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Evaluation of PRI and SDC Project: Support to Penitentiary Reform in Ukraine 2009-2012

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List of Abbreviations.....	2
Introduction	3
Methodology	3
Political Context.....	3
Relevance	4
1 Centre of Competence.....	4
2.1 Pre-trial Detention	4
2.2 Women	5
2.3 Prisoners sentenced to life imprisonment.....	6
3 Awareness Raising	6
Efficiency	6
Effectiveness	6
1. Centre of Competence	6
2.1 Pre-trial Detention	8
2.2 Women	9
2.3 Prisoners sentenced to life imprisonment.....	10
3. Awareness Raising	11
Impact.....	12
Sustainability.....	13
1. Centre of Competence.....	13
2.1 Pre-trial Detention	13
2.2 Women	13
2.3 Prisoners sentenced to life imprisonment.....	13
3. Awareness Raising	14
Conclusions	14
References	14



List of Abbreviations

BZTS	Bila Tzerkva Training School for Prison Personnel
CC	Centre of Competence
CJS	Centre for Judicial Studies
ICPS	International Centre for Prison Studies
MOJ	Ministry of Justice
PRI	Penal Reform International
SC	Steering Committee
SDC	Swiss Agency for Development and Cooperation
SDEP	State Department for Execution of Punishments
SIZO	Pre-trial detention centre
SPS	State Penitentiary Service
WICC	Women's Information Consultative Centre



Introduction

This evaluation report relates to PRI's 2.5-year project for penal reform in the Ukraine, using a grant from the Swiss Agency for Development and Cooperation (SDC) and working alongside local partner organisations: the Bila Tzerkva Training School (BZTS); the Centre for Judicial Studies (CJS); and the Women's Information Consultative Centre (WICC).

The overall goal of the project is to support reform of the penitentiary system of Ukraine, in line with international standards of good practice, so it can deliver justice to and protect the human rights of detained persons on principles of equal rights and opportunities for women, men and children.

The programme has three main objectives:

1. To establish an effective and sustainable Centre of Competence (CC) at the BZTS to support a programme of sustainable penal reform through research, development and training;
2. To protect and improve human rights for vulnerable groups of prisoners, notably pre-trial detainees, women and children, and prisoners sentenced to life imprisonment, in line with international and regional standards and good prison practice;
3. To raise awareness and knowledge of reform and good practice throughout the Ukrainian justice system and the wider public.

Methodology

The data collated in this evaluation has been compiled from a variety of sources including a review of important documents, legislations, and monthly and annual narrative reports on the project. During the period from 13 – 17 June 2011, PRI also undertook field visits to Chernihiv Women's Colony No.44; the BZTS and CC; and the Kyiv pre-trial detention centre (SIZO) to assess firsthand the work being carried out there by the project. Further to this, PRI had interviews with key stakeholders involved in the project in the Ukraine.

This report will follow the design set out in PRI's Evaluation Framework which focuses on five key areas: relevance; efficiency; effectiveness; impact and sustainability. It begins with a short explanation on the changing political situation in the Ukraine that has had a varying impact on different areas of the project and sums up some key challenges for the future by way of a conclusion.

Political Context

The political situation in the Ukraine has changed since the initiation of the project, with the February 2010 Presidential elections bringing into power a new President, Viktor Yanukovich. This has led to a major restructuring of government ministries,

including those involved in the supervision and implementation of the criminal justice system.

The restructuring and administrative reform has condensed the number of ministries in the Ukraine from 27 to 18 and has reduced the number of state employees by 30 percent. This was due to the perception among many that government bureaucracy was inefficient with an excess of officials.

As part of these reforms, in December 2010 the State Department for Execution of Punishments (SDEP) was restructured under the new name the State Penitentiary Service of Ukraine (SPS) and is now coordinated by the Minister of Justice.

According to the reforms, all regulations and/or agreements relating to the SPS that previously could be signed by the Head of Department must now be signed by the Minister of Justice. This, along with a change of personnel, has lengthened the time it takes to get proposed regulations approved by the government. It has been reported by the Ministry of Justice (MOJ) that the new administrative reforms should not create a barrier to the implementation of PRI project goals but that it will mean approval for regulations and implementations will be a longer process than it has been in the past.

Relevance

1 Centre of Competence

It was identified that there was no institutional body within the Ukraine that had clear responsibility for researching, developing, analysing, acknowledging and sustaining good prison practice in order to disseminate this information throughout the penitentiary system. In addition, there was an insufficient level of professional training and re-training for practical workers within the criminal justice system.

2.1 Pre-trial Detention

Due to the slow process of cases through the court system and the court's high caseload, prisoners are detained in SIZO for much longer than they should be. The average length of pre-trial detention for inmates is 6 months although many are detained for one or two years longer than this. As there is no criminal legislation relating to specific time limits for judicial consideration of a case, the long delays lead to SIZO becoming overcrowded and their resources stretched. For example, in Kyiv's Lukyanivksy detention centre, 3,900 people are held in an institution that has the capacity for only 2,850. Overcrowding is the main reason for the unhygienic and inhuman conditions in SIZO, which leads among other things, to the spread of disease and deteriorating mental health among prisoners.

In addition, 2009 legislation that allowed for making arrests for theft of goods worth 60 grivnas (around £5), down from 900 grivnas (around £70), along with mandatory pre-trial detention for reoffenders (with those likely to reoffend being those



committing petty theft) has increased the numbers sentenced to pre-trial detention, thereby further blocking up the court system and creating a longer stay for those in pre-trial detention.

Judges are reluctant to use alternative measures to detention as their professional dependency on the political system, which demands a more repressive approach, means pursuing a softer approach would create career problems for themselves. Shortages of provisions in the legislation, or badly formed legislation, means options that are provided as alternatives to pre-trial detention are either obsolete or implemented in the wrong way.

The actual statistics for those in pre-trial detention in the Ukraine is difficult to determine, with the International Centre for Prison Studies (ICPS) figure of 25.6% of all Ukrainian prisoners in pre-trial detention being disputed. CJS analysis shows it to be in the region of 16-18 percent, based on numbers detained from amongst those brought to court.

The most current figures for the absolute number of people in pre-trial detention are 38,020 in 2009 and 39,363 in 2010.

2.2 Women

According to ICPS figures, women make up 5.9 percent of the overall prison population in the Ukraine, a total of just over 9,000 women. There are many issues relating to the imprisonment of women in the Ukraine including: the distance they are detained from their communities/families and a lack of programmes to support maintaining contact; limited access to vocational training and other activities; no community programmes to assist reintegration of women on release; a lack of information of what happens to babies taken to orphanages once they are too old to stay in the colonies; absence of attention to babies in places of detention; and absence of special programmes or joint accommodation for mothers and babies in detention.

Two of the women's colonies have special units for children up to the age of 3 years old (or in rare circumstances, 4 years old). In 2009 there were 100 children living in detention, however, there was no joint accommodation to allow for mothers to live with their children. Instead, they were permitted to visit them for only 2 hours a day (with exceptions for those who are breastfeeding) and all responsibility for taking care of the children lay with the administration of the colony.

In 2007 the SDC initiated a project on joint accommodation for convicted women with their babies in Chernihiv Women's Colony No.44, however, at the start of PRI's project in 2009 the construction of the unit remained unfinished.

2.3 Prisoners sentenced to life imprisonment

On 20th April 2000, the death penalty was abolished in the Ukraine and was substituted with the sentence of life imprisonment. Since then, the number of lifers has been increasing. Most recent figures show that the number of lifers over the last three years has increased by 12.9 percent and that between February 2010 and January 2011 the total number of prisoners on a life sentence increased from 1,617 to 1,696. Further to this, sentences of life imprisonment are increasingly being handed down for non-serious crimes.

Those sentenced to life imprisonment in the Ukraine are held in harsh and inhumane conditions, in special correctional colonies with a high level of security and total isolation from society and often from other inmates. Personnel face the difficult task of dealing with prisoners who have no incentive to demonstrate good behaviour. Lifers are not necessarily the most dangerous prisoners and, therefore, should not automatically be kept under a maximum security regime.

3 Awareness-raising

In common with many countries around the world, criminal justice and penal reform does not feature highly in public awareness except in situations where there are negative responses to particular developments relating to crime and public security. In Ukraine there have been in recent years a number of calls to, for example, re-introduce the death penalty, introduce harsher sentencing, and to view discussions relating to introduction of community-based sanctions as measures which are soft on crime.

Efficiency

The project design aimed to deliver value for money in a number of ways including close collaboration with Government and civil society partners, building on existing foundations by, for example, locating the CC within the premises of the BZTS, having as a focus completion of work begun during an earlier phase of the project and helping build local civil society capacity. A local project office was set up to oversee the project and to develop close working relationships with a range of partners. Value added was provided through PRI's Moscow and London offices with international and regional good practices built into the project design through planned collaboration with prison authorities and Government agencies, and exposure to good practices in the UK, Switzerland, Poland and Russia.

Effectiveness

1. Centre of Competence

The CC was set up by the project with three main working areas: the development of professional curriculum and training; the development of high-quality sociological and social studies (methodology and implementation); and the collection and consolidation of data. This is a unique system for the Penitentiary Service in Ukraine

that gathers information for the whole country and acts as a central apparatus for seminars, training, education etc.

In terms of establishing the CC the project reconstructed its premises, developed regulations and created three new three-year positions (Head and two Inspectors). Personnel of the CC were also fully trained (along with other select members of the BZTS) including Training of Trainers workshop (PRI), Statistical Analysis (National Association of Ukraine Social Studies School), and Advanced Management Training (PRI) among others. Evaluations from the PRI workshops identified the value of putting into practice their theoretical knowledge of training, having the opportunity to work in teams with their colleagues from the training school to share experience and best practice, and getting feedback on the implementation of training and their use of new techniques and skills learnt. After a six-month evaluation, all the respondents from the initial Training of Trainers indicated that the information and skills gained during the workshop had improved their work as a group and the educational services they provide at the CC.

In terms of its social research objectives, thematic areas for four of the five pieces of research have been agreed and approved on. They are: prevention of professional disparagement of staff; study of the social microclimate in the penal system; the managing of prisons from an efficiency point of view; and finding negative issues among juvenile convicts.

Research on staff development has been carried out identifying factors that affect prison personnel performance and a lack of motivation over time (including salary, stress of their jobs, lack of career development possibilities) and recommendations have been produced on how to prevent this occurring. The research has been completed and subsequently discussed at a roundtable held with members of SPS, MoJ, PRI staff and practical workers, among others. The roundtable produced resolutions on this topic which were sent to the central managing office and a plan of action proposed that has now been approved for implementation. The second area of research has also been completed and from it a training programme has been developed, reviewed and approved and 40 practical workers have been trained in it. As regards the other two areas of research, they have now been planned and social study materials prepared.

On the collection of data at the CC, its third working area, there has also been progress. The CC library has been widened with the purchase of more books, and more electronic resources have been collated and updated. The website, however, has only been partially completed after initially being delayed due to the need to purchase the correct software and train staff members in how to use it.

2.1 Pre-trial Detention

The project conducted seminars for judges that dealt with pre-trial detention from two broad standpoints: making decisions other than detention; and seeing the role of the court in a wider societal context where it upholds the law but also is a defender of freedom in society. Practical recommendations that came out of the seminars were then sent to Parliament and the Prosecutor's office. The 2009 legislation that had lowered the threshold of criminalisation for theft and forced detention for reoffenders was initially implemented strictly by judges. However, partly as a result of the seminars conducted by the CJS, and of an exposure of the judges to new ideas and the impact the legislation was having on the courts and overcrowding of institutions, implementation has become softer.

Seminars also exposed new ideas around arrest, diversion and alternatives to detention to the police and prosecution, which are notoriously closed and centralised bodies in the Ukraine. Without such seminars, the increase of 1,343 people in pre-trial detention between 2009 and 2010 is likely to have been much higher.

However, the project's work in this area has been limited by the political changes. Judges, prosecutors and investigators are all influenced by the new government and judicial dependency on the political system still means there is a reluctance to use alternative measures to detention due to the political atmosphere demanding a more repressive criminal justice approach. Opposition to such political demands could create career and other problems for individual judges and others involved in the judicial system.

Another aspect of the project was providing psychological assistance to juveniles, which is now being provided in Kyiv SIZO by Psychology Masters and PhD students from the Taras Schevchenko's University. This is a useful resource as currently, while there is a psychology service in SIZO, there are only five psychologists available for 3,500 inmates of whom the focus is mainly on adult detainees and so there is little support for juveniles. They provide individual consultations with two to three juveniles per week through which they try to predict behaviour and recommend ways to help. They also organise group therapy for up to ten juveniles once a month with sessions focusing on healthy living, improving social skills and problem-solving by methods including role plays and small group training.

A set of radio recordings designed to be relevant to juveniles was also developed within SIZO and later approved by the department. Topics for the recordings included health and lifestyle, how to quit smoking and psychological self-regulation. These recordings were also sent to prisons as the topics were seen as relevant and useful for all prisoners.

A new Criminal Procedure Code for the Ukraine has been drafted and is currently going through the system with inputs from international and regional experts. Ideas

surrounding the use of pre-trial detention have been proposed by the CJS and have been incorporated in the draft bill. The ideas included using house arrest as a preventative measure, and the use of bail more effectively as a preventative measure whilst the court is considering an application; the latter issue has been debated in Ukraine since 2002 and this indicates that finally there is some progress in this area.

2.2 Women

Construction of the women and children's unit was completed in Chernihiv Women's Colony No.44, the first of its kind in the Ukraine, and includes 11 rooms for joint accommodation for mothers and babies, all with good physical facilities and functional nursery premises for all mothers and children, which are well furnished and well maintained. There are 33 children living in the colony and they are split into two groups, under 12 months and 12 – 36 months old, and are looked after by five members of staff (including nurses). Selection criteria for mothers to live in joint accommodation are: whether they are breastfeeding; their relationship and behaviour within a group; their attitude towards their child; and their general behaviour. Selection is not dependent on type of offence or sentence length; the focus instead is to ensure they are able to live in a group, communicate with their child and help others.

Communications between women and their children within the unit has increased, most notably due to the joint accommodation, but also due to the increased amount of time allowed for women who don't live with their children to visit and spend time with them. There was also seen to be a noticeable change in the attitude of mothers towards their children and their increased responsibility for taking care of them. There is still an issue of communication between women and their elder children who live in orphanages often a long distance from the colony. However, there is the possibility for mothers to call and speak to their child and much older children living in boarding schools are permitted to visit their mothers in the colony.

Reintegration support to women with children is also being provided and a special room modelled to look like a one-bedroom apartment has been constructed to help women train in useful, practical reintegration skills such as cooking, cleaning, using appliances etc. The room is also used for psychological rehab and group therapy for the women. PRI local partner WICC provided training to all personnel working with mothers and children within the unit.

The exposure visits organised by the project have illustrated models of good practice regarding treatment of women offenders and working within the prison for the personnel and prison authorities who attended. For example, in Poland they saw how the women prisoners work for small remuneration in a nearby colony for those with severe learning and other disabilities, helping them do daily tasks such as brushing their teeth, and where, after release, many of the women continue to work.



Effectiveness in this area of the project has been limited by a lack of available resources for women once they leave the colony to help to stop them reoffending. Many are still addicted to drugs on release, and/or have no relatives, no support network and no home to go to. There are some rehabilitation centres (mainly for drug addicts), run by NGOs and churches who provide accommodation, food, employment etc, although these are in short supply and are only able to house people for a short period of time after release; recidivism of women offenders is therefore still an issue.

Further to this, regulations for the provision of mother and children's joint accommodation have still not been approved. While recommendations for provisions have been submitted, the rotation of officials within the ministries and the restructuring of departments have meant the process has been slow and no approvals have been made yet.

2.3 Prisoners sentenced to life imprisonment

Training workshops have been provided for 90 percent of personnel working with lifers (excluding guards), which included training modules in current legislation and regulation; psychology; how to spot mental health issues and those at risk of suicide; and how to implement practical changes that can improve the treatment of those sentenced to life imprisonment.

The training was seen to be effective and those who participated reported additional benefits from the exchange of information between personnel from different institutions. The training helped personnel promote and implement small concessions for those serving life imprisonment which, in turn, were a powerful motivational force to try and keep lifers out of severe psychological crises, including suicide. This included better access to phone calls, occasional material gifts, and increased visits allowed per year, practical steps that were implemented after exposure to a new attitude via the training workshops that helped make personnel aware that vast resources or regulations weren't necessary to make beneficial changes.

Personnel reported that they got vital material support (in the form of practical training) and ideological support (in identifying relevant European standards) to help them take the first steps in a long journey for reform for those sentenced to life imprisonment.

Changing the attitude of personnel towards those sentenced to life imprisonment and opening up the exchange of positive and successful experiences between personnel from different institutions has led to changes in the approaches of personnel towards lifers.

While the project has brought forward the issues surrounding treatment of lifers to those working with them, one limitation is that it is hard to make significant changes



without amending legislation or regulations, which needs to be done from ministry level. This has proven more difficult since the restructuring of the SDEP as the SPS under the MOJ in December 2010. However, amendments to regulations for those sentenced to life imprisonment have been developed and sent to the department and are currently waiting for the long process for approval.

Despite this, some changes to legislation have been made which have improved the situation of those sentenced to life imprisonment. After 15 years in prison, those sentenced to life imprisonment are now able, dependent on their behaviour, to be moved from maximum security detention to detention with the rest of the prison population where they are able to participate in activities available to the other convicts. This is an important step in recognising that those sentenced to life imprisonment are not automatically more dangerous than the general prison population.

Further, to raise awareness of this issue, in March 2010, PRI prepared brochures outlining practical recommendations for change based on international and regional standards on the treatment of life imprisonment.

3. Awareness-raising

The awareness-raising aspect of the project had two focuses: firstly, to raise awareness of the project and penal reform in general with the general public; and secondly, to raise awareness of the project, its training methods and activities to key stakeholders within the criminal justice system.

In relation to the former, a novel aspect of this project was to undertake training for national journalists to provide an opportunity to distribute information about the project to a wider circle of readers. It aimed to promote the prestige of the project and informed the public about the process of penal reform. The training included modules in penal system terminology, how to interact with the system, issues of security, and the ethics of interviewing people in prisons. A visit to a penal institution by journalists was organised, the Department and the rest of the project held open house days and a workshop was provided in Chernihiv to instruct the media in how to reveal and report on the systems that work within the penal system. A positive development that has been achieved is that the media now requests advice from relevant authorities before writing or publishing a story in this area.

In terms of awareness-raising among both the general public and key stakeholder groups, the project office staff disseminates briefings and publications relating to the project. An online quarterly newsletter is also distributed to 1,200 people including all penitentiary establishments and government ministers.

This area of the project was also about greater communication and awareness-raising of the issues among key stakeholders within the criminal justice system. To this end, the project established a Steering Committee (SC), whose main role is



lobbying for results, proposing strategies for reform, and reviewing the thematic working experts group. For example, the thematic working experts group on women in prison prepared a set of rules and regulations for housing mothers and young children together. The SC was then gathered to discuss and give feedback on the work from the variety of different standpoints of the members, before changes to that effect were made and the regulations were sent to the MOJ for approval.

It was arranged for the SC to meet every quarter, however, due to the members all occupying high-level positions (which is an asset to the quality of the SC) it has sometimes proven difficult to organise meetings, with the most recent having been postponed twice.

Impact

1. Centre of Competence

- Establishment of the CC and support to the BTZS. This has been done through investment in staff development through training programmes and curriculum development among other things, and has been successful in producing a quality training and research centre.

2.1 Pre-trial Detention

- The creation and maintenance of a link between the Taras Schevchenko's University and the Kyiv SIZO to allow Masters and PhD students to provide psychological assistance to juveniles in the pre-trial detention centre.
- Seminars held for judges around the issue of pre-trial detention has contributed to judges taking a softer approach to implementing the 2009 legislation (which greatly reduced the threshold for what was considered theft and demanded detention for any reoffending). Seminars exposed police and prosecution personnel (which are notoriously closed and centralised bodies in the Ukraine) to new ideas around arrest, diversion and alternatives to detention.
- A new Criminal Procedure Code for the Ukraine has been drafted with inputs from international and regional experts and is currently going through the system for approval. Ideas surrounding the use of pre-trial detention suggested by the project have been proposed and have been incorporated in the draft bill.

2.2 Women

- Construction of the joint accommodation for women and children at Chernihiv Women's Colony No.44 and specialised room for reintegration and rehabilitation skills, which have led to a noticeable change in women's interaction and communication with their children and has helped improve the preparation for release.

2.3 Prisoners sentenced to life imprisonment

- New regulations have been approved that allow for those sentenced to life imprisonment to be transferred away from a high security unit to the general



prison population after 15 years, dependent on behaviour, acknowledging the important principle that lifers are not automatically the most dangerous prisoners.

3. Awareness-raising

- Training to journalists, including visits to penal institutions, has informed them on how to present a more balanced view of penal issues, as well as on security and safety issues (both their own and those of the prisoner) when in an institution.

Sustainability

1. Centre of Competence

There are some issues pertaining to the sustainability of the CC as a separate entity within the BZTS. Currently, state funding has not agreed to finance 100% of their budget.

The website must also be fully supported to ensure that it is constantly being updated and maintained. Therefore, it needs to be developed in a way that is sustainable with the resources they have available.

2.1 Pre-trial Detention

Work needs to be maintained in the drafting of the new Criminal Procedure Code to ensure it is a robust piece of legislation and that it gets approved by government.

The sustainability of the psychological assistance provided to juveniles is positive from the view of the students who carry out the work; however, they must be supported by the Head of the Department. Research in this area would provide a useful tool to convince the Head of the Department to maintain his support for the project. While a few individual studies have discovered a link between the psychological help received and reoffending, more systematic research to identify if there is a link should also be carried out.

2.2 Women

The sustainability of the initial women and children's unit should be achieved; however, further development of the unit by increasing the number of rooms in the joint accommodation or the ability to set up new joint accommodation units at other women's colonies will be dependent on the allocation of money through the national budget. Therefore, until that is secured, or funds are allocated from another source, the scope of the project remains limited to Chernihiv Women's Colony No.44.

2.3 Prisoners sentenced to life imprisonment

The main legacy of this area of the project is that those who attended the training sessions will continue to understand and be sympathetic towards the issues facing those sentenced to life imprisonment and how these issues can be addressed and will continue to push for small but significant changes in their day-to-day work.



One sustainability issue applicable to all areas relating to the treatment of vulnerable prisoners is the importance of creating and maintaining a professional, well-trained and well-remunerated service. This includes improving the infrastructure and facilities for personnel, such as their offices.

3. Awareness-raising

Training journalists and exposing them to conditions within penal colonies has proved a very effective and sustainable way of raising awareness with the general public as there is now greater awareness amongst journalists of issues surrounding penal reform and willingness to report these issues in a more balanced manner.

Senior criminal justice system stakeholders have also been exposed to a range of new ideas and possibilities for reform as a result of SC discussions and the ability of individual SC members to influence change will ensure sustainable outcomes in the long term.

Conclusions

As discussed above there have been a number of significant impacts from the current project; however, to ensure these impacts are built upon and further developed it is vital that a number of issues be addressed beyond the end of this project. These include:

- Sustainability of the CC within the structure of the BZTS;
- Acceptance of changes in legislation and regulations by the Government and commitment to effective implementation in areas relating to treatment of pre-trial detainees, women offenders, and lifers;
- Further pressure for change from within the system as a result of lobbying by key criminal justice system stakeholders who have been exposed to new ideas through this project.

The new Ukraine Government should address these issues as a matter of urgency in order to promote long-term positive change for penal and criminal justice reform within the country.

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