

PROJECT BULLETIN

## SUPPORT FOR PRISON REFORM IN UKRAINE

Issue №5 (September 2013)

The "Support for Prison Reform in Ukraine" project is funded by the Government of Sweden through the Swedish International Development Cooperation Agency (Sida) and implemented by the Council of Europe

### PRESENTATION OF THE MANUAL ON EFFECTIVE LEADERSHIP AND MANAGEMENT



A *Manual on effective leadership and management* was published in April 2013 and presented to the trainers of the training institutions of the State Penitentiary Service of Ukraine.

The Manual has been produced as part of a joint initiative between the Council of Europe and the State Penitentiary Service of Ukraine.

For this purpose a working group was established.

The working group was guided by two international consultants of the Council of Europe, Mr **John Teasdale** and Mr **Geoffrey Hughes** and included leading Ukrainian scientists and lecturers, representatives of training institutions and staff of the State Penitentiary Service.



The joint work was coordinated by the Academic Council of the State Penitentiary Service of Ukraine led by the First Deputy of the State Penitentiary Service of Ukraine **Serhiy Sydorenko**, assistant of the Head of the State Penitentiary Service of Ukraine **Serhiy Bohunov** and a Secretary of the Academic Council of the State Penitentiary Service of Ukraine **Alla Grygorenko**.

The Head of the State Penitentiary Service of Ukraine **Oleksandr Lisitskov** wrote a foreword to the Manual describing the importance of the document and the aims of the working group.

The Manual is intended to enable prison managers to promote good practice within their prison establishments both with staff and all of those held in custody both convicted and awaiting trial.

The Manual does not seek to replace the valuable academic training that already takes place for those who have the responsibility for managing prisons in the Ukraine but to complement it. The document is not meant to frustrate or impinge on the legislative process. It is neither a legal nor an academic treatise.

It is a Training Manual which is meant to progress practice. It should assist those who are familiar with legislation and the academic theories which govern the treatment of those in prison. It is intended to help them to put these important elements into practice in a way which acknowledges international standards and recognises the individuality and dignity of all those incarcerated.

The Manual acts as a starting point. It is not possible to fully train prison managers by way of a five day training programme.

The Manual contains some important information and introduces a range of practices which are essential for prison managers but it does not cover all of the issues and practice information which Managers will need when carrying out their tasks and responsibilities.

Prison Management is a complex task and requires a range of knowledge, experience and skill which it is not possible to incorporate into any one document or training programme.

All of us who have been involved in the production of this Manual hope that some of the information contained in these pages will provide useful practical advice in the administration of Prisons and the complexity of the task of managing them. The Manual draws on a range of source material and we are indebted to those who have put that information into the public arena for us to draw on and utilise. As Mr Andrew Coyle says in his book "Human Rights Approach to Prison Management – Handbook for Prison Staff" (International Centre for Prison Studies, London, 2009):



**John Teasdale & Geoffrey Hughes**

"The proper behaviour of staff towards prisoners is the key lesson of this Manual. If staff do not behave in a way which respects the prisoner as a person and which recognises the inherent dignity of the person, then any regard to human rights becomes impossible. Staff behaviour and the humane and dignified treatment of prisoners should underpin every operational activity in a prison. This is not only a question of human rights principles. In operational terms it is also the most effective and efficient way in which to operate a prison."

### **SEMINAR ON ALTERNATIVE SANCTIONS FOR JUDGES IN CHERNIHIV**

Seminars for judges were defined by the Project as one of its priorities.

Therefore, on October 25-26 2012, the Project conducted a seminar for judges from the North and Central regions of Ukraine in **Chernihiv**.

Welcoming remarks (introduction on the Project and seminar objectives) were made by:

- Mr **Volodymyr Holovatenko**, Project Officer: "Support for Prison Reform in Ukraine" Project, Council of Europe;

- Mr **Oleg Prysyzhnyuk**, Head, Association of Judges of Ukraine:

- Colonel **Volodymyr Kondratiev**, Deputy Head of the Criminal-Executive Inspection Department (CEIS), State Penitentiary Service of Ukraine;

During the seminar presentations were made by the experts of the Council of Europe and judges:

- Mr **Volodymyr Sanin**, Chief Justice, Bila Tserkva District Court: "Ukrainian legislation concerning types of non-custodial sanctions – short review of the relevant provisions of the Criminal Code, Criminal Procedure Code and Code for Execution of Criminal Sanctions and their practical application":

Mr **Chris Frost**, advisor on offender management from UK, Council of Europe international consultant: "Objectives and main elements of probation – the Council of Europe recommendations on community sanctions and measures, particularly the Rec. 2010(1) on the Council of Europe Probation Rules";

- Ms **Tetyana Taran**, Judge, Supreme Court of Ukraine: "The use of community work as a type of punishment by Ukrainian courts";

- Mrs **Gabriela Spirea**, Deputy Chief Prosecutor of Ilfov county, (Romania), Council of Europe international consultant: "Judicial practices regarding alternative sanctions and the conditionally suspended imprisonment sentences – experiences in Romania";

- Ms **Valentyna Shchepotkina**, Judge, High Specialized Court on criminal cases: "Judicial practice regarding the application of discharge from criminal liability by Ukrainian courts";

- Mr **Chris Frost**: "Offenders' supervision in the community - community service in the UK".

### **PRE-SENTENCE REPORTS AS A FUNCTION OF THE PROBATION SERVICE: THE EUROPEAN STANDARDS**

Part 4 of the European Probation Rules (*Rules 42-43*) is focused on such function of the probation services as the preparation of social investigation reports, which in the European Probation Rules are defined as " *pre-trial report* ."

The purpose of pre-trial reports is to provide the court, upon request, with information about the offender, which must be taken into account when choosing a particular alternative in sentencing.

Usually the pre-trial report includes the following information:

- 1) about the offender received from the offender;
- 2) about the offender received from the his/her family;
- 3) about the offender received from others (community, police, schools, social services );
- 4) the social and economic status of the offender (employment, labor skills, marriage, family history);
- 5) the extent and form of the use of violence in the crime;
- 6) the attitude of the offender to the crime;
- 7) the impact of the crime on the victim;
- 8) previous convictions;
- 9) other sources.

As usual, a pretrial report should include recommendations or suggestions for the court to select a punishment which is seen as the most appropriate and necessary one from the standpoint of the interests of society and victim.

By describing the basic principles of pre-trial preparation and submission of reports should answer the following questions:

- 1) Should pre-trial report submitted in each case?
- 2) If a pre-trial report should be submitted in each case, what are the criteria that should guide the courts when sending requests to the probation officer a report?
- 3) Can prosecutors initiate preparing the pre-trial report?
- 4) Can the defense in a criminal case initiate preparing the pretrial report?
- 5) Can probation officers develop recommendations to the court concerning punishment and its contents?

Standards Council of Europe on pre-trial reports are as following:

- 1) Depending on the national legal system, probation agencies may prepare pre-sentence reports on individual alleged offenders in order to assist, where applicable, the judicial authorities in deciding whether to prosecute or what would be the appropriate sanctions or measures.
- 2) Where this is the case, probation agencies shall regularly communicate with the judicial authorities regarding the circumstances in which such a report may be useful.
- 3) Pre-sentence reports shall be based on clearly identified information and as far as possible be verified and updated in the course of the proceedings.
- 4) Alleged offenders shall be given the opportunity to be involved in the preparation of the report,
- 5) Opinion of offenders, where available, shall be reflected in the report and its contents shall be communicated to them and/or to their legal representative.

The main point that should be considered when gathering information for the preparation of pre-trial report is compliance with Article 6 of the European Convention on Human Rights (particularly the observance of the presumption of innocence).

It should be emphasized that the pre-trial report does not intend to collect evidence, mitigating or aggravating.

Pretrial report provides an independent opinion on the specific offender.

It must be independent and impartial in the sense that the information contained in it can be used objectively in favor of criminals and against it.



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