well for a communication to the Russian government and possible consideration of the merits of the case. Previously, EPLN provided observation of the trial before the domestic courts, which lasted three years. The 17 defendants were sentenced to up to 5 years of prison for “mass riots”.

Life sentenced prisoners

On 10 December 2020, the European Court ruled on the application prepared by EPLN in the Panasenko case, finding Ukraine in violation of the prohibition of inhuman and degrading treatment due to the lack of a release mechanism for life-sentenced prisoners¹. This judgment follows a quasi-pilot judgment in Petukhov v. Ukraine (no. 2). Further litigation actions are in preparation in Ukraine on this issue. It was decided to extend the actions to the issue of the detention regime, in order to promote a full review of the life sentence regime in Ukraine. It is also planned to submit observations to the Committee of Ministers of the Council of Europe when this case is examined in the course of 2021.

¹ <http://hudoc.echr.coe.int/eng?i=001-206525>

A strategic legal protection campaign initiated to protect the rights of civilian prisoners in the uncontrolled areas of eastern Ukraine

In 2020, EPLN's Ukrainian partner Kharkiv Human Rights Group worked on two strategic cases concerning two civilian prisoners serving sentences in the uncontrolled areas of eastern Ukraine. Applications were submitted to the European Court of Human Rights for appealing against the inaction of the Ukrainian government, and in one of the case against the Russian government for its failure to recognise its actual control over the territory.

Preparation of a publication in Springer "A prison without violence? Human rights put to the test by prison policies"

This book is the result of a seminar held at [Humboldt University on 25 and 26 October 2019](#) which brought to-

gether former prisoners, researchers, association leaders and lawyers. In keeping with the aim of diversifying points of view and taking seriously the objective of harmonisation pursued by the European authorities, it questions, through the prism of the analysis of four very contrasting national prison situations (France, Germany, Russia, Ukraine), the meaning and scope in everyday prison life of the asserted primacy of the integrity of the person. To what extent has this aspiration for a sentence free of violence succeeded in countering, if not correcting, a mode of functioning that seems inherent to prison? More specifically, to what extent has the European project succeeded in overcoming penological conceptions and shaping national professional cultures, in a word overcoming the historical inertia of prison? What resistance/adaptation strategies have prison administrations deployed

in the face of these reform orders? In this respect, have national systems not, through the transformations brought to the security structure and management arrangements, taken back with one hand the concessions made with the other to the "well-being" of prisoners, to quote the European Court of Human Rights?

In the light of these experiences, what are the possible ways out of prison violence? Can civil society actors force these transformations?

The book will be released in 2022.



Application before the ECtHR regarding the automatic and indiscriminate ban on convicted prisoners' voting rights in Russia

EPLN was invited to draft the argumentation in a case concerning the blanket ban on voting rights imposed automatically pursuant to the Russian Constitution on all convicted offenders detained in a penitentiary facility, irrespective of the length of their sentence and irrespective of the nature or gravity of their offence. In 2013, the ECtHR found a violation of Article 3 of Protocol No. 1 in this regard (Anchugov and Gladkov v. Russia). On 25 September 2019, the CM decided that the judgment was executed through the introduction to the Criminal Code of a new category of criminal punishment – “compulsory labor” taking into account the fact that the convicts concerned are not deprived of the right to vote. This case is of great importance. If the Court fol-

lows the position of the Committee of Ministers and is satisfied with the existence of an alternative punishment to imprisonment whose regime complies with conventional requirements, it is likely to call into question many of the advances achieved in the prison field and the rejection of the theories of implicit limitations.

Protection of religious rights in Russian prisons

A Muslim prisoner was placed for 15 days in solitary confinement for taking off his outer clothing in order to perform a religious rite of “ablution” before prayer. In this way, the administration kept up the pressure on this convict, who was in its sights. This punishment was appealed to the court as be-

ing discriminatory and violating the convicted person’s right to freedom of religion. On 19 July 2019, the Ivdel City Court in the Sverdlovsk Region dismissed the claim. This decision was appealed to the Sverdlovsk Regional Court, in vain. These decisions were appealed to the Seventh Court of Cassation of General Jurisdiction, which on 09.06.2020 overturned the decision of the Court of Appeal and sent the case for a new hearing to the Court of Appeal. On 26.08.2020, the Court of Appeal overturned the decision of the Court of

First Instance and adopted a new decision by which it found it illegal to impose a disciplinary punishment on a prisoner for performing actions aimed at praying. This decision is important because it preserves a space of personal autonomy in the cell. In addition, it concerns a minority that is particularly vulnerable to ill-treatment in detention.

V NEWSLETTER ON ECTHR CASE LAW ON PRISON ISSUES

EPLN has further published its round-up of the ECtHR case law on prison issues. One issue was published in February 2020. The newsletter covers various topics of prison law examined by the ECtHR, such as access to justice, conditions of detention, prevention of torture and ill-treatment, religious rights etc.

All newsletters can [be found here](#).

VI SPECIAL ADVOCACY ACTION “20 YEARS OF EUROPEAN PRISON LAW”

In 2020, EPLN launched the advocacy action "20 years of European Prison Law", with a larger network of European former prisoners, human rights defenders and academics.

Twenty years ago, on 26 October 2000, the European Court of Human Rights has solemnly affirmed, in a judgment in the case of Kudla v. Poland, the right of every person in prison to conditions of detention consistent with respect for human dignity. This entailed an obligation for states to ensure that the health of the individual is adequately ensured, in particular through the provision of the necessary medical care, and that imprisonment is carried out in decent living conditions. Beyond health and conditions of detention, over the last twenty years the European Court has developed a prison law which encompasses almost all aspects of life behind bars: security and discipline, family

ties, contact with the outside world, access to information, the right to vote, etc.

On the anniversary of the Kudla judgment, formerly incarcerated people, human rights defenders and academics joined together to report on the achievements of this case law and its effects on daily life in European prisons.

The action will be released through series of multimedia events until 26 October 2021 and will give the floor to actors of the prison world across Europe: protagonists of the Kudla case, people in prison, activists, lawyers, prison staff, judges, and researchers who will analyse the stakes of the recognition of prisoners' rights, its results, its limits and future perspectives...

The first chapter "[Kudla v. Poland, a step towards a common European law on detention](#)" was released.

The second chapter entitled "Care and Punish. The difficult apprehension by European law of a paradoxical injunction" will be released end of 2021. Final chapters will be released in September and October 2022.

www.20.EuropeanPrisonLaw.info

2020 Revenue

Earmarked grants and donations	298 800,91
Other revenue	0,02
Financial and extraordinary income	1,73
TOTAL	298 802,66

2020 Expenses per priority

Access to health care	191 464,55
Prison violence	118 002,26
Access to justice	1194,09
Administrative and core costs	-3 610,10
TOTAL	307 050,80

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

**European Prison Litigation Network
(EPLN)**

21 ter rue Voltaire
75011 Paris
France

[e-mail](#)

www.prisonlitigation.org

[facebook](#)

[twitter](#)

