



Boosting Competences in Penitentiary Staff in Europe

REPORT ON IDENTIFIED BEST PRACTICES  
RELATED TO HUMAN RIGHTS PROTECTION WITH  
FOCUS ON FOREIGN INMATES RIGHTS IN 6  
COUNTRIES  
(Deliverable 2.2)

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## LIST OF ABBREVIATIONS AND DEFINITIONS

JHA	Justice and Home Affairs
UNODC	United Nations Office on Drugs and Crime
ENAP	Ecole nationale d'administration pénitentiaire
SPIP	Service pénitentiaire d'insertion et de probation
GSCP	General Secretariat for Civil Protection
HELP	European Programme Training in Human Rights of Legal Professionals
SOA	Orientation and Reception Service
CdeE/CoE	Council of Europe
CEJFE	Centre D'Estudis Jurídics I Formació Especialitzada
GDP	General Prison Directorate

## EVALUATION METHODOLOGY

The realization of this Report is based on the reports of 6 countries. The main objective of this Report is introduction of “national prisons” practices on management of foreign prisoners, legal frameworks and practices that are presented by country reports and recommendations, in different countries (Italy, France, Spain, Albania, Montenegro and Greece), in order to plan the configuration of the contents of training tool in the next stage of the Project (Work Package 3).

Despite the challenges encountered by the researchers due to the COVID-19 outbreak, B-COMPETENT has successfully reached the goal of thoroughly evaluating prison staff training needs and gaps in all six countries.

The evaluation made in the framework of this Report was carried out in two dimensions: *first*, after completing the training needs assessment process/reporting, the implementing partners have made an effort to compile some information on good practices in the field of management of foreign prisoners. In each of the reports is made a detailed needs assessment, in relation to those specific measures, which clearly refer to the institutional capacities, whether in relation to additional staff, or much-needed training to carry out their work. *Second*, is estimated that this process will facilitate sharing and emulation of good practices by Prison authorities/ partners and human rights

institution to potentiate a common approach towards effective and coherent application of EU laws and standards on the treatment of foreign prisoners.

Reintegration is also more complex when it comes to foreigners - this is one of the reasons prompting the EU to adopt an instrument to facilitate transfer of prisoners, so as to allow their detention in the State where the goal of social rehabilitation can be more easily achieved (Art. 3, Framework Decision 2008/909/JHA). The Council of Europe has adopted recommendations as to the treatment of foreign prisoners, based on their right to non-discrimination, to respect for cultural diversity, and to their linguistic needs. UNODC has also addressed their special needs and rights.

For first time, the programme B- COMPETENT “Boosting Competencies in Penitentiary Staff in Europe”, implemented by a consortium of 6 inter- sectoral partners working with criminal justice sector, aims to support national penitentiary authorities, human rights institutions and citizens to contribute to an effective and coherent application of EU laws and standards on the treatment of foreign prisoners by designing and implementing a train-the-trainers program (face-to-face and e-learning), combined with sharing of best practices, awareness-raising actions and practical multilingual tools.

## ANALYSIS OF NATIONAL PRACTICES ON MANAGEMENT OF FOREIGN PRISONERS IN IMPLEMENTING COUNTRIES

Human rights are a legitimate subject for international law and international scrutiny.<sup>1</sup> The main aim of the prison authorities in their treatment of prisoners should be to encourage personal reformation and social rehabilitation.<sup>2</sup> All law enforcement officials, including prison staff, shall respect and protect human dignity and maintain and uphold the human rights of all persons.

Among the different international regulations, it is worth mentioning the Council of Europe’s **Recommendation CM/Rec (2012)12 of the Committee of Ministers to member States concerning foreign prisoners**, of October 2012<sup>3</sup>. This Recommendation emphasise among its basic principles that:

*“Foreign prisoners shall be treated with respect for their human rights and with due regard for their particular situation and individual needs” [...]*

*Foreign prisoners who so require shall be given appropriate access to interpretation and translation facilities and the possibility to learn a language that will enable them to communicate more effectively.” [...]*

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<sup>1</sup> Charter of the United Nations, Preamble, Article 1 and Article 55 (c)

<sup>2</sup> International Covenant on Civil and Political Rights (ICCPR), article 10, para. 3.

<sup>3</sup>[https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016805c9df0](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805c9df0)

*Sufficient resources shall be allocated in order to deal effectively with the particular situation and specific needs of foreign prisoners.”*

As follows you will find the analysis of each country good practices as well as existing weak spots and training gaps regarding training programmes focusing on the work civil prison staff develop with foreign inmates’ and how they consider and apply international standards.

## **EU MEMBERS** *(in alphabetic order):*

### FRANCE

France in applying a centralized approach of management of foreign prisoners. Once placed in detention, foreign prisoners are not evenly distributed throughout the country. It appears that most of them are taken to prisons in large urban centers, close to the place where they are arrested. These cities are known to be close to the transit points of migration routes. Prisoners are mostly held in remand prisons, establishments dedicated to people awaiting trial and short sentences.

A multi-professional training system for prison staff and probation is in place and dedicated to basic and professional training programs. Furthermore, the first attempt to train staff on foreign prisoners was related to radicalism and terrorism in prisons. Yet, the needs and the prison dynamics have required a more risk assessment training needs than solely security and management approaches.

The ENAP offers training on cultural diversity and interculturality which may concern some foreign national prisoners in the daily life of detention.

In 2007, the association La Cimade has signed a partnership agreement with the prison administration. With funding from the prison administration, the association is called upon to provide assistance and advice to foreign prisoners. In 2019, La Cimade has intervened in 71 facilities with 145 volunteers, supporting 3,008 prisoners.

La Cimade is also involved in training, at the request of prison officials, at the level of a prison or a provincial region. These training courses, designed as half-days, can be made up of one, two or three modules. They aim to help staff develop appropriate reflexes (e.g. knowing to which person refer for specific issues) and good practices rather than to train staff into experts in foreigners' law. In 2019, despite several discussions on the matter in several provincial directions (SPIP et directions interrégionales), no training was held for probation and rehabilitation services. La Cimade had several meetings with the ENAP in 2019, with plans for scheduled a training in 2020.

General lack of proper training indicates that staff training on the issue of foreign national prisoners is meagre. The prison administration in France receives assistance from external organizations such as La Cimade, which provides assistance and advice to foreign prisoners. **There is no**

## evidence of a solid targeted approach towards foreign national prisoners in staff training practice.

### GREECE

Custodial institutions in Greece are regional administrative units functioning at the level of direction, currently (since July 2019) under the control of the Ministry of Citizen's Protection. Their operation is coordinated by the General Director for the Administration of Custodial Institutions and Crises Management and the General Director for Crime and Penitentiary Policy. They are split into three main categories: general, special, and therapeutic where each category represents a variety of prisoner' categories and thus, of special needs.

Prison staff is selected following requirements of citizenship, level of education, integrity, good physical health, and compassion.

One of the main characteristics of the Greek prison system is the over-representation of non-national prisoners, who approximate and sometimes exceed 60% of the total prison population: This ratio potentiates the opportunity for more tailored training of the prison staff working in those institutions accommodating 75- 90% of foreign detained population.

Date	1/1/2014	1/1/2015	1/1/2016	1/1/2017	1/1/2018	1/1/2019	1/1/2020
Total number of prisoners	12,693	11,798	9,611	9,560	10,011	10,654	10,891
Number of foreign Prisoners	7,623	6,882	5,289	5,195	5,291	5,822	6,310

Source: GSCP

Furthermore, in many aspects prison staff training needs are huge, and there are many gaps in both, introductory and continuous training. Preparations to establish a permanent educational structure, an Academy for Prison Staff is a necessary step to put in context and organize prison employees education and training, which, in their views, should be obligatory and life-long.

Empowerment, encouragement and support of staff, as well as revision of appointment qualifications and procedures and salaries policies are deemed priorities to counter the current situation of prisons understaffing with inadequately educated, overworking and low-paid-and-motivated staff.

## ITALY

Italy shows a good practice with regards the process of recruitment where the prison staff training is given by 10 training schools, across the country, that are linked to the Department of penitentiary administration.

The educational training is mostly addressed to penitentiary police, due to the prevalence of uniformed staff with respect to educational workers. Trainings formally include notions about prisoners' basic rights and best practices in everyday life in prison, but multicultural knowledge and skills are not properly addressed.

Regarding the content of training in Italy, it is highlighted that there are two kind of skills supplied by the schools: hard skills and soft skills. The hard skills are the more practical ones, they are also called technical-operative skills (i.e. knowledge in law and organization of the penitentiary institution or deontological skills). The second ones, also named transversal skills, are essential to enhance the interprofessional and interinstitutional collaboration, the sense of belonging to the group, flexibility with respect to changing contingent situations, the ability to adapt to the social environment, the building of fruitful relationships, the ability to cope with stressful situations, the ability in the application of the rule with sense of humanity.

Hence, the focus point remains the distance between what it is supposed to learn on the paper and what happens in the everyday life in prison, as emerged during the focus group meetings with several Surveillance Judges', the Regional Guarantor for the rights of person detained and some Prison Directors (Santa Maria Capua Vetere Prison and others) report. More specifically, it emerged that the training of the so-called civilian prison staff, that is different from the Penitentiary army, is not adequately taken into account by Public Authorities, also because this large group embraces a lot of different figures operating within prisons, who have different educational backgrounds and tasks.

Nevertheless, some good practices can potentiate the role that prison staff, Public Authorities and also healthcare can play in ensuring the rights of detained person and the synergy that is a precondition for sound impact and better protection of prisoners' fundamental rights. **Italy is showing that there is a need of thinking a different way of training, which is more corresponding to prison reality.**

## SPAIN AND CATALONIA

In 2019, Spain has endorsed a Framework Programme for Educational Intervention with Foreign Inmates, as a good practice. Yet, the implementation of the program has encountered some obstacles that staff is facing with the national legislation that promotes the expulsion of many foreigners who commit crimes and, therefore, the effort dedicated by professionals to work with this population may diminish the impact.

Moreover, considering the importance of language in accessing information and, therefore, rights, Spain has shared a "Step by Step" document that came as useful document for the Spanish prison staff. However, in no case can this replace the important work that interpreters must play in the daily life of the prison. After reviewing all the documentation available from the Spanish penitentiary administration, we can see the difficulty to meet the needs of foreign inmates, bearing in mind that most of the training attend to strict security and management parameters. It should be remembered that after entering as a prison officer, the specialization courses are voluntary and are developed, for the most part, by external organizations.

The training area of this Sub-directorate of the Spanish prison administration offers a course on Social Skills, Personal Interaction and Peaceful Conflict Resolution. The call for this course has been published this September, 2020, and its general objective is to facilitate knowledge and strategies that can help to learn the specific procedures designed for the prison environment in the peaceful resolution of conflicts and the exercise of assertive authority. However, in no case training in specific matters regarding foreigners' rights or in relation to their needs and specificities, is required. Though, it can be seen how the training and specialization courses are developed from other agencies / organizations (and they are always voluntary), for example, the project promoted by the Instituto Cervantes and the GSPI launched in June 2019 regarding the teaching of Spanish as a Foreign Language aimed at prison officials and NGO volunteers who teach Spanish to non-Spanish-speaking foreign inmates.

Is important to highlight the collaboration of the European Program for Training in Human Rights of Legal Professionals (HELP) in the 28 member states of the European Union, sponsored by the Council of Europe, for additional training, especially with courses related to Fight against racism, xenophobia and homophobia.

The Catalan penitentiary administration stands out for the effort made in attending to the peculiarities of the foreign population not only for a qualitative matter but because in Catalonia these people represent a very high percentage, over 40% of the total. The Catalan administration has been active in providing mechanisms for foreign prisoners to have access to interpretation and translation in order to facilitate communication with professionals. This is planned as we have seen in Circular 2/2019 where it provides for the provision of this service by the new Orientation and Reception Service (SOA). The Circular is important because it takes into account international regulations and expressly includes Recommendation CM / Rec (2012) 12 of the CdeE. Together with it, it collects two other documents as a guide to work on this field: the Handbook on inmates with special needs of the United Nations Office against Drugs and Crime (2009), and Life trajectories of imprisoned foreigners, published by the Social and Criminological Research Area of CEJFE in 2011.

It is necessary to highlight the creation in each penitentiary of the Orientation and Reception Service (SOA) to coordinate all the action and comply with the objectives of the Circular 2/2019 mentioned above. This service includes advising multidisciplinary teams and other bodies with specialized information on foreigners and for the management of specific cases. In order to deepen this, the Circular has among its objectives "To improve the training and specialization of prison staff in this matter." Among its competences, this Service should assess and detect needs for care,

intervention or management with the foreign population, and should coordinate all actions on foreigners and provide technical support to bodies, professionals and collaborators involved in this matter.

This Circular of 2019 mainly aims to regulate in detail a series of procedures in which the execution of the sentence can be seen in the case of the foreign population (classification, exit permits, social integration, expulsion, return to the country of origin, suspensions and substitutions of sentence, and procedures for managing documentation for residence or work). It is not a training to learn to work with foreign prisoners, taking into account their cultural, language, and day-to-day needs, but rather aimed at formalizing the complex legal labyrinth in which foreigners tend to find themselves where the custodial sentence is mixed with the administrative measure of expulsion.

Another **good practice relates to Catalan system of training** for the recruitment of personnel in the field of criminal enforcement and civilian workers (social workers, psychologists, social educators and lawyers) and the list of a topic relating to foreign population that is introduced: “The internal population: rights and duties. The special relationship of legal subjectivity of inmates and inmates. Participation of inmates in the activities of the establishment. Generic characteristics of the incarcerated population in Catalonia. Main indicators of prison services and rehabilitation, problems, etc. Specificities of intervention in the prison environment: young people, women and foreigners.

"It must stand out that since 2002, the prison services of Catalonia have carried out actions that affect structural, organizational and socio-educational aspects to meet the needs of the foreign population, i.e, the Intercultural Mediation Plan which focuses above all on the role of mediators in the face of possible cultural conflicts.

CEJFE offers, within its courses, one online training on migration issues aimed at prison management units, but it focusses on legal procedures. Among the courses offered for the second semester of this year 2020, nothing seems to be related to working with foreign inmates.

## **NON-EU MEMBERS** *(in alphabetic order):*

### ALBANIA

In Albania, the Prison Law 81/2020 in its article 5 “on respect for human rights”, paragraph 7 does provide for specific treatment for foreigners, based on individual needs. Furthermore, the prison authorities are responsible to develop individual treatment plans for all prisoners, in particular foreign prisoners as they are considered as prisoner’ category with special needs (Article 14, paragraph 2 of the Law 81/2020). According to official data from the General Prison Directorate (GDP), there are 94 foreign prisoners from countries: Syria, Morocco, Turkey, Kosovo, Italy, Canada, Palestine, Serbia, Greece, North Macedonia and Afganistan. The contingency of the foreign prisoners are currently held in pretrial detention facilities of Elbasani, Vlora, Kukësi,

Durrësi, Saranda, Tepelena and Tropoja; and, in high security prisons of Korca, Fushë-Kruja, Lezha, Peqini.

The management of the foreign prisoners is spread through the prison system:

## ALBANIA

**Prison population** 4.764

**Foreign detainees** 94

**Occupancy** 87 %

The Albanian Prison Directorate has worked on consolidating a good practice of professional and continuous education system that can be beneficial for all prison staff. Furthermore, the GPD Training Centre shows potentials for expanding its capacities and curricula, having in mind a training academy. In this way, more frontline prison staff should be given training dedicated to special needs of categories of prisoners, thus including language and cultural difference, and not just domestic prison rules.

The effort made by the prison administration in **Albania** with the participation by the Council of Europe (CoE) experts that have trained the trainers at the Security Academy it is a good practice. But it is important that the prison administration should have enough financial resources to improve living conditions, social activities and training as effectively as possible regarding the specific situation and specific needs of foreign prisoners.

In Albania, **good practice** is oriented with regards to the process and procedures of staff recruitment and basic entry training. Such process was newly introduced and was potentiated by the national actors as good example of a holistic training approach including sociological, legal and administrative information and knowledge.

Recent programmes that are implemented in close cooperation and support with Council of Europe through HELP platform are providing advanced training and information regarding the radicalisation in prisons where an indicator is approaching the foreign prisoners and their role with regards to attempts to radicalisation in prisons.

The development of measurable standards to assess and evaluate the outcomes of such strategies and practices, enabling the improvement of strategies and their implementation will be an asset that can make a good practice for the prison system.

## MONTENEGRO

The small number of the prison institutions in Montenegro orients the discussions about some good practice in the way the Directorate for Enforcement of Criminal Sanctions is managing the number of detained populations. It is unique from all countries participation in the program the fact that the Directorate for Enforcement of Criminal Sanctions is headed by a female Director.

There are gaps that have been underlined by interviewees: i) prison staff do not attend trainings before entering into duty; ii) there is no specific staff appointed to work with the foreign prisoners; iii) lack of training about the rights of foreign prisoners, cultural diversities and foreign prisoners' special needs.

But we potentiate a good practice the fact that the Directorate has invested in multi- stakeholder cooperation with regards various training program that were implemented to prison staff. The importance of different topics may be considered a good practice, as along as such programmes can substitute and be considered an “added value” to the work of the Directorate for Enforcement of Criminal Sanctions in promoting and protecting fundamental freedom to people deprived of their liberties (including foreign prisoners).

## CONCLUSIONS

Potentiating good practices allows reflective considerations that help shape concrete measures and results. Furthermore, such process may be beneficial as generally, prison authorities do not “invest” much in identification of good practices. Through this Report on National Best Practices, we have taken an important qualitative step forward towards meeting our programmatic commitments regarding the successful completion of WP2.

This Report aims to help the prison administration, but also policy makers by proposing a series of recommendations. It is quite obvious that all countries need to review their policies and procedures as it relates to the treatment of foreign offenders. In many cases, there is no clear and concise account of what the mission is, with respect to care, custody and control. When there are clear statements of principle that should be applied to the life of such inmates, there are measurable components that can be used to evaluate whether the mission is being accomplished.

Regarding to the findings of this report, in summary, it should be noted that, more training (before entering to duty and afterwards) are needed regarding the main topics such as admission, allocation, accommodation, hygiene, clothing, nutrition, legal advice, assistance on access to interpretation and translation facilities, that will enable the foreign prisoners to communicate more effectively, some key recommendations specifically focused at the Project objective (staff working with foreigners and their rights) constitute the main concern for all prison administrations.

It is the hope that serious considerations and actions would be taken as it relates to the countermeasures suggested as follows:

- *Approximating legislation with international and European standards:* this is a good practice, that is easily identifiable in all implementing partners. Such work, of course, requires priority-setting and political will that apparently is present in all the implementing partners. Prisons staff should be trained sufficiently in the international and internal standards and regulation on foreigners' rights, and the especial care and attention for especial needs in context of deprivation of liberty.
- *Investing in prison human resources by “attracting” high professional and multi- sectoral specialists,* able to maintain motivated, communicative, empathic and innovative. Security and compliance are now not always the only feats to be accomplished by prison administrators. There are also efforts being made to communicate effectively and offer encouraging outlooks for positive inmate change. Respect for others, and especially respect for cultural backgrounds, can actually increase the security and compliance efforts mentioned earlier. When cultural understanding is achieved, inmates and staff will be able to better recognize and communicate the reasoning and purpose behind their actions.

In addition, having empathy allows both staff and inmate the ability to better understand the thoughts and emotions that the other is feeling. When the thoughts and emotions of others are recognized, it becomes easier to understand individuals' personal standpoints (and also their action choices).

- *Evaluating the increasing trend of foreign prisoners:* Although some countries lack statistics corroborating this upward trend, in many countries the number of foreign prisoners seems to be on the increase. As for the type of crimes committed by these prisoners, most countries reported that drug-related crimes are shooting up. There is a trend of nationalizing the crime characteristics and offender by their nationality. Furthermore, some commonly identified indicators that may orient national interventions/ programs and strategies relate to:
  - (a) ensuring effective communication- the knowledge of the languages most spoken by foreign prisoners;
  - (b) recognition of differences in lifestyle (culture, food, and religion that impact health and mental health) – Finding mechanisms to take into account the social, familiar and cultural context of the foreign inmate.
  - (c) obtaining accurate information (including careful risk assessments and dynamic security), information about their criminal and prison situation, their rights and obligations, the regulations of the centre, the procedures for accessing services and programs, and also other legal and administrative aspects that affect them
  - (d) restoring family ties and contacts that help fighting recidivism;

- (e) staffing and training, as already described;
- (f) promoting cultural awareness, that can help alleviate the personal stress, stigma, insecurities and life threats for foreign prisoners.
- *A very important issue is financial support* - the prison administration should have enough financial resources to improve living conditions, social activities and training as effectively as possible regarding the specific situation and specific needs of foreign prisoners.