

PAC Project's policy recommendations

on democratic processes, voluntary work, sports, and culture

- Conditions should be created and improved for participation of prisoners and ex-prisoners in **democratic processes** on different levels – from voting on elections to active involvement in prison management.
- **Active participation** of prisoners and ex-prisoners should be included into the strategies, plans and budgets aiming at promoting community involvement and volunteer work at EU, national, regional and local level.
- **Access to sports** for prisoners and ex-prisoners should be encouraged and provided through a flexible approach to delivery which enables cooperation of prison staff, prisoners, and external collaborators and prisoners' active participation in organizing and implementing sport activities and, when possible, to involve local community in sports events.
- **Access to cultural activities** for prisoners should be provided in a way that enhances their active participation, enforces social cohesion and makes a positive impact on prisoners' relationships with the community inside and outside prison.

Policy recommendations were drawn from the following sources:

- Contribution of the team-members on the basis of their insight into policy documents and processes and of the feed-back they got from participants in the project and relevant stakeholders to the project team members during and after the project activities;
- 8 multiplier events in Belgium, Croatia, Italy, The Netherlands and United Kingdom with 400+ participants;
- Panel held at the International learning day in Brussels, on November 19th 2019, with 6 panelists and 119 participant in the audience.

The areas of the recommendations reflect their focus and interest, and they are formulated as contribution to the future policy processes, and not as final list for policy proposals. More details on background for recommendations on specific areas are provided on the following pages.

1. RECOMMENDATION ON DEMOCRATIC PROCESSES:

Prisoners and ex-prisoners should participate in democratic processes on different levels – from voting on elections to active involvement in prison management.

In many countries prisoners participate in general elections, e.g. in Croatia, Czech Republic, Denmark, Finland, Ireland, Latvia, Lithuania, Netherlands, Poland, Romania, Slovenia, Spain, Sweden. In some countries there are restrictions to their participation: local elections are excluded on the ground that the prisoners are not affected by the local issues (e.g. Czech Republic, Latvia); prisoners might be disenfranchised depending on the type of crime and /or sentence (e.g. Poland, Belgium); despite the right to vote while in prison, turnout remains low (e.g. in Ireland, in general, only one in five prisoners votes).

Right to vote is set out in the Universal Declaration of Human Rights and defined in the International Covenant on Civil and Political Rights which has been ratified by 172 states. Related policy and practice differ significantly across EU countries, from prisoners exercising regularly their constitutional rights to vote on elections, to those disenfranchised during or after the prison sentence.

A decision of the European Court for Human Rights from 2005 ruled against blanket ban on voting rights for prisoners and calls for justification of any restrictions on fundamental rights and freedoms.

Prison Service Order nr. 4480 from 2002 by HM Prisons in the UK is an example of a policy document outlining ways of how prison management should respond to the prisoner's initiatives for establishing representative associations.

However, a range of participatory processes, such as participation of prisoners in prison management or restorative practices in case of conflicts in the prison is left out of relevant policies in most countries.

Freedom of a peaceful assembly and association with others is guaranteed by Article 11 of the European Convention on Human Rights.

As it regards involvement of prisoners in prison management, Council of Europe (CoE) recommends that, subjects to the needs of good order, safety and security, prisoners shall be allowed to discuss matters relating to the general conditions of imprisonment and shall be encouraged to communicate with the prison authorities about those matters.

A working group from the Directorate for the Execution of Sanctions of CoE in their manual on dynamic security in prisons advocate pro-social modelling – a process by which professionals bring out the best in people by acting as a positive, motivating role model, heavily relying on building relationships.

Pro-social modelling includes reinforcing comments and actions which value non-criminal activities and associations including family and sport.

An example of national legislation in line with CoE recommendations is the Basic Law for the Prison System adopted in Belgium in 2005, with its' general principle that deprivation of liberty should not impede exertion of the other prisoners' rights: political, civil, social, economic or cultural.

The law also guarantees the prisoners' right to education, sports, culture and training.

2. RECOMMENDATION ON COMMUNITY INVOLVEMENT AND VOLUNTARY WORK

Active participation of prisoners and ex-prisoners should be included into the strategies, plans and budgets aiming at promoting community involvement and volunteer work at EU, national, regional and local level.

Voluntary work is covered by several EU policies and treaties. Contribution by the voluntary sector is recognized in the declaration 38, attached to the Treaty of Amsterdam.

The social and economic value of volunteering is the focus of several subsequent reports and opinions adopted by the European parliament, by the Committee of the Regions and the European Economic and Social Committee, which led to a Council Decision on the European Year of Volunteering in 2011, which promoted volunteering as core expression of civic participation and democracy.

Some EU member states have a legal framework tailored specifically for volunteering (e.g. Croatia) while others find other ways to regulate the field, for example by integrating volunteering into general laws (the French Association Act).

In different states the involvement of general population in formal and informal volunteer activities differs significantly: from high levels of informal and formal volunteering (e.g. in the Netherlands respectively 82,5% and 40,3% of population) to low levels (e.g. in Croatia 17,2% of the population involved in informal and 9,2% in formal voluntary activities).¹ Recent trends of changing the role of the state and the community (de-institutionalization and withdrawal of the public institutions from the social provision services) appeared in the aftermath of the financial crisis in 2008 primarily as a response to the challenges of financial sustainability of the welfare state, and not as an attempt to increase civic participation or quality of human services.

An example of this trend can be found in the Netherlands, where since 2013 the governments have been calling for more citizen and community responsibility into legal and financial measures. In practice, these attempts can be illustrated by substitution of “right to care or assistance” with state obligation to provide support “when necessary” with regards to the family supportive capacity which on one hand, has opened space for experimentation and innovation, but at the same time has raised important issues of accountability and liability, as well as of risk for promoting volunteer work as unpaid substitute for paid services, and not as a way of strengthening social capital.²

In that context, it is important to promote prisoners’ active citizenship with the focus on long-term benefits of their successful social inclusion and not to expect financial benefits or savings from their involvement.

Instead, it should be considered that promoting their self-reliance, autonomy and informal service provision in a systemic way requires substantial resources and, on short term, increase costs of

¹ according to data from Eurostat 2015 EU-SILC Module on Social/Cultural Participation and Material Deprivation

² Greer, S.L. et al.

work with prisoners. The evidence of long-term benefits will not be obvious immediately after the completion of specific activities enhancing prisoner's active participation.

3. RECOMMENDATION ON ACCESS TO AND ACTIVE PARTICIPATION IN SPORTS

Access to sports for prisoners and ex-prisoners should be encouraged and provided through a flexible approach to delivery which enables cooperation of prison staff, prisoners, and external collaborators and prisoners' active participation in organizing and implementing sport activities and, when possible, to involve local community in sports events.

The European physical activity strategy 2016-2025 of the World Health Organization provides a framework for the development of national policies that might enhance access and participation in sport activities for prisoners.

The strategy is based on the principles of a life-course, integrated, multisectoral and partnership-based approach; on adaptability of physical activity programmes to different contexts; on empowerment of people and communities through health-enhancing environments and participation.

According to a research done by the VUB (Vrije Universiteit Brussel) and the Council of Europe in 2013 underline as in quite all the EU country the legislation foreseen sport in prison, but what it misses are specific norms governing sport.

The majority of this legislation consider sport as merely activities with the goal of filling an otherwise empty time, while the role of sport in enhancing active involvement and social cohesion is ignored. In some countries, like Italy, strategic development of sports is entrusted to the Olympic committee and policy documents that would enhance participation and social inclusion – such as strategy for sport – are not developed.

In some countries, prisoners are ignored in policy documents on sports: for example the Croatian National Sports Programme 2019-2026 does not include prisoners among groups to which access to sports should be provided.

The importance of sport in prison is underlined in Rule 27.6 of the European Prison Rules, “Recreational opportunities, which include sport, games, cultural activities, hobbies and other leisure pursuits, shall be provided and, as far as possible, prisoners shall be allowed to organise them”.

This is in line with the rehabilitation aims of the national penal systems.

For example, it is in line with Italy's penal reform from 1975, with a more specific role of sports as a tool for self-determination defined in 2016. However, there is still a gap in the legislation and the norms: sport is not considered a tool for producing a real participation to active life of prisoners, sport workers do not have the same recognition as the therapists or teachers, and sports activities are negotiated from case to case, and on the basis of protocol between the Ministry of Justice and the external implementor of various activities.

What is still missing is a complete protocol regulating implementation of sports which would facilitate the cooperation of different stakeholders – sport organisations, Ministry of Justice, personnel of the prisons, civic associations.

Such protocols should be developed with the focus on the societal role of sport, especially as

it regards its' role in enforcing human capital; in promoting volunteering and active citizenship through sport; and in using the potential of sport for social inclusion, integration and equal opportunities.³

4. ACCESS TO AND ACTIVE PARTICIPATION IN CULTURE

Access of prisoners to cultural activities should be provided in a way that enhances their active participation and enforces social cohesion.

Article 27 of the UN Universal Declaration of Human Rights states that everyone has the right to freely participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

State signatories of the International Covenant on Economic, Social and Cultural Rights recognise every person's right to take part in cultural life.

The application of this right implies that parties need to take the necessary steps for the conservation, development and diffusion of science and culture.

UNESCO's recommendation on the participation of the people at large in cultural life defines access to culture as the provision of the socio-economic conditions needed to give everyone real opportunities to obtain information, training, knowledge and understanding of cultural values and cultural property.

CoE stresses the impact of culture on social cohesion and on how people relate to each other in a society or in a community,⁴ and provides a framework to assess the relationship between culture and democracy which shows a strong relationship between cultural and political engagement, trust in society and democratic openness.⁵

The EU recommendations⁶ put the emphasis on participation in decision-making, creative processes, construction of meaning and recognise the audience as an active interlocutor, to be consulted or at least involved in planning and creating the cultural offer.

This emphasis is related to the key European lifelong learning competence of cultural awareness and expression, which is seen as a precondition for personal fulfilment and development, social inclusion, active citizenship and employment.

This is incorporated in policy documents⁷ to promote everyone's right to have access to cultural life and to participate in it, to aspire education and lifelong learning, to develop his/her creative potential, to choose and have his/her cultural identity and affiliations respected in the variety of their different means of expression'.

An example of national policy operationalizing those principles is Belgium's Participation decree 2004-2009 that defines access to culture as universal right and recognizes that every individual has a clear and operational cultural potential.

These principles also apply fully to sports. This policy endorses the positive and emancipatory power that is enabled by the cultural and sports offer.

The

³ White Paper on Sport

⁴ CoE (2010) Making Culture Accessible

⁵ CoE (2016) Indicator Framework on Culture and Democracy

⁶ Report on policies and good practices in the public arts and in cultural institutions to promote better access to and wider participation in culture

⁷ such as Council conclusions on the role of culture in combating poverty and social exclusion

opportunity for meeting, self-development, self-awareness, initiative and relaxation are stimulating moments for every citizen and this applies particularly to the detainees.

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