



# ANNUAL REPORT 2022



**EUROPEAN  
PRISON  
LITIGATION  
NETWORK**

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# OUR MISSION

**The European Prison Litigation Network** was founded by prisoners, law practitioners, researchers and civil society activists to reinforce the judicial protection of prisoners across the European continent. We affirm the critical role of prisoners and their defenders in upholding European and International human rights law and standards in detention and promote the greater involvement of prisoners in the elaboration of public policies and research that concern them.

To do this, we conduct comparative analyses of systemic problems of prisons and research the determinants and obstacles to an effective access to rights in detention. We also scrutinise the evolution of criminal policies, in particular the core issues of the length of sentences and the sociodemographic categories of the incarcerated people, in order to address fundamental rights in detention through the inextricable question of the social functions of prison.

Through this analytical work, we develop strategic litigation and advocacy to inform and influence the course of European normative developments on prison issues and the protection of detainees' fundamental rights.

EPLN federates 30 national NGOs and bar associations from 20 European countries, and cooperates with 6 European universities.

# OUR WORK

## **ENSURING DETAINEES CAN ACCESS JUSTICE**

While the recognition of the prisoners' fundamental rights has progressed considerably over the last twenty years through European and domestic case law, detainees still face difficulties in asserting their rights through legal action. Not only litigation places them in an often untenable position of confrontation with prison authorities, prisoners face also material obstacles to accessing relevant legal norms, adding complexity to already technical proceedings.

EPLN campaigns for prisoners' right to access to legal information, legal representation and free legal aid, and strives to protect prisoners from reprisal for engaging in litigation. These rights are essential for prisoners' judicial protection and ensuring that prisoners can effectively enjoy all their rights.

EPLN also advocates for the recognition of NGOs' crucial role in this regard and provides legal support to prisoners and prisoners' rights defenders by documenting violations, collecting evidence, and pursuing legal action before domestic and international courts.

## **I Defending prisoners victims of war crimes in Ukraine**

Since the full-scale invasion of Ukraine by Russia, EPLN works along with [Protection for Prisoners of Ukraine](#), [Kharkiv Human Rights Protection Group](#), [Ukraine without Torture](#), Human Rights Center SICH and the Manhust Charity Foundation at defending in justice victims of torture in Ukraine under Russian occupation and at documenting crimes committed against Ukrainian prisoners for a judicial response at the measure of the crimes committed.

Firstly, EPLN has been supporting its five Ukrainian partners in the setting up of a mechanism of systematic civil monitoring and collection of data on violations and crimes against prisoners in occupied territories. This monitoring was developed in coordination with [DIGNITY – Danish Institute against Torture](#) and led to the publication in March 2023 of the joint report “Nine Circles of Hell”<sup>1</sup>, which summarizes and analyzes the established facts of torture and ill-treatment by Russian occupying forces.

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<sup>1</sup> <http://www.prisonlitigation.org/report-detention-occupied-ukraine/>

This publication was actively relayed through targeted **communications to national and international bodies, with the main aim of initiating international fact-finding missions to establish the facts reported and initiate legal proceedings.** In particular the publication was communicated in 2022 to the UN Committee against Torture and the Independent International Commission of Inquiry on Ukraine established by the UN Human Rights Council in May 2022. The partners also communicated their report to the UN Human Rights Council, and through it to the Russian authorities, as part of Russia's Universal Periodic Review (UPR) planned in November 2023

The communication was also relayed to a wider public, via conferences or the media, with the main aim of raising public awareness on the issue of war crimes in places of deprivation of liberty, which remains relatively ignored by the media.

EPLN and its partners also provide **direct legal assistance to the victims.** For defending the victims' legal interests, EPLN and its Ukrainian partners have in particular engaged in a dialogue with the Ukrainian authorities and the Ukrainian prosecutor's office and initiated individual complaints for 10 victims to the UN Working Group on Arbitrary Detention.

This work required considerable capacity and knowledge building of all partners on procedures of the UN and the International Criminal Court which is pursued in 2023.

#### "NINE CIRCLES OF HELL"

Following the rapid advance of Russian armed forces into Ukraine, **11 prisons of South and East Ukraine holding 3103 prisoners were placed under Russian occupation.**

Based on **first-hand information from victims and witnesses of ill treatment or their relatives**, open sources, as well as information provided by Ukrainian state authorities, [DIGNITY](#), [Protection for Prisoners of Ukraine](#), [the Kharkiv Human Rights Protection Group](#), [Ukraine Without Torture](#) and [EPLN](#) report in their joint publication on violations of international law and war crimes committed **in prisons, police establishments and social & health care institutions** between March and December 2022.

Prisoners endured **numerous human rights violations**, including killings, torture, ill-treatment, and threats thereof, forced labour, including for military purposes, forced imposition of Russian citizenship, and forced participation in the illegal referenda on Russia's annexation of the occupied Ukrainian territories

Prisoners were **kept in detention centres even when these were located in areas of active hostilities** or used as Russian military bases, which resulted in injuries and death of prison staff and prisoners.

Prisoners were **transferred without their consent** to other parts of Ukraine under Russian occupation or to Russia, after prisons were transformed into military bases or after living conditions deteriorated in occupied prison

## II Addressing the root causes of prison violence

EPLN addresses the question of prison violence by documenting and alerting on cases of torture and ill-treatment and defending the victims before domestic and international courts. In countries where the practice of torture is routine it also addresses the structural causes of torture, and the complete subjugation of the prison population to the prison administration.

We campaign in particular for the fight against the impunity of perpetrators of torture acts, through advocating for transparent and effective state investigation of torture cases and providing legal assistance to victims and their families for the prosecution of perpetrators and reparation.

### SYSTEMIC PRACTICE OF TORTURE IN RUSSIAN PRISONS

In 2022, EPLN presented its [report](#) on torture in Russian prisons, as well as Russian-controlled prisons in occupied Ukraine, during the [136th session of the UN Human Rights Committee](#) in Geneva.

[A communication](#) was also submitted in this regard to the Committee of Ministers of the Council of Europe on the execution of the group of cases “Buntov v. Russia”, also related to the widespread use of torture in Russian prisons. EPLN argues that the Russian government has not taken sufficient general measures to put an end to this situation and makes a set of recommendations.

EPLN highlighted a series of systemic factors that contribute to the perpetuation of this practice.

Serious institutional shortcomings have a negative impact on the investigation of allegations of torture and organize impunity for perpetrators. The subordination of medical personnel to the prison administration does not allow for systematic and reliable recording of bodily injuries of victims of torture. Similarly, the lack of independence of investigative bodies from the perpetrators denies victims of torture the right to an effective and impartial investigation of their allegations.

**The legal framework is not in line with international standards and is insufficient to fully address the problem.** A recent amendment to the Russian criminal code did introduce a definition of torture into the national legal framework, but failed to make it a separate crime or to cover acts of torture committed by persons acting in an official capacity (i.e. prisoners recruited by the prison administration).

**Independent monitoring has been neutralized by years of a repressive policy.** Human rights defenders who report cases of torture face criminal prosecution, and lawyers cannot bring recording devices into detention. Public Monitoring Commissions (PCMs), originally set up to prevent ill-treatment in places of detention, are now composed exclusively of former law enforcement officials: NGOs members and individuals considered “foreign agents” are not allowed to be members of these commissions. In addition, the Russian Constitutional Court has recently given its green light to a practice of prison staff to interrupt prisoners’ interview with PCM members if they discuss matters other than the conditions of detention.

**Forced recruitment of prisoners by the prison administration to maintain order in detention has not been abolished:** many reported cases of torture are carried out by prisoners acting as proxy for the prison administration. In this regard, EPLN also launched in 2022 a dedicated advocacy campaign to denounce the recruitment of prisoners in Russian prisons, as well as in correctional facilities in the occupied territories of Ukraine to UN special procedures. [The report describes in detail the system put in place by Wagner](#), and subsequently “overtaken” by the Russian Ministry of Defence, and **provides quantitative data on the scale of the recruitment.** As of 24 August 2023, around 40,000 prisoners were enlisted following visits by Wagner recruiters in dozens Russian correctional colonies (reports also mention recruitment attempts in prisons located in the occupied regions of Ukraine). In addition, around 25,000 prisoners were recruited by the Ministry of Defence. These figures are growing day by day as a result of both new recruitments being made and information on previous recruitments being disclosed.

EPLN also addresses prison violence, so central to life in prison across the continent, by questioning the increasing trend in prison policies of responding to prison violence with risk assessment measures aimed at categorizing prisoners. This approach both obscures the institutional factors of violence (longer sentences, disciplinary sanctions, harsh prison regimes) and subordinates the benefit of rights to the condition of behaviours that conform to prison expectations. In so doing, prison empties the substance of rights that were often hard won in court. EPLN addresses prison violence by campaigning for the reduced use of incarceration and litigating for access to sentence adjustments for detainees convicted to long and life sentences.

#### **ACCESS TO SENTENCE ADJUSTMENTS FOR PRISONERS WITH LONG AND LIFE SENTENCES**

In Ukraine, EPLN is advocating since 2017 along with its partners on the rights of lifers. Following **the introduction in 2022 by Ukrainian authorities of a life sentence review mechanism** EPLN, KHPG, UHHRU, UWT and PPU called on the President of Ukraine to veto the law due to its serious shortcomings. This is a major problem, given the large number of convicts concerned (1,500) and the extreme severity of the regime they are subject to. In February 2023, the partners addressed the Committee of Ministers of the Council of Europe on this subject, leading it to express serious reservations about the reform.

## **III Reforming prison systems, transforming penal policies**

**With the support of the European Union's Justice Programme EPLN launched in 2022 a research covering 9 EU countries on the impact of European interventions on solving structural problems in prisons.** EPLN and the Université Libre de Bruxelles completed in 2022 the first phase of the research analysing how European bodies (ECHR, CPT, Committee of Ministers, CJEU) address structural problems in prison. It includes an analysis of the main judgments rendered by European Courts (ECtHR and CJEU) on these issues, as well as reports and decisions emanating from other European bodies (notably the CPT), and describes how these institutions apprehend systemic problems affecting prison systems, and which legal norms and standards they produce in this respect. The main findings of the first phase point out a rather homogeneous yet narrow apprehension by European bodies of structural problems affecting prison systems (mostly: prison overcrowding, poor conditions of detention, inadequate provision of health care, and procedural rights). European interventions leave aside several major issues from the point of view of the implementation of the CFR and the ECHR in prison (prison violence, long sentences, mental health). In addition, the report underlines the general character of recommendations made by European bodies to national states, and at time their contradictory nature. These two features makes it difficult for States concerned to implement the recommended policies.

The findings of the research carried out in 2022 will feed a second phase of the research aimed at analysing the reception by States of the European interventions analysed and their actual implementation at domestic level.

The research cooperation resulted in EPLN and its members participating in the consultation launched by the EU Directorate-General for Justice and Consumers in the context of the [Call for Evidence “Pre-trial detention – EU recommendation on rights and conditions”](#).

Based on the preliminary findings of the research, EPLN also addressed a **communication to the DG Justice on the impact of pilot judgments on the State policies in relation to overcrowding**.

In **Ukraine**, EPLN cooperates since 2021 with the EU delegation to Ukraine on the **elimination of structural problems in the penitentiary system, one of the areas of reform required by the Commission in its recommendation to approve candidate status for Ukraine (COM(2022) 407 final)**. It contributed to the set up by the EU of a dedicated working group composed of the representative of the Ukrainian Ministry of Justice, of the Council of Europe, and tasked with monitoring the authorities' prison reform strategy. One major outcome of this cooperation is the inclusion considerations on the Ukrainian penitentiary system and detention conditions in in the [European Commission's opinion on Ukraine's application for membership](#).

In **France**, EPLN contributed to the working group dedicated to the execution of the quasi-pilot judgment J.M.B. v. France, bringing together the International Prison Observatory (OIP), the National Bar Council (Conseil national des Barreaux), the Syndicat de la Magistrature (SM), the National Association of Judges for the Execution of Sentences (ANJAP), the Syndicat des avocats de France (SAF). This led to communications to the Committee of Ministers, which were largely taken up by the latter in its decision of December 2022 (CM/Del/Dec(2022)1451/H46-11). In addition, EPLN is assisting an association for the mobilisation of relatives of detainees to defend their rights. A conference on discrimination against minorities in the use of imprisonment was organised by an association of relatives of detainees who died in detention, in November 2022, to boost these mobilisations.



# IV Upholding prisoners' right to health care

Prisons are overrepresented by people with poor health status and prevalence rates of infectious and mental health disease in prison are several times higher than in the general population. Not only do prison health care systems generally are incapable of coping with a high and increasing burden of diseases in an ageing prison population, but the enshrinement of prison health care in the security paradigm of the prison institution also creates structural conditions for ill-treatment.

EPLN addresses the systemic failures of European prison health systems and advocates for detainees' right to health care by campaigning for the independence of prison health care and access to release for ill-prisoners. We promote the principle of equivalence of care for prisoners through health care provision in public health institutions.

## **TRANSFER OF THE PRISON HEALTH SYSTEM TO THE MINISTRY OF HEALTH IN MOLDOVA**

On 22 March 2022 the European Court of Human Right handed down its judgment [Cosovan v.The Republic of Moldova \(no. 13472/18\)](#) enriching its **approach towards prison healthcare.**

This judgment came after a litigation campaign coordinated by [Promo-LEX](#) (who represented the applicant before the Court) and the **European Prison Litigation Network** (who lodged a third-party intervention). Until now, the Court's well-established caselaw on prison healthcare relied primarily on the principle of equivalence of treatment in and outside prisons. While of paramount importance, this principle (together with the many positive obligations stemming from it) bears the risk to remain wishful thinking if **practical obstacles to its implementation that are inherent to the prison environment** are not given due consideration. Promo-LEX and EPLN argued that the mere fact that medical units (and the staff working in it) are affiliated with the prison administration **harms the patient-doctor relationship – to the detriment of prisoners' health – and negatively impact the delivery of care.**

In this judgment, not only did the Court conclude that the lack of adequate treatment provided to the applicant, Serghei Cosovan, who was suffering from hepatitis and cirrhosis, amounted to a violation of Article 3 of the Convention. For the first time, the Court made a significant sept **towards a requirement of independence of prison healthcare.**

The Court indeed observed that “the applicant **distrusted the prison doctors**” to such a degree that he refused “to undergo some of the (medical) tests and (asked) for them to be carried out by institutions accredited as medical institutions” (§ 86). The Court also noted that prison doctors might have put their **loyalty towards the prison administration before the interests of the patient**, which resulted in delays in transferring M. Cosovan to a public hospital – as this transfer would have incurred additional costs for the prison administration (idem).

The judgment now being final, comes the question of its execution (a process placed under the supervision of the Committee of Ministers of the Council of Europe). And in this new phase, a second set of challenges arise – highlighted by EPLN & Promo-LEX in their [joint Communication to the Committee of Ministers](#) dated August 2022.

First, **EPLN & Promo-LEX** argue that the scale and acuteness of the problems identified in Moldovan prison healthcare command that the execution Cosovan is **examined separately** from the other cases relating to detention conditions lato sensu in Moldova and involve a different set of actors, including the Ministry of Health. Cosovan should be granted the **status of leading case** in a group of cases bringing up similar issues before the Court. As a matter of fact, the issue of independence of prison medicine is **only one among the problems of prison healthcare** in Moldova repeatedly underlined by relevant bodies at UN, CoE and national levels.

Second, the Cosovan case should be placed under **enhanced supervision** – a status for cases revealing important systemic or structural problems and for which measures adopted by the corresponding government will be closely monitored.

EPLN is further assisting PromoLEX in its advocacy work for the transfer of prison medicine to the Ministry of Health, which is the subject of a working group set up by the Moldovan authorities for the implementation of the Cosovan v. Moldova judgment.

EPLN also challenges in court and addresses in international arenas the denial or inadequate care for drug users in detention. We advocate for the equivalence and continuity of care and harm reduction services for people who use drugs, in particular access to opioid agonist therapy in detention.

EPLN initiated in 2019 the Prison Health & Rights Consortium with the support of the Robert Carr Fund. The Consortium formed by communities of former prisoners and drug users, prisoners' rights defenders, prison health caregivers and public health specialists and composed of UnMode – Community Movement for Access to Justice, Health without Barriers – the European Federation for Prison Health, and Harm Reduction International.

Members of the consortium monitor and collect since 2019 information on violations of health rights of prisoners, documented cases and provide legal assistance to ill prisoners for accessing adequate medical assistance or being granted release where their health condition is incompatible with detention. In 2022, the consortium provided assistance to 94 detainees in Ukraine, Russia, Georgia, Moldova.

This work led to the release of the publication [“Punish and Care. The difficult apprehension by European law of a paradoxical injunction”](#) by the consortium in the frame of its media project “20 years of European Prison Law”. The publication brings the analysis from formerly incarcerated people who use drugs and who live with HIV, medical doctors, human rights defenders and international experts of prison health on the issue of the effectivity of the right to health protection of prisoners and the independence of prison medicine as a condition for States to implement the principle of equivalence of care.

# LEGAL RESOURCES

We support lawyers, civil society organisations and prisoners who litigate and advocate for prisoners' rights by providing them with legal and analytical resources.

We follow the European Court of Human Rights and EU Court of Justice's judgments and decisions and monitor in 18 European countries the main legal and policy developments on prison issues.

We report on the agenda of European and international institutions on prison issues and map most relevant advocacy opportunities for civil society actors to participate in the definition of penal and prison policies.

Overall in the 14 EU countries members of the network, 21000 national law practitioners and CSO representatives benefited from a regular information on national legal trends on prison issues as well as of a legal information on most relevant European prison case law

In 8 of these countries (Spain, Belgium, Austria, Romania, Greece, Lithuania, Poland, France), the active involvement of Bar Associations enabled to significantly raise the importance of prison issues in their strategic priorities. The end effect is an increased dissemination of best practices and CFR and ECHR standards on prison issues among national law practitioners.

# SUPPORT TO UKRAINIAN CIVIL SOCIETY IN WAR TIMES

Following the full-scale invasion of Ukraine by Russia, EPLN developed in cooperation with the [Helsinki Human Rights Foundation](#) in Poland **an exceptional support programme to Ukrainian civil society** with the objective to ensure civil society organisations, community activists and human defenders engaged in promoting human rights and the rule of law in Ukraine to safeguard their capacity of intervention in Ukraine and develop rapid responses to the problems and needs arising from the war. 18 CSOs of Ukrainian were able to maintain or even expand their activities, including in regions under Russian occupation.

**For CSOs and activists in the occupied territories**, the maintenance of their activity was conditional to the capacity of CSOs to relocate their staff and families, to relocate part or full of their organisational infrastructure. **In regions under governmental control**, CSOs and activists have been facing new challenges as regard both the reorganisation of their teams, including through remote management, but also, for several the diversification of their activity to new areas of work, in particular the documentation of war crimes and assistance to victims and IDPs. The action allowed through a flexible and responsive mechanism to support a total of 13 CSOs, including 9 active directly or remotely in occupied territories.

The action also allowed for **the protection and support of 84 activists and members of their families** for their temporary relocation within or outside Ukraine, but also for the support of subsistence of those choosing to stay in regions with high risks of shelling and/or occupation.

# LEGAL SUPPORT TO PRISONERS' RIGHTS DEFENDERS

As a network of CSOs striving for an increased participation of civil society in penal and prison policies and the defense of prisoners' fundamental rights, EPLN carries out regular **training and capacity-building activities for prisoners' rights defenders and provides continuous technical and legal support to its members and partners engaged in defending prisoners' rights**, to develop their litigation strategies and prepare legal argumentations in their applications to domestic and international courts.

Since the full scale invasion of Ukraine by Russia and the expulsion of the Russian Federation from the Council of Europe and the jurisdiction of the ECtHR, victims of torture in prisons of Ukraine under Russian occupation and Russia have lost one of their principal protection and redress instrument.

This new situation necessitates the adjustment of the international human rights litigation strategy for the protection of victims of torture and war crimes by Russia, with a **transition towards the UN human rights mechanisms**.

Notwithstanding their non-judicial nature and the absence of provisions in the applicable instruments establishing the obligatory character of their decisions, the legal positions of the UN Committees are subject to implementation in the Russian Federation.

EPLN started engaging in 2022 in a series of capacity-building initiatives on UN mechanisms (workshops, trainings, and seminars for lawyers and human rights defenders). Finally, EPLN has established contacts with the focal points at the Human Rights Council and Treaty Mechanisms Division of the Office of the High Commissioner for Human Rights in order to facilitate the process of application.

To ensure the effective transition to the UN human rights mechanisms, which would not stall the international human rights litigations against Russia as such, EPLN also brought pilot cases to the UN human rights mechanisms, which would serve as a material for developing a standard algorithm (including guidelines, schemes, and most commonly used templates) for the UN prison litigation of the network.

# FINANCIAL REPORT

## 2022 REVENUE (IN EUR)

Earmarked grants and donations	1 275 500
Manual donations	500
Other revenue	3
Financial income	341
<b>TOTAL</b>	<b>1 276 344</b>

## 2022 EXPENSES PER TYPE OF COSTS (IN EUR)

Personal costs	168 864	13 %
Consultants assimilated to staff	137 480	11 %
Project consultants	104 216	8 %
Copyrights	9 000	1 %
Re-granted funds to partner organisations	658 244	52 %
Travel costs, meetings costs	81 394	6 %
Translation costs	18 326	1 %
Service providers (Studies, Comms, Trainings)	44 894	4 %
Accountant & audit costs	26 355	2 %
Office, equipment, admin costs	17 626	2 %
Bank costs	4 122	0 %
Depreciations and provisions	663	0 %
Financial and exceptional charges	616	0 %
<b>TOTAL</b>	<b>1 271 800</b>	<b>100 %</b>

## 2022 EXPENSES PER THEMATIC PRIORITY (IN EUR)

Access to health care	565 988	45 %
Prison systems, prison and penal policies	267 254	21 %
Prison violence, torture, war crimes	30 722	2 %
Support to prisoners rights defenders	405 651	32 %
Running non-earmarked costs	2 185	0 %
<b>TOTAL</b>	<b>1 271 800</b>	<b>100 %</b>

# OUR NETWORK

**L'Altro Diritto**  
Italy

**Ban Public**  
France

**Avocats.be**  
Belgium

**Bulgarian Helsinki  
Committee**  
Bulgaria

**Helsinki Foundation for  
Human Rights**  
Poland

**Hungarian Helsinki  
Committee**  
Hungary

**Centre for European  
Constitutional Law**  
Greece

**Forum Penal**  
Portugal

**Strafvollzugsarchiv**  
Germany

**Tatort Zukunft e.V.**  
Germany

**Vereinigung  
Österreichischer  
StrafverteidigerInnen**  
Austria

**APADOR-CH**  
Romania

**League for Human Rights**  
Czech Republic

**Human Rights Monitoring  
Institute**  
Lithuania

**Prisoner's Advice Service**  
United Kindgom

**Promo LEX**  
Moldova

**Kosova Rehabilitation  
Centre for Torture  
Victims**  
Kosovo

**Kharkiv Human Rights  
Protection Group**  
Ukraine

**Ukraine without Torture**  
Ukraine

**Protection for Prisoners  
of Ukraine**  
Ukraine

**HIV AIDS Legal Aid Network**  
Ukraine

**Georgian Young Lawyers'  
Association**  
Georgia

# THANKS

To our project partners:

**UnMode – Community Movement for Access to Justice**

**European Federation for Prison Health – Health without Barriers**

**Harm Reduction International**

**Human Rights Center SICH**

**MANHUST Kherson Regional Charity Foundation**

**Ukrainian Helsinki Human Rights Union**

**DIGNITY Danish Institute against Torture.**

To our donors and supporters:

**The European Union’s Justice Programme and European Neighbouring Instrument**

**French Ministry of Foreign Affairs**

**Robert Carr Fund**

**Fondation de France**



# IMPRESSUM

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