



B-COMPETENT is a project co-funded by the Justice Programme of the European Union, GA 854040

Training Program

Developing Penitentiary Staff competences related to human rights of Foreign Nationals in prison

Implemented by:



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B-COMPETENT: Background information

In the framework of increasingly multi-ethnic correctional settings, where language and cultural barriers faced by Foreign Nationals pose significant challenges to prison systems, **penitentiary staff play a pivotal role to ensure human rights protection and fair treatment** of prisoners, preventing episodes of radicalization and extremism.

Against this framework, the European project *B-COMPETENT (2019-21)*, co-funded by the Justice Programme, aims to provide penitentiary staff trainers with a set of multidisciplinary skills necessary to properly train civilian prison staff, who will gain **increased knowledge and understanding of the EU legislation and standards related to human rights**, with a special focus on foreign inmates' needs and rights.

Training Program: Objectives

- **To set up a standardized training methodology** in EU countries, Albania and Montenegro, designed to provide prison civilian staff with a set of juridical and operational skills to deal with foreign prisoners and to meet their needs and rights in their daily work.
- **To build capacity of prison staff trainers**, enabling them to gain multidisciplinary competencies on cultural-mediation, psychological, ethic, sociological and security-related aspects concerning the treatment of foreign prisoners.
- **To increase knowledge and awareness** among trainers and prison civilian staff about national/EU law and practices, regional and international human rights law and CoE standards focused on the treatment of ethnic minorities in prison.

Participants

The B-COMPETENT training course is designed as a training tool for prison managers, prison staff trainers, civilian penitentiary staff (forensic psychologists, social assistants, educators, social workers, cultural mediators, interpreters, etc.) and all those responsible for working with Foreign Nationals in prison.

Contents and structure

The training path combines online and face-to-face activities.

Online training course

The e-learning course will provide useful insights into key aspects of the management of Foreign Nationals in prison: European standards in the work with foreign inmates, right to access to justice

and other rights (communications, health), conditions of detained women with minor children, access to penitentiary work, restorative justice, to mention some of the most relevant issues addressed by the course.

- 10 modules (10 h of video recorded lessons + self-study)
- Language: English
- Subtitles: Albanian, English, French, Greek, Italian, Montenegrin and Spanish.
- Multiple choice test on completion of each module.
- Free access to a wide range of training tools and resources: PPT slides (English), a multilingual Handbook with practical exercises and educational games, a multilingual animated video with case scenarios, multilingual material to help the communication between front-line prison staff and foreign inmates, biblio-sitography, relevant articles/publications.
- A statement of participation will be issued upon request (this statement does not carry any formal credit towards a qualification).

Users may freely access the online modules h24 after signing up to the e-learning platform.

The online modules are not tightly linked to each other, which makes it possible for those interested to choose the module(s) they want to apply for, according to their training needs and interests.

Face-to-face workshops

The **workshop** will be held in Italy, Spain, France, Greece, Albania and Montenegro in October-November 2021. Workshops are open to a maximum of 25 participants. Due to COVID-19 related restrictions **the events may be delivered remotely via Zoom platform.**

The workshops, led by expert trainers, will combine theoretical knowledge and practical skills through learn-by-doing experiences. The activities will involve small groups of participants in practical exercises, case studies and role-plays.

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MODULE 1

The concepts of "immigration" and "international protection"

Abstract

Main objectives:

1. To promote awareness that foreigners are vulnerable persons who are likely to face increased difficulties and discrimination in prison;
2. To improve understanding of the specific rights to which foreigners in prison are entitled;
3. To increase the ability of those responsible for the care of foreign prisoners to address difficulties that are likely to arise during the detention of foreigners.

Methodology:

This Module combines theoretical context, that includes some background and definitions, actual developments with regards to international, European and Albanian legislation. Further, it includes some practical examples from the activities of the Albanian NPM.

Lecturer

Ermonela Xhafa | *Commissioner at Avokati I Popullit* | **Albania**

References

United Nations

- Universal Declaration of Human Rights (UDHR), United Nations
- International Covenant on Civil and Political Rights (ICCPR),
- UN Convention against Torture (CAT)
- Standard Minimum Rules for the Treatment of Prisoners (SMR Mandela Rules)
- Vienna Convention on Consular Relations (VCCR)
- Model Agreement on the Transfer of Foreign Prisoners (UN Transfer)
- UN Basic Principles for the Treatment of Prisoners (UN Basic Principles)
- UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (UN Principles)
- Recommendations on the Treatment of Foreign Prisoners (UN Rec)
- UN Resolution 1998/22 Status of foreign citizens in criminal proceedings (UN Res)

Council of Europe

- European Convention of Human Rights (ECHR)
- European Prison Rules (EPR)
- CPT website: www.cpt.coe.int
- Recommendation (2012)12 concerning foreign prisoners (CoE FNP)
- Convention on the Transfer of Sentenced Persons (CoE Transfer)
- Recommendation CM/Rec(2010)1 Probation Rules (CoE Probation)
- Recommendation Rec(2001)10 European Code of Police Ethics (CoE Politics)
- Good Practice Manual for working with Foreign Prisoners' for the use of Prison and Probation Services, accessible on: http://www.euopris.org/expert_groups/foreign-nationals-in-prison/

- Rules on treatment of foreign prisoners, including the Albanian translated version, PrisonWatch, <https://prisonwatch.org/foreign-prisoners/>
- Handbook on Prisoners with Special Needs, UNODC, https://www.unodc.org/pdf/criminal_justice/Handbook_on_Prisoners_with_Special_Needs.pdf
- Criminal Law Cooperation Unit of the Council of Europe: <http://www.coe.int/en/web/criminal-law-coop>

European Union

- Charter of Fundamental Rights of the European Union (EU Charter)
- Council Framework Decision 2008/909/JHA (EU909JHA)
- Directive 2010/64 on the right to interpretation and translation in criminal proceedings (EU2010)
- Directive 2012/13 on the right to information in criminal proceedings (EU2012)

MODULE 2

International protection: European Court of Human Rights, Court of Justice of the European Union and United Nations Human Rights Committee

Abstract

The module deals with the nature and the dimensions of human rights of prisoners sanctioned in the international instruments focusing to foreign prisoners, associating with the state obligations toward implementation of these rights and the competences and role of international institutions that serve to enhance the rights of prisoners. The objective of the module is to provide an overview of international legal instruments protecting the rights of prisoners, the conditions of exercise of rights and freedoms of foreign prisoners and the state obligations as a legal reserve. Furthermore, the module deals with the opportunity to pursue and to implement the rights of prisoners regardless of the mechanisms that exist in each state. All these elements are particularly important to train civilian prison staff with the wide range of human rights sanctions for prisoners, especially foreign prisoners.

Lecturer

Heliona Miço | *PhD Lecturer of Law at "Epoka University" of Tirana* | **Albania**

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<https://ijrcenter.org/european-court-of-human-rights/#:~:text=The%20European%20Court%20of%20Human,European%20Convention%20on%20Human%20Rights>
https://legal.un.org/ilc/texts/instruments/english/conventions/9_2_1963.pdf
<https://rm.coe.int/16806dbaa3>
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<https://www.antigone.it/upload2/uploads/docs/ECHR%20and%20rights%20in%200prison.pdf>
Office of the United Nations High Commissioner for Human Rights. (2005). "Human Rights and Prisons". A Pocketbook of International Human Rights Standards for Prison Officials. Retrieved from <https://www.ohchr.org/documents/publications/training11en.pdf>

MODULE 3

Regulation on the administrative situation of non-nationals: the European Dublin system.

Abstract

This Module deals with the general administrative procedures to activate, as far as persons coming from third countries enter the European Union space. This lesson analyses the contents of the Dublin Convention and, specifically, the Italian rules concerning the acceptance of immigrants, focusing on the protection of their fundamental rights.

Lecturer

Antonella Croce | *PHD Lecturer at University of Campania “Luigi Vanvitelli” - Department of Law | Italy*

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- Council of Europe, *Migration and asylum: Council of Europe to increase protection of vulnerable persons*, available at: <https://www.coe.int/en/web/portal/-/migration-and-asylum-council-of-europe-to-increase-protection-of-vulnerable-persons>;
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- G. Morgese, *Dublin system, “scrooge-like” solidarity and the EU law: are there viable options to the never-ending reform of the Dublin III regulation?*, *Diritto, immigrazione e cittadinanza*, 3, 2019, pp. 86-101;

- G. Morgese, *La riforma del sistema Dublino: il problema della condivisione delle responsabilità*, Diritto Pubblico, 1, 2020, pp. 97-115;
- F. Munari, *The Perfect Storm on EU Asylum Law: The Need to Rethink the Dublin Regime*, in Diritti umani e diritto internazionale, 3, 2016, pp. 517-547;
- Various Authors, *Non-refoulement as a principle of international law and the role of the judiciary in its implementation*, Dialogue between judges, European Court of Human Rights, Council of Europe, 2017, available at: https://echr.coe.int/Documents/Dialogue_2017_ENG.pdf.

MODULE 4

European standards in the work with foreign inmates

Abstract

The UNODC Handbook on Prisoners with special needs that contains a chapter on foreign inmates, highlights the many disadvantages that Foreign Nationals have to face when they encounter the criminal justice system. The handbook also points out that often “cooperation between immigration authorities and prison administrations is inadequate in many countries” and that sometimes “prison staff are not trained to assist with immigration issues and cannot respond to the needs of such prisoners”.

Therefore, in the work with foreign inmates, it can be useful to consider some international standards that can offer guidance in this regard. The training module focuses on staff ethics and professionalism and on the training that it is recommended to have in the work with foreign inmates.

Lecturer

Federica Brioschi | *Researcher at Associazione Antigone* | Italy

References

UNODOC Handbook on Prisoners with special needs, United Nations Publication, ISBN 978-92-1-130272-1, 2009

https://www.unodc.org/pdf/criminal_justice/Handbook_on_Prisoners_with_Special_Needs.pdf

The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) General Assembly, resolution 70/175, adopted on December 17, 2015

https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf

Recommendation CM/Rec(2012)5 of the Committee of Ministers to member States on the European Code of Ethics for Prison Staff (Adopted by the

Committee of Ministers on 12 April 2012 at the 1140th meeting of the Ministers' Deputies)

https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805cab7

Recommendation Rec(2006)2-rev of the Committee of Ministers to member States on the European Prison Rules (Adopted by the Committee of Ministers on 11 January 2006, at the 952nd meeting of the Ministers' Deputies and revised and amended by the Committee of Ministers on 1 July 2020 at the 1380th meeting of the Ministers' Deputies),

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Recommendation CM/Rec(2012)12 of the Committee of Ministers to member States concerning foreign prisoners (Adopted by the Committee of Ministers on 10 October 2012 at the 1152nd meeting of the Ministers' Deputies)

https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c9df0

Recommendation CM/Rec(2008)11 of the Committee of Ministers to member states on the European Rules for juvenile offenders subject to sanctions or measures (Adopted by the Committee of Ministers on 5 November 2008 at the 1040th meeting of the Ministers' Deputies),

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Recommendation of the Committee of Ministers to member States on the European Rules on community sanctions and measures (Adopted by the Committee of Ministers on 22 March 2017 at the 1282nd meeting of the Ministers' Deputies),

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European Court of Human Rights, *Guide on the case-law of the European Convention on Human Rights. Prisoners' rights*, updated on 31 December 2020,

https://www.echr.coe.int/Documents/Guide_Prisoners_rights_ENG.pdf

MODULE 5

Religious freedom and imprisonment. Part 1: General features

Abstract

Objectives:

The present module deals with the analysis of religious freedom related to imprisonment status. After an initial overview of what religious freedom means, the lesson will proceed in the specific examination of the various norms of Constitutions, Conventions and Treaties and statutes, which deal with the protection of this fundamental right (particularly, the Italian Constitution and penitentiary law, the Charter Of Fundamental Rights Of The European Union, European Convention of Human Rights and the Universal Declaration of Human Rights), jointly with the most relevant case-law. Subsequently, the module will show how this fundamental right is protected inside prisons, particularly for foreign detainees who belong to minorities. The national authorities are required to respect prisoners' freedom of thought, conscience and religion by refraining from any unjustified interference and taking positive action to facilitate the free exercise of those rights, having regard to the particular requirements of the prison environment.

Structure:

1. Religious freedom: a constitutional insight.
 - 1.1 Religious freedom at a European and international level.
 - 1.2 The most relevant case-law.
2. Religious freedom and imprisonment: how to guarantee a fundamental right in prison.
 - 2.1. Religious freedom and penitentiary law.

Lecturer

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References

D. Bifulco, *Defining Religion and Belief: The Approach of The European Court of Human Rights*, *Diritto e Religioni*, 1, 2017, pp. 317-339;
 N. Colaianni, *Gli elementi essenziali delle religioni nella giurisprudenza costituzionale*, *Diritto e Religioni*, 1, 2017, pp. 340-360;
 E.C.H.R., *Guide on Article 9 of the European Convention on Human Rights Freedom of thought, conscience and religion*, available at:
https://www.echr.coe.int/Documents/Guide_Art_9_ENG.pdf

MODULE 6

Religious freedom and imprisonment. Part 2: Radicalisation

Abstract

It is a notorious fact that the intensification of migration flows determined an increase of the number of Foreign Nationals in prison across the Europe. This circumstance, besides the other issues linked to the implementation of a multicultural prison, is not irrelevant on the side of the possible outbreaks of phenomenon of radicalisation in prison. In fact, a connection could be highlighted between the religious beliefs and the spread of the radicalisation, in the circumstance that a fundamentalism view of religious matters can lead to the strengthening of terrorist intentions. Furthermore, a premise for debating on this topic is the distinction between religion and belief since the art. 9 of the European Convention of Human Rights expressly refers to the freedom to manifest in various forms and change someone's "religion or belief". Even though apparently the distinction exists, the European Court of Human Rights' and Commission's jurisprudence avoided addressing the issue. However, the distinction might be useful in the present lesson to analyse the interconnection between religion, beliefs and radicalisation, in the prison environment. Finally, the attention will be addressed to the possible rehabilitation of radicalised prisoners.

Structure:

- Introduction
- Definition and history of radicalisation in Europe.
- Art. 9 of the European Convention of Human Rights: the stated reference to "religion or belief".

The rehabilitation of radicalised prisoners.

Lecturer

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References

D. Bifulco, *Defining Religion and Belief: The Approach of The European Court of Human Rights*, *Diritto e Religioni*, 1, 2017, pp. 317-340;
Council Framework Decision of 13 June 2002 on combating terrorism - 2002/475/JHA, revised in 2017, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02002F0475-20081209&from=IT>;
Gary Hill, *Rehabilitating Terrorists*, 2016 J. E.-EUR. CRIM. L. 154 (2016);
Global Terrorism Database (GTD) report, update of 2020, available at https://www.start.umd.edu/pubs/START_GTD_GlobalTerrorismOverview2019_July2020.pdf;

D. Pulino, *Radicalizzazione e carcere: tra discorsi e dispositivi istituzionali*, Studi culturali, 1, 2019, pp.145-162;
Valiente-Ivañez, V., Gómez-Bellvis, A. B., Miró-Llinares, F., Castro-Toledo, F.J., & Fernández-Castejón, E. B. (2019). *Legal Analysis of Counter-Radicalisation in a selected European Union Member States Report*. PERICLES EU Project: Centro CRÍMINA para el estudio y prevención de la delincuencia (Universidad Miguel Hernández).

MODULE 7

The right to access to justice in equal terms – General Part

Abstract

For detained Foreign Nationals access to legal advice and assistance can be more complicated than for detained citizens. One of the reasons is the language barrier but also the lack of knowledge of the criminal justice system or the lack of knowledge about their rights during the trial. During their detention they might encounter problems regarding prison treatment that is often not tailored for foreign inmates and that might lack opportunities for them.

The objective of the module is to provide a brief overview of detainees' rights during the first phases of their trial (procedural rights in the criminal justice system) and during their detention in respect to the regime they should be subjected to (and the prison treatment) and the specific aspects of education and training in prison.

Lecturer

Federica Brioschi | *Researcher at Associazione Antigone* | Italy

MODULE 8

The right to access to justice and other rights – Part 1: Communication and health

Abstract

Foreign prisoners face a greater risk of isolation due to different reasons: distance from their families of origin that in many cases live abroad, lack or scarcity of personal relations with and support from the external world, language barriers, to mention some of the most relevant causes. For those reasons, communications should be reinforced and delivered under a principle of flexibility. Health attention, both physical and mental should also be provided in equal terms than the rest of inmates and should deal with special needs. Prison staff play a central role in the daily life of inmates and an important part of its work is to provide the material and informational conditions necessary for prisoners to exercise their rights. In this regard, training programmes for prison staff should include international and regional human rights standards to guarantee that these rights are fulfilled and to ensure a more respectful human rights environment both for inmates and staff.

This module aims to address the peculiarities that the work with foreign inmates should have regarding:

- right to communication and personal relations with the external world, family and consular representatives.
- right to health (mental and physical)

Lecturer

Alejandro Forero Cuellar | Associate Professor at University of Barcelona - OSPDH | Spain

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Committee of Ministers, Council of Europe, Recommendation CM/Rec(2012)12 to Member States concerning foreign prisoners, https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805c9df0

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United Nations, General Assembly (2015) Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), 17 December 2015, <https://undocs.org/A/RES/70/175>

World Health Organization (2007) Health in prisons A WHO guide to the essentials in prison health. https://www.euro.who.int/_data/assets/pdf_file/0009/99018/E90174.pdf?ua=1

MODULE 9

The right to access to justice and other rights – Part 2: Women & children Work

Abstract

The present module deals with the situation of Women in European prisons, the situations of discrimination that they suffer, and the special situation of those women deprived of liberty who take care of their minor children. Likewise, this Module will try to show the regulation related to productive work that prisoners can develop in prison with special attention to the situation of foreign prisoners. This module also analyses possible impediments to access it. The objective of the module is to provide a panoramic view of the situations indicated, as well as the indication of the European normative base that has been dedicated to these matters

Structure

Women and children

- Women's in prison: Data and description
- Practice across Europe: Mothers with children
- Specific Regulation

Work

- Access to penitentiary work
- Equal opportunities.

Lecturer

Monica Aranda Ocaña | *Professor at University of Barcelona - OSPDH* | Spain

References

Sitography:

Catherine Helen Spence (2011), *Women and children in Prisons : Accommodation Study 2010-2011*

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https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf

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MODULE 10

Conflict Theory and Alternative Conflict Resolution. Restorative justice

Abstract	<p>Knowledge in the field of restorative justice is intended to guarantee that the execution of the sentence takes place in such a way as to ensure the rehabilitation of the prisoners, safeguarding their fundamental rights.</p> <p>Module 10 deals with the analysis of the alternative method of resolution of conflicts. The objective of the lesson is to provide an exhaustive overview and knowledge in the field of the restorative justice, as an alternative method to solve disagreements both between inmates and their victims and among detainees and prison staff within penitentiaries. Furthermore, the module analyzes the various programs to implement such conciliatory procedures, inside prisons as well. All these elements are particularly important to best assure the rehabilitation process of detainees, in the view of their reintegration into society.</p>
Lecturer	<p>Antonella Croce <i>PHD Lecturer at University of Campania "Luigi Vanvitelli" - Department of Law Italy</i></p>
References	<p>Aebi, M. F. & Tiago, M. M. (2020), <i>Prisons and Prisoners in Europe in Pandemic Times: An evaluation of the medium-term impact of the COVID-19 on prison populations</i>. Strasbourg: Council of Europe. available at: https://wp.unil.ch/space/files/2021/02/Prisons-and-the-COVID-19_2nd-Publication_201109.pdf</p> <p>Aebi, M. F., & Tiago, M. M. (2020). <i>SPACE I - 2019 – Council of Europe Annual Penal Statistics: Prison populations</i>. Strasbourg: Council of Europe, available at: https://wp.unil.ch/space/files/2021/02/200405_FinalReport_SPACE_I_2019.pdf.</p> <p>Jane Anderson, <i>Introducing and Theorising an in-Prison Restorative Justice Programme: The Second-Generation Sycamore Tree Project</i>, 1 INT'l J. Restorative Just. 210 (2018).</p>

A. Borghini, C. Galavotti, *L'applicazione della giustizia riparativa nel penitenziario italiano. Tra prospettive di sviluppo e resistenze culturali*, *Autonomie locali e servizi sociali*, 3, 2020.

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