



IMPLEMENTATION GUIDE

Italian Memorandum of Understanding
on Children with Imprisoned Parents



Children of Prisoners Europe (COPE) is a pan-European network of non-profit organisations working on behalf of children separated from an imprisoned parent. The network encourages innovative perspectives and practices to ensure that children with an imprisoned parent fully enjoy their rights under the United Nations Convention on the Rights of the Child and the Charter of Fundamental Rights of the European Union, and that action is taken to enable their well-being and development.

Children of Prisoners Europe is a non-profit organisation registered in France under French Association law 1901.

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INTRODUCTION

Across Europe, some **2.1 million children are separated from a parent in prison** on any given day. Yet few people are aware of the dramatic impact that a parent's incarceration can have on a child.

The facts

- The 2.1m children with a parent in prison can suffer emotional, social and economic difficulties.
- They may feel abandoned, isolated at school and disconnected from peers.
- They are vulnerable to exclusion, bullying and feelings of shame.

It is for these reasons, among others, that children of prisoners need targeted support. In many cases, however, support initiatives are scarce.

Children of Prisoners Europe (COPE) is a European network working to ensure the rights of these children are fully respected and that action is taken to secure their well-being and healthy development.

Children with an incarcerated parent frequently are undergoing very difficult circumstances and should not be punished for the offences of their parent. They should be allowed to maintain regular contact with their parent, in a supportive and child-friendly environment that could improve their chances of a healthy, productive adult life.

Across Europe, more often than not, criminal justice systems fail to adequately safeguard the rights and meet the needs of children with an imprisoned parent, and action is needed to provide support. By presenting one example among others of a successful tripartite partnership between the Ministry of Justice, the Ombudsman for Children and a non-governmental organisation (NGO)—the Italian model Memorandum of Understanding on children with imprisoned parents—, this guide aims to provide tools and ideas for context-specific replication of the Italian model, in order to effect positive change for children with imprisoned parents.



ITALIAN MEMORANDUM OF UNDERSTANDING: BACKGROUND AND CONTEXT

In 2014, COPE network member in Italy, Bambinisenzasbarre, successfully advocated for the adoption of a Memorandum of Understanding on children with imprisoned parents (MOU)—an agreement signed between the Italian Minister for Justice, the National Ombudsman for Childhood and Adolescence and Bambinisenzasbarre. This groundbreaking document—the “Charter of Children with Imprisoned Parents”—, the first of its kind in Europe, formally recognises the right of children to maintain direct contact with their imprisoned parent and reiterates the prisoner’s right to parent their child. This charter, applicable in all Italian prisons, initially valid for a period of two years, was renewed for a further two-year period in 2016.

Drawing on the rights laid out in the United Nations Convention on the Rights of the Child (UNCRC), the Memorandum sets out the rights and procedures agreed upon by the Ministry of Justice, the Ombudsman and Bambinisenzasbarre that are necessary to protect the rights and development of children with imprisoned parents.

The signature of the Italian Memorandum of Understanding was a significant milestone for the COPE network and an important example of the kind of positive and comprehensive action that can be achieved through lobbying and partnering

with national governments and institutions. COPE promotes the Italian model MOU on the European level (EU and Council of Europe), and thanks to network member QUNO (Quaker United Nations Office), the MOU has reached the UN and international levels too, with efforts underway to replicate it in Argentina.

OTHER RELEVANT TEXTS

COPE began working with the Council of Europe in 2017 to produce a **Committee of Ministers draft Recommendation on children with imprisoned parents**¹. The draft Recommendation is based on aspects of the Italian Memorandum of Understanding that are relevant to prisons, including: rights to visits, child-friendly spaces and information, supporting the child-parent relationship, prison staff training, measures to protect children living with their parents in prison and monitoring. During the drafting of the Recommendation and its **explanatory report**, the Council of Europe sent a **questionnaire** written by COPE (and based on the Italian MOU framework) to the prison services of all 47 Council of Europe Member States, focussing on existing child-friendly visits practices. The **results of the**

¹ See: Council of Europe draft Recommendation CM/Rec (2018) XX of the Committee of Ministers to the Member States concerning children with imprisoned parents: <https://rm.coe.int/draft-recommendation-children-with-imprisoned-parents-12-10-17/168075f421> and its accompanying draft explanatory report: <https://rm.coe.int/draft-report-children-of-prisoners-september-2017/1680750c09>

questionnaire are due to be published by the Council of Europe in 2018 and NGOs could use these to open discussion with the Ministry of Justice. For more details, see page 31.

THE PURPOSE OF THIS IMPLEMENTATION GUIDE

The Italian Memorandum of Understanding is a landmark document that can be replicated in other countries. COPE is convinced that by highlighting crucial issues and advising on how to adequately safeguard the rights of children with an imprisoned parent, the MOU can bring about crucial change across Europe.

COPE encourages its network members to advocate for a similar commitment from their governments. With this objective in mind, COPE has published the Memorandum of Understanding in seven different languages ([see here for a full list of translated versions](#)), in the hope that NGOs across Europe will succeed in replicating this example of good practice in their national or regional contexts.

There are considerable benefits to signing an MOU. In Italy, before the MOU was signed, an NGO would require approval from several different levels of prison administration before being able to work with families of prisoners in prisons: a time-consuming and complicated process. Since the implementation of the MOU in Italy, the NGOs working in the field come up against significantly less red tape, and can plan and implement concrete

activities focused on protecting children, their parents and the child-parent bond.

This Implementation Guide, produced by COPE with valuable input from Bambinisenzasbarre, is designed to guide and support NGOs and others in their efforts to implement a similar Memorandum in their national or regional contexts. This guide aims to provide a framework that is adaptable in other such contexts, serving as a reference document for developing child rights policies and reviewing legislation. It can also give useful guidance on training prison and probation services staff.

This document details the process that led to the signature of the Italian MOU, as well as suggesting follow-up activities and providing practical guidance on how each MOU article can be implemented. Each article is accompanied by examples of good practice from various countries in which COPE has members. It should be noted that these good practice initiatives are not exhaustive and may not be relevant in all contexts.

We hope you find this guide useful and that it will help you to mobilise your national partners to work together and bring positive change to the situation of children with imprisoned parents in your country.

WORKING TOWARDS ESTABLISHING A MEMORANDUM OF UNDERSTANDING

This chapter contains information for those seeking practical guidance on how to work towards establishing a Memorandum in their national context. It draws on the experience of Italian organisation and COPE network member Bambinisenzasbarre.

BUILD A SOLID KNOWLEDGE BASE

A solid knowledge base—with hard data to back up advocacy work—is an important condition for developing an effective support system for children with imprisoned parents. First, compile and/or review any available data on the topic in your national context. As a second step, consider carrying out field research in order to map services already available for children visiting or living with their parents in prisons. This background work is key for drafting a position paper highlighting the key challenges in your context (see next point, “Prepare a position paper”).

NGO Bambinisenzasbarre recommends conducting a survey for prison governors on the situation of children with parents in prison in your country. Not only will the results of this survey be useful, but the process—asking prison governors to reflect on the topic, in order to respond—may also be influential. The survey should then be repeated on a regular basis—preferably every two years—so as to allow

for both comparisons and sufficient time for progress to be made.

The survey conducted by Bambinisenzasbarre consisted of 45 questions and was run on the online survey platform Wufoo. It was launched in close collaboration with the Italian Ministry of Justice (Prison administration), which requested that all prison governors fill in the online questionnaire. Bambinisenzasbarre has released a mobile app called “Telefono Giallo” (“Yellow Phone”), which gives relatives who come to visit a loved one in prison the opportunity to offer feedback and make suggestions on prison visits.

PREPARE A POSITION PAPER

It is strongly advised that, before launching the negotiation process with your national stakeholders, you prepare a position paper describing the general and specific objectives of a Memorandum of Understanding and laying out the data and other results of the field research carried out under the first point (“Build a solid knowledge base”). The section on general objectives should refer to European and international children’s rights charters and address topics such as the best interests of the child, the importance of maintaining the child-parent bond during imprisonment and the positive influence children’s visits have on the prison environment. It should also explain the long-term impact of child-friendly prison services and procedures on

the general public, such as the dramatic decrease in the recidivism rate and intergenerational offending. Within these general objectives, it is important to mention potential training sessions for prison officers and staff, to enhance the role they play in supporting families. The specific objectives should address issues and particularities related to your own country's prison situation.

It will likely be useful to attach a translation of the Italian MOU, the Council of Europe questionnaire results (if applicable), the results of your first prison governor survey and any other relevant documents as annexes to the position paper.

SET UP A MEETING WITH THE MINISTRY OF JUSTICE AND CHILDREN'S OMBUDSMAN

This is a crucial step, as it marks the beginning of a challenging path which should lead to the signature of an MOU. A meeting should be organised with the Prison administration of the Ministry of Justice. Although several Prison administration representatives should ideally be present at the meeting, *Bambinisenzasbarre* recommends identifying one designated contact person at the Ministry, who is open to the topic and who is well placed to facilitate progress from within. This could be a high profile individual, such as an advisor to the Minister for Justice, or a well-known judge of a juvenile court, who may agree to act as an Ambassador for the MOU.

The collaboration between your organisation and the Children's Ombudsman, whose task is to safeguard children's rights, is also essential as it strengthens the focus on children.

You may want to consider inviting another child rights-focused NGO to collaborate. This being said, it is important to bear in mind that the greater number of parties involved, the longer the process is likely to take. Agreeing on, for example, the phrasing of articles with the Ministry of Justice and Children's Ombudsman's Office can already be challenging, and including additional stakeholders can complicate the process further.

In most prisons, the majority of social activities and interventions tend to focus on prisoners, even if the impulse is fostering or maintaining family relations. During your meetings, you will likely strive to change this approach by redirecting the focus of support schemes or other social activities to consider first and foremost the best interests of the child and show how doing so will ultimately have a positive impact on other aspects of the prison environment. Finding a balance between the rights of the prisoner-parent, the security needs of the prison and the rights of the child is key.

ENSURE PRESENCE OF A JURIST

The participation of professionals with legal backgrounds—jurists—in MOU discussions is fundamental. In many cases, the Ministry of Justice and Children's Ombudsman will invite legal advisors, although this should

not be counted upon. As the organisation initiating discussions, it is important to have legal resources to hand, as well as someone with expertise in national laws and policies in order to lead the MOU negotiation process effectively.

Ideally, consider working with two jurists with complementary profiles. The “best case scenario” would involve a jurist with expertise on children’s rights and another with expertise on the prison and judicial systems. The child rights specialist should be a high profile, respected individual, ideally with significant work experience in the prison field, dealing with prisoners’ families and, in particular, their children.

FIND THE RIGHT ANGLE FOR DISCUSSIONS WITH THE GOVERNMENT

In order to be effective in discussions with the government, it is important that, from the beginning, you identify the angle that will best secure officials’ support for the development of an MOU. Draw their attention to the importance of the child-parent bond and illustrate the impact it can have on the prison atmosphere and on society in the long term—how, for example, decreases in the recidivism rate and in intergenerational offending are associated with maintaining family ties.

In addition to the above, Bambinisenzasbarre raised the issue of considering alternative sentences for parents, where possible. These arguments were put forward at a strategic time in Italy, as the European Commission had

called on the country to improve living conditions in overcrowded prisons, with risk of a penalty for non-compliance. In general, the arguments brought to the table by Bambinisenzasbarre in discussions could all in some way contribute to lowering the number of prisoners in Italian prisons, which meant that they were well received by the government. Finding a similar contextual “hook” is crucial.

When approaching the government for discussions, the organisation will need to find arguments that are relevant to the local or national context. The argument of lowering public spending resonates well with most governments, but caution should be used. Fewer prisoners can indeed mean reduced public spending, but can be seen by some policymakers as a loss of jobs. Moreover, in some countries, prisons are privatised and can be a source of income at state level. In those cases, the motivation of reducing prison populations and closing prisons will not necessarily be appealing.

FIND THE RIGHT ANGLE FOR DISCUSSIONS WITH PRISON SERVICES

Motivating prison services or administrations to consider the rights and needs of children with imprisoned parents can be challenging. At first, bringing the topic of children to the table sounds “incomprehensible” and staff may struggle to understand the connection with prisons where adults reside. For this reason, it is important to prepare strong arguments to

be used in negotiations. Below is a list of possible arguments that could be used:

- The MOU will be a groundbreaking document. The document—which you will draft together—will receive official recognition, including on an international scale (through the pan-European COPE network, active at EU, Council of Europe and UN levels).
- It will take into account the parental role of prisoners. The imprisonment of parents carries a social burden, as in many cases children lose one of their primary caretakers. Working towards creating more child-friendly prison spaces and procedures will help reduce reoffending and will ultimately reduce costs to society.
- Children visiting prison have fundamental rights, and prisons have a key and unique role to play in safeguarding and promoting those rights.
- Children visiting prison do not present a danger. On the contrary, their presence can have a positive impact on the prison environment. Imprisoned parents who have regular contact with their children have been shown to have fewer behaviour issues, and studies have shown that the prison atmosphere is calmer after a visit.
- The above can also be related to the concept of “dynamic security”, as laid out in Council of Europe Committee of

Ministers Recommendation Rec(2003)23, 18.a² and the European Prison Rules³. Positive interaction and mutual respect between staff and prisoners, as opposed to harsh discipline and an austere regime, will lead to prisoners being less likely to be disruptive or to try to escape. Allowing prisoners to have regular, quality contact with their children can significantly help their rehabilitation process.

- Explain how actions aimed at supporting the emotional bond between child and parent are crucial to the well-being of all persons involved. Child-friendly spaces in prisons help children feel more at ease, and can reduce feelings of shame and guilt. In addition, the well-being of prison officers themselves, who are often working under stress, will be positively affected as they discover the value of their role as educators and defenders of human rights.
- Finally, showcasing models and practices from other countries may

² Article 18.a: “The maintenance of control in prison should be based on the use of dynamic security, that is the development by staff of positive relationships with prisoners based on firmness and fairness, in combination with an understanding of their personal situation and any risk posed by individual prisoners.”

³ Rule 51 (2): “The security which is provided by physical barriers and other technical means shall be complemented by the dynamic security provided by an alert staff who know the prisoners who are under their control.”

help the process. Further sections in the current guide will elaborate on this.

HOLD A SERIES OF MEETINGS WITH PARENTS IN PRISON

Meetings with imprisoned parents will support your discussions with the prison administration and Ministry of Justice. If feasible, set up a series of meetings to understand their particular needs and to gather their views and suggestions. A method for stimulating discussion with prisoner-parents could be to read a translation of the Italian MOU and to discuss article by article. Ideally, similar meetings should be held with prisoners' families and children outside the prison. If possible, record the meetings and use the results to draft a summary report, which will serve as a basis for further discussions with the Ministry of Justice and Children's Ombudsman.

THE DRAFTING PROCESS

The process of drafting an MOU will likely require a considerable amount of work and several awareness-raising meetings with the relevant signatories. This is to be expected: the process relies on gradual progress and can take several months.

When it comes to the tone and content of the MOU, it should be demanding, but value should also be placed on the input and key role of the national prison administration and individual prison staff. The implementation of the MOU articles will

mostly be their responsibility and will certainly require their commitment, so it is important that it be worded in a way that resonates with them. A key piece of advice from *Bambinisenzasbarre* is to leave some phrasing intentionally vague, to allow for interpretation. One example of such phrasing is article 1.4: "It is important that parents be present at special occasions such as birthdays and the first day of school, as well as if their child is hospitalised, for example". The phrasing allows room for interpretation, depending on the context, but provides enough information for the judges to understand the kind of events that could be considered as being of crucial importance for children.

CHOOSE A TITLE

Since the term "*Memorandum of Understanding*" is a generic title, it is important to choose a specific, recognisable title for your document, to be used for external communication with the media and general public. The name of the Italian MOU is the "Charter of Children with Imprisoned Parents".

AGREE ON A SIGNATURE DATE

The signing of the MOU will be the climax and recognition of the hard work carried out over the preceding months. The event should be widely communicated.

It is important that you agree on a joint communication strategy for publicising the MOU and its launch, with the press offices

of the Ministry of Justice and Children's Ombudsman.

AFTER THE SIGNATURE: NEXT STEPS

By obtaining the signature of an MOU you have reached a milestone, but the hard work continues, with the focus now on implementation. For successful implementation, all signatories will need to internalise the values expressed in the MOU to a certain degree. A high level of motivation from all parties is key.

It is therefore important to introduce a suitable monitoring mechanism. Article 8 of the Italian MOU calls for the establishment of a permanent working group, made up of representatives of the three signatories—a group whose main task will be monitoring its implementation. The working group should meet every three months. As well as monitoring it should also consider replicable examples of good practice at national and international levels. In addition, ultimately, the task of the working group will be to carry out a biennial survey on the situation of children with imprisoned parents in the national context.

ADDITIONAL ADVICE

Bambinisenzasbarre has a few additional recommendations for next steps:

- Continue working with national and local media in the short and long term to raise awareness of the rights and needs of children with imprisoned parents among different target groups;

- Local and national conferences and events should be considered as potential opportunities for continued awareness-raising and collaboration with local and national institutions, decision-makers and stakeholders such as lawyers, judges, directors of prison administrations, representatives from the Ministry of Justice, the media and the general public;
- Collaborate with national and local prison administrations and Children's Ombudsman's Offices to raise awareness among prison officers;
- Work with judges on the implementation of the MOU. Raise solutions (as laid out in the MOU), such as alternative measures to imprisonment for parents. Remind them to consider granting prisoner-parents leave for special family occasions, such as birthdays, the first day of school and other important events in the child's life;
- In cooperation with the Children's Ombudsman, draft a child-friendly language version of your MOU;
- Consider designing an app for mobile devices which would let stakeholders (prison management, prison staff, judicial staff, etc.) navigate through different articles of the MOU, giving practical advice on implementation;
- Make good use of the media to communicate events both planned and attended by your organisation, but

also relevant events that the NGO attends. Think specifically about the kind of media outlet typically accessed by prison governors and staff.

- The role of the prison governor in the implementation of the MOU's various articles is essential. Most of the activities written into the MOU require the full support and indeed direct action from the prison governor.

ARTICLE 1 - DECISIONS CONCERNING JUDICIAL ORDERS, JUDGMENTS AND SENTENCES

BACKGROUND

Article 1 of the Memorandum covers decisions made by judicial authorities, who are encouraged to take into consideration the rights and needs of the underage children of a person who has been arrested or imprisoned and who has parental responsibility. The article stipulates that priority be given to alternative measures to imprisonment, which will have less of an impact on the child-parent bond.

As laid out in Article 12 of the United Nations Convention on the Rights of the Child (UNCRC), children have a right for their opinions to be taken into consideration in all matters that affect them. The sentencing of a parent is undoubtedly an example of one such situation. In difficult circumstances such as this, children should be provided with opportunities to be heard and their views should be listened to and taken seriously. Their opinions should not be dismissed because of their age. One way that judges can listen to children's views is through child impact statements, as described in the examples of good practice below.

In addition, under Article 1, judicial authorities are required to provide opportunities for contact between a pre-trial detainee and their child in respect of

the child's rights as laid out in Article 9 of the UNCRC.

It also allows for temporary permissions and leaves of absence to enable the parent to be present at important moments in their child's life, such as birthdays and the first day of school, or if their child is hospitalised.

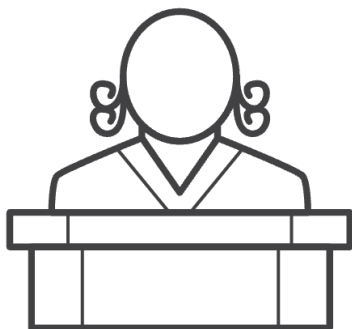
HOW TO...

...ENSURE JUDICIAL AUTHORITIES TAKE INTO CONSIDERATION THE BEST INTERESTS OF CHILDREN WITH IMPRISONED PARENTS

- ✓ Meet with Ministry of Justice representatives and discuss how— together—you can raise awareness of the rights of children of prisoners among the judiciary. In Italy, it is the Ministry of Justice's responsibility to ensure application of the MOU's provisions by judicial authorities. This should be a continuous and collaborative process between the NGO and national or local institutions;
- ✓ Provide eye-catching awareness-raising materials such as posters, pamphlets or leaflets which explain the rights and needs of children affected by the sentencing of their parents;
- ✓ If possible in your context, work with judges (e.g., by offering awareness-raising workshops) to advise on how they can consider the child's

perspective in their judicial decisions and encourage them to decide on measures which take into account the best interests of the child;

- ✓ Explain the importance of maintaining regular, quality contact between children and their imprisoned parents and granting parents temporary leave for important moments in their children's lives;
- ✓ Remind the judiciary that the children of pre-trial detainees should also be considered and that their right to contact with their parents should not be violated;
- ✓ Advocate for the use of sensitive child impact statements or assessments in court, which highlight the child's needs and best interests;
- ✓ Consider offering training for judicial authorities to raise awareness of the rights and needs of children with parents in conflict with the law. This training could be provided in conjunction with existing legal training programmes.



EXAMPLES OF GOOD PRACTICE

The following examples of good practice may serve as inspiration in your awareness-raising work with judicial authorities.

- COPE's video "Rebalancing the scales: The rights of children when sentencing parents"⁴, is specifically aimed at lawyers and judiciary authorities to **raise awareness of children's rights** when their parents are sentenced to prison. It explains the negative impact of parental imprisonment on children and sets out some of the key UNCRC rights that may be affected by a parent's trial. It also reinforces the need for sentencing decisions to be made in the best interests of the child and sets out practical advice on how to protect children when sentencing parents, namely: to consider non-custodial sentences where appropriate; otherwise, to sentence to prisons close to the family home; and to sentence in a way that protects the child-parent bond wherever possible.
- Regarding **legal practice** and sentencing for parents, the case *S v M*⁵ is an example of a landmark sentencing decision that took place in

⁴ Available online at: <http://childrenofprisoners.eu/videos/rebalancing-the-scales-child-rights-when-sentencing-parents/>

⁵ *S v M* (CCT 53/06) [2007] ZACC 18; 2008 (3) SA 232 (CC)

South Africa in 2007. Taking into consideration the position of three underage children whose mother was found guilty of financial fraud, the South African Constitutional Court set the initial four-year prison sentence aside and sentenced the mother—the sole guardian and primary caregiver of the children—to a non-custodial sentence of house arrest, community service and a suspended sentence of four years. The court considered the children's best interests and decided on the sentence that would be the least damaging to the children. This case has had a significant impact on this area of law in South Africa and internationally and can be used as an example in awareness-raising and advocacy work.

- Pact, a COPE member in the UK, has been doing excellent work advocating for support for children when their parent or carer is sent to prison. The organisation led a campaign entitled “Left Behind”, within which **new guidance was issued to magistrates** to advocate for checks to be made when sentencing parents to ensure that children and other dependents are appropriately cared for and supported.
- In many countries, despite the fact that they are not compulsory, judges sometimes use **child impact**

statements⁶. Although they do not have legal value, many judges appreciate having them when making decisions. One example of good practice in this area comes from Scotland, where the charity Circle has been providing information to sheriffs about the children and families they support and the possible consequences for children when their parents go to prison.⁷ Their work has been very well received and is perceived as a positive indicator for the benefits of introducing child and family impact assessments. Steps are being made to support family relationships in Scotland: in one case a sheriff allowed a mother to return home in order to make arrangements for her children before serving her prison sentence.

- In Sweden, there is an interview and referral process which serves to flag up whether a child will be negatively impacted by their parent's arrest. At the time of arrest, all offenders in Sweden are interviewed by the police and must complete a questionnaire detailing their childcare duties and whether or not care arrangements are in place. If it is found that no care

⁶ For more information, see: Children of Prisoners Europe (2015). Child impact assessments and sentencing. *European Journal of Parental Imprisonment*, 2.

⁷ Available online at: [http://www.parliament.scot/S4_MembersBills/Consultation_Document_\(Website\).pdf](http://www.parliament.scot/S4_MembersBills/Consultation_Document_(Website).pdf)

arrangements for the child are in place, a referral is made to social services ensuring there is no lapse in care⁸.

For further information on impact assessments, see “Child and Family Impact Assessments in Court: Implications for Policy and Practice”⁹, by Tânia Loureiro on behalf of Families Outside, COPE's member in Scotland.

⁸ Mulready-Jones, A. (2011) 'Hidden children: a study into services for Children of Incarcerated Parents in Sweden and the United States' available at:
https://www.wcmt.org.uk/sites/default/files/migrated-reports/814_1.pdf

⁹ Available online at:
<https://www.familiesoutside.org.uk/content/uploads/2011/02/child-impact-statements-stage1.pdf>

ARTICLE 2 - CHILDREN VISITING PRISONS

BACKGROUND

Children have the right to regularly visit their parent in prison, just as imprisoned parents have the right to be involved in their children's lives, upbringing and development. Lack of appropriate visiting facilities, visiting hours conflicting with school or restriction of physical contact during prison visits can impede a child or family's capacity or willingness to visit. Visiting a parent in prison should not be frightening or stressful for the child. Prisons should allow appropriate time and provide a suitable space for children and imprisoned parents to spend time together, to foster their relationship.

Research has shown that it is usually better for the child of an imprisoned parent to visit their parent in prison sooner rather than later, as their fantasies about the place where their parent is staying can be worse than the reality.¹⁰ Children should be able to visit their imprisoned parent within a week of their imprisonment, rather than the all-too-common alternative of granting prisoners visiting rights only after they have demonstrated "good behaviour". Having to wait a month or more is a very long time for a child and can cause anxiety and separation trauma. Exaggerated

¹⁰ Ayre, E. (1996). *They Won't Take No for an Answer: The Relais Enfants Parents*. Early Childhood Development. Practice and Reflection n. 11. The Hague: Bernard van Leer Foundation.

depictions of prison settings seen on TV or online may frighten the child: often a single visit to their parent in prison can reassure them. Child-friendly prison design and appropriate regulations can help children and parents reconnect.

Article 2 of the Italian Memorandum of Understanding focuses on making prison visits child-friendly and offers guidance on how to make children feel comfortable when visiting their imprisoned parent.

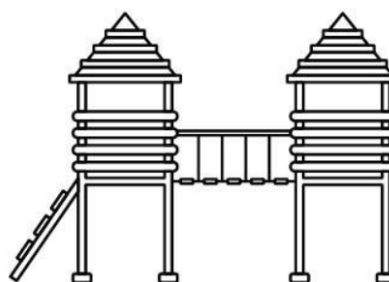
HOW TO...

... WORK WITH PRISON STAFF AND MANAGEMENT TO MAKE PRISON VISITS MORE CHILD-FRIENDLY

- ✓ Set up a series of awareness-raising meetings with the prison governor and other managerial staff to explain the importance of regular visits for children and maintaining the child-parent bond; continue to share information with them and maintain a positive relationship;
- ✓ Work with prison management to review visiting times and booking arrangements, drawing their attention to the importance of scheduling visits outside of school hours and on Sundays and public holidays. Consider bringing a teacher along to the meeting with you or providing prison staff with written quotations from teachers and children as to the

importance of not missing school for visits.

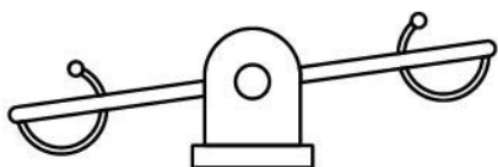
- ✓ Suggest that prison management offer shorter, more frequent visits for very young children and longer visits for older children;
- ✓ Use videos and other visual tools in your discussions to show the impact that visiting prison (in particular the security procedures) can have on a child;
- ✓ Offer your support to install child-friendly spaces in waiting rooms and visits rooms. This could also be an opportunity for donors to provide their support by helping to organise and equip these spaces with toys, changing tables, bottle warmers, etc.;
- ✓ Explain the importance of allowing physical contact between children and their parents; aim to implement a project that allows for physical contact between a child and their imprisoned parent.



EXAMPLES OF GOOD PRACTICE

Most COPE members have successfully worked with prisons to make visits more child-friendly. Some examples:

- Since 2015, thanks to KRITS Probation Foundation efforts, all Finnish prisons have been required to have special visiting rooms for children who come to see their parent. Children are allowed to have physical contact with their parents: they can hug them and sit on their laps during visits. Additionally, imprisoned parents can apply for special “family visits”, which can be up to a few days in length. These visits take place in rooms that resemble a living room, with a table, a couch and toys for children and their parents to play with.
- Relais Enfants-Parents Asbl's “trilieux” spaces in several Belgian prisons provide three types of environment where children can play, create things or relax and read with their parents, depending on their mood. In certain prisons, a special committee of imprisoned parents sets up the “trilieux” area with the toys and books



in preparation for the visit. Another option is to have the NGO staff do so upon arrival. If space is an issue, books, colouring supplies and board games are a more manageable alternative. Relais Enfants-Parents Asbl staff provides a neutral presence during children's visits for mediation purposes.

- One of COPE's members in the UK, POPS (Partners of Prisoners and Family Support Group), has designed a range of child-friendly signage featuring "Popsicle the Penguin", which softens the areas that children pass through during a prison visit (e.g., the corridors, search area and visits hall). The signage is designed to act as a distraction for children from the austere environment. This initiative also includes "Popsicle reward stickers" for children to help prison staff recognise the impact of certain procedures on children and to "reward" and encourage the child, fostering positive interactions between prison staff and young children.
- Swiss NGO and COPE member Relais Enfants Parents Romands (REPR) has eight welcome centres for families of prisoners located outside of prisons. The centres are open between one and six days a week, usually corresponding to the prison's visiting hours. These centres are run by a team from REPR, who offer:
 - a space to talk and be listened to with respect and discretion;
 - useful information related to the imprisonment of a family member;
 - the addresses of organisations and public or private groups that may be useful for families;
 - a welcoming space to go before or after a prison visit;
 - refreshments.
- COPE's members in the Czech Republic—the Czech Helsinki Committee—and in Luxembourg—Service Treffpunkt—both organise family visits to support children visiting their imprisoned parents.
- One of COPE's member NGOs in France, Relais Enfants Parents Ile-de-France (REP) organises parties in prison for Mother's Day and Father's Day. These parties are exclusively for imprisoned parents and their children and the organisation brings refreshments, music, toys, games and other materials to create a convivial atmosphere. Volunteers from REP accompany the children, as the non-imprisoned parents do not participate.

ARTICLE 3 - OTHER TYPES OF RELATIONSHIP WITH THE IMPRISONED PARENT

BACKGROUND

Article 3 states that the signatories will develop guidelines for maintaining the child-parent bond when physical contact is not possible. Even if regular physical contact is not feasible, prisons must provide alternatives for children to communicate with their imprisoned parent. The use of the internet for video calls or messaging has been an important development in this regard and is a great way for children and their parents to keep in touch. It is important, however, that prisons do not become overly reliant on non-physical forms of communication. Alternative forms of communication should not replace physical visits in which children can interact with, play with and have physical contact with their parents.

Article 3 of the Memorandum also underlines that additional contacts with underage children should not be treated as 'rewards' for a prisoner's good behaviour.

HOW TO...

...WORK WITH AUTHORITIES TO FACILITATE OTHER MEANS OF CONTACT BETWEEN PRISONERS AND THEIR CHILDREN

- ✓ Meet with the prison governor to explain the importance of other means

of contact between prisoners and their children, aside from physical visits;

- ✓ Suggest ways in which alternative means of contact can be implemented;
- ✓ Check the quality of internet access and technical equipment available to prisoners who are parents; seek partnerships with companies or private donors to solicit used/ refurbished equipment;
- ✓ If appropriate, propose alternative visits via video telecommunications software;
- ✓ Ensure that prison management understand the difference between video visitation and physical visits, emphasising that the former cannot replace the latter;
- ✓ Offer other ways of maintaining the child-parent bond, such as: partnerships with schools so prisoner-parents can receive their children's school reports and grades; reading programmes where prisoner-parents record bedtime stories for their children; or letter-writing and creative art groups for prisoner-parents;
- ✓ Offer the support of your NGO to assist with implementing grants of temporary leave for prisoner-parents;
- ✓ Keep the wording vague enough that it allows room for interpretation depending on the context, while

offering a selection of non-exhaustive examples.

EXAMPLES OF GOOD PRACTICE

The examples of good practice below can be used as inspiration, but bear in mind that they are only a supplement to physical contact between a child and a parent, not a replacement.

- In England and Wales, the charity Storybook Dads implements a programme that allows imprisoned fathers (and in mothers in ten women's prisons) to record themselves reading a story to their children. The children can also record their comments and reactions to the story, which are then sent back to the father. This is a great way to foster family ties while also encouraging literacy, both of which are positive for a child's growth and development. Similar projects are taking place across Europe, such as Hoppenbank's "I read for you" programme with imprisoned fathers in Bremen, Germany and Probacja Foundation's reading programmes in Poland.
- In Northern Ireland, prisoners at HMP Magilligan are allowed access to Skype to keep in contact with their family. The video calls are conducted in soundproof, secure booths monitored by video surveillance. The calls allow increased contact for free

or at a reduced cost and with a greater degree of interaction between children and imprisoned parents than traditional phone calls.



- German organisation Treffpunkt e.V. is also working to create a programme that would allow some visits for children to take place via Skype.
- POPS has introduced the "In Your Words" project in England and Wales, which involves a series of workshops focusing on communication through the use of poetry. The workshops encourage the imprisoned parent and child to express their feelings and to communicate by writing poetry which they exchange and discuss as part of a specially supported visit.

ARTICLE 4 - STAFF TRAINING

BACKGROUND

The prison staff has a crucial role to play in responding to the needs of children with imprisoned parents and in safeguarding their rights. Yet in some countries, few staff members are trained in this field and therefore specific knowledge on the issue is lacking.

Article 4 calls for training to be provided for staff in prisons and juvenile justice institutions on how best to engage and interact with children visiting their parents. Training for prison staff is important to ensure they have the right skills and attitude to perform their duties with respect for child rights. Such training programmes can help staff understand both the impact of a parent's imprisonment and of the prison environment on children.

Article 4 also stipulates that specially trained prison officers be present in every prison to assist children and families during visits. Prison staff plays a key role in ensuring that the experience of a visit is not traumatic for the child. In this regard, officers should also make sure that security procedures are appropriate for children.

The Council of Europe Committee of Ministers draft Recommendation on children with imprisoned parents¹¹ also

¹¹ <https://rm.coe.int/draft-recommendation-children-with-imprisoned-parents-12-10-17/168075f421>

recognises that staff members who come into contact with children and their imprisoned parents should receive training in areas such as how to respect children's needs and rights; the impact of imprisonment and the prison setting on children and the parental role; how to support imprisoned parents and their children and better understand the specific problems they face; how to make visits child-friendly; how to carry out searches on children in a sensitive and appropriate manner.

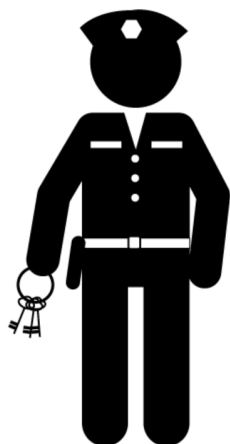
HOW TO...

...FOSTER AWARENESS-RAISING AND CAPACITY-BUILDING FOR PRISON STAFF

- ✓ Meet with the prison governor to highlight the key role the prison staff has in maintaining family ties;
- ✓ Show how boosting staff skills and awareness with regard to supporting children visiting their parents also boosts the personal and professional development of such staff members;
- ✓ Offer prison staff training sessions on children's rights and needs; prepare a clear presentation and model of these training sessions;
- ✓ Suggest that prison management appoint trained and specialised prison officers whose role is to support children and their imprisoned parents during each visit; the officers chosen to participate in the training should be

decided by the prison administration heads;

- ✓ Offer to help review the prison's security procedures for children visiting their parents in order to render them child-sensitive.



EXAMPLES OF GOOD PRACTICE

Several organisations across Europe have been active providing training for prison staff and/or other stakeholders:

- Families Outside, COPE's member in Scotland, delivers training for all new prison officer recruits, as well as training for all staff on child protection. The organisation also trains teachers to support children affected by parental imprisonment in their work. This training includes taking teachers into prison to experience "visiting". Families Outside also trains social workers; Children's Panel members; and graduate students in Psychology and Law.
- Similarly, German NGO and COPE member Treffpunkt e.V., through their programme TAKT, provides sensitivity training for prison staff (both prison officers and social workers) and school staff (teachers and social workers) and provides teaching modules on the topic of parental imprisonment for classroom discussion.
- COPE member in Norway, For Fangers Pårørende (FFP), started a family therapy pilot project in Trondheim prison, using the method of "team reflection" (dialogue and meta-dialogue). The pilot project was successful and the Correctional Services have reacted positively to the initiative of implementing the model in other prisons, involving Family Counselling Services in local municipalities. FFP carries out training for Family Counselling Services staff, as well as prison staff and social workers in prisons, to introduce them to this model of family therapy in prisons.
- In Denmark, the Prison and Probation Service trains specially appointed prison officers to become "children's officers". These officers are trained in being particularly sensitive to children's needs and prisoners' family relationships. They are trained in the importance of child-friendly visits facilities and in providing timely and appropriate information to the family. They also provide their colleagues with general knowledge of issues faced by

children with a parent in prison, in a positive peer-to-peer process and are aware of the need for child-friendly considerations during searches¹².

- The Relais Enfants Parents Romands (REPR) in Switzerland and the Fédération des Relais Enfants Parents (FREP), a Francophone network based in France, also train prison staff and other relevant stakeholders on the rights and needs of children separated from a parent in prison.

¹²EuroPris (2017). *Good Practice Collection: Family Relations*. The Hague: EuroPris, 35.
Available online at:
<http://www.euopris.org/file/expert-group-family-relations-good-practice-collection/>

ARTICLE 5 - INFORMATION, ASSISTANCE AND SUPPORT

BACKGROUND

INFORMATION AND SUPPORT FOR CHILDREN

Receiving appropriate and timely information about their parent's whereabouts and well-being is of crucial importance to a child. Lack of information may lead to confusion, anxiety and fear. Without information, children—influenced by images on TV and online—may be left imagining dungeons, chains and empty cell rooms. All of this may be damaging to their ability to cope with the situation and to their development. The positive impact of sharing appropriate information on a child's well-being is well documented in recent research. One of the findings from the Coping project¹³ a transnational research study co-funded by the European Union between 2010 and 2012, underscores that children's resilience is closely related to sharing age-appropriate information with them about what has happened in an open and honest manner. Families surveyed would also have appreciated better information on the organisations and institutions offering support and the services available to them. Sharing information about the parent's imprisonment in a sensitive

¹³ Jones, A., et al. (2013). *Children of prisoners: Interventions and mitigations to strengthen mental health*. Huddersfield: University of Huddersfield. Available online: <http://childrenofprisoners.eu/wp-content/uploads/2013/12/COPINGFinal.pdf>

manner is also important in the school context. Well-informed and trained school professionals can play a vital role in supporting children with a parent in prison and in minimising the risk of them suffering from bullying and stigma.

INFORMATION AND SUPPORT FOR PRISONERS

The evidence from the Coping project also shows the need for more awareness-raising among imprisoned parents on the importance of their role and more support activities enhancing their parenting skills.

Article 5 stipulates that prisoners be given appropriate, up-to-date and relevant information in every phase of the process, from arrest to release, both about procedures and possibilities for maintaining contact and about the support available to them, including information on counselling and other support services. The article also provides for programmes which encourage imprisoned parents to assume and/or maintain their parental role and responsibility for their child and which strengthen their parenting skills.

The Memorandum underlines the importance of providing children visiting prisons with age-appropriate information about procedures and rules, as well as information on how security procedures are handled and what can be taken into visits (this is also referenced in Article 2). The Memorandum advises that this information be provided in various languages and formats as well as being

adapted for younger children. It also asks that children be given information about their parents' life in prison and, if possible, an opportunity to visit some of the spaces their imprisoned parents frequent, such as the canteen or recreation rooms, workshops or places of worship.



HOW TO...

...ENSURE TIMELY, SENSITIVE AND APPROPRIATE INFORMATION AND SUPPORT FOR PRISONERS AND THEIR CHILDREN

- ✓ Meet with prison management to explain the importance of providing both imprisoned parents and their families with appropriate and timely information;
- ✓ Draft child-friendly and age-appropriate information about visiting procedures and rules, such as posters and pamphlets to be distributed in all police stations, courts and prisons;
- ✓ Work with local authorities such as the police and judiciary to provide timely information and support to the family of a person who has been arrested, sentenced or sent to prison;

- ✓ Call upon the COPE network for help in translating such information into other major languages;
- ✓ Offer one-to-one and/or group parent support sessions for parents in prison;
- ✓ If time and resources allow, design and build an app that can be used on mobile devices as well as accessed from a computer. The app should be linked to a central prisons database, so information on visiting hours, directions to prisons, and announcements about activities in prisons can be easily accessed and is centralised. This app should have a child-friendly version, and provide an opportunity for families of prisoners to give feedback and suggestions about visiting conditions in the prisons.

EXAMPLES OF GOOD PRACTICE

Across the COPE network there are several examples of effective initiatives in the area of information and support:

- Scottish organisation Families Outside carries out comprehensive family support work and runs a national Freephone helpline, which receives about 1,800 calls per year. Thanks to their leadership, every prison in Scotland has an assigned Family Support Coordinator, who can provide information and support to children and families. Families Outside also works extensively with teachers

and other professionals to raise awareness on the importance of maintaining family ties while a parent is in prison and possible ways of supporting children affected. They also provide publications for different target groups.

- In cooperation with other child- and prison-related organisations, COPE member Exodus based in the Netherlands provides information to families as early as the moment of arrest. Exodus volunteers are available to support families when they need social, emotional, or practical support.
- NIACRO, COPE's member in Northern Ireland provides information to families when a relative has been imprisoned by telephoning them within 24 hours of the imprisonment and by sending an information pack within 48 hours.
- Similarly, Bedford Row, a COPE member in Ireland, organises "Family Support" sessions for imprisoned parents in Limerick Prison and art therapy workshops for women prisoners.
- COPE member Pact has developed a "Visiting Mum" programme, where volunteers drive the children of prisoners and their carers to HMP Eastwood Park on a regular basis and offer them emotional support. As part of this project, information and resources have also been created for the child to explain what prison is like

and what their mother is experiencing, in order to help children prepare for their visit with their mother.

- BUFFF, a COPE member in Sweden, has a helpline and online chat to provide information and support to children with imprisoned parents.
- In England, Children Heard and Seen organise support groups for imprisoned parents alongside their mentoring work with children.



ARTICLE 6 - DATA COLLECTION

BACKGROUND

Highlighted in both Article 6 of the Memorandum and the Council of Europe draft Recommendation concerning children with imprisoned parents, data collection is a significant issue when it comes to supporting children with imprisoned parents. Children with a parent in prison have often been described as the "invisible victims" of the criminal justice system and until more detail on their numbers, location, ages and living arrangements is obtained, they are at risk of remaining overlooked.

The data used by COPE regarding the number of children affected by parental imprisonment is based on extrapolations, stating that 2.1 million children have a parent in prison across Council of Europe Member States on a given day. While these figures give an idea of the number of children potentially affected by parental imprisonment, more needs to be done to obtain a more comprehensive picture of the situation. Good data on children of prisoners allows governments and NGOs to target their efforts and resources where they are needed most. It also allows for the long-term evaluation of support initiatives.

There are many obstacles to good data collection. Some prisoners may be unwilling to disclose information about their families, perhaps due to a lack of trust in the authorities and a fear of how their

children may be affected. From the child's perspective, the right to privacy and data protection must also be balanced against the need to obtain accurate statistics. There may also be practical considerations that make surveys and data collection difficult. Access, financial cost and security issues related to working in prisons can make it challenging to administer large-scale surveys, especially for NGOs.

HOW TO...

...PROMOTE DATA COLLECTION AMONG PRISONS AND OTHER AUTHORITIES

- ✓ Meet with representatives of your government to explain the importance of collecting data relating to imprisoned parents and their children;
- ✓ Encourage local and national governments to require systematised data collection on the topic;
- ✓ Meet with prison management to explain how data collection can positively impact the services available to children;
- ✓ Explain what kind of data should be systematically recorded, updated and made available to the public (e.g., the number of children affected, their age, their primary caregiver);
- ✓ Offer help in designing surveys, which would collect data in a way that is

effective and sensitive for both prisoners and their children;

- ✓ Advise that statistics should be made public and presented to national and international data collection bodies (e.g. Eurostat).

EXAMPLES OF GOOD PRACTICE

Below you will find some examples of how the topic of data collection has been addressed across Europe:

- On 6 December 2017, the German Institute for Human Rights (Deutsches Institut für Menschenrechte) published its second annual report on the human rights situation in Germany. The report covers the period 1 July 2016 to 30 June 2017, and includes a section on the right of children to remain in contact with a parent in prison. The report is based on various sources of information and data, including a questionnaire on children separated from a parent in prison sent to all Justice Ministries in the 16 German federal states in April 2017. The answers to the questionnaire provided information on the relevant regulations and practices on a regional level¹⁴.

¹⁴ German Institute for Human Rights (2017) *Human Rights Report 2017*, Berlin. Available online at: http://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/

- In 2017, COPE developed a questionnaire that was sent by the Council of Europe to the 47 Member State prison services. The questionnaire focused on child-friendly practices in regard to visits; child-parent contact; facilities and living conditions; training; and data collection. The Council of Europe received 40 responses from 27 Member States. Results are currently being operationalised and should be published in early 2018. The countries who responded to the questionnaire as of February 2017 were: Bulgaria; Croatia; Czech Republic; Cyprus; Denmark; Estonia; Finland; France; Georgia; Germany (Baden Württemberg; Bavaria; Brandenburg; Hamburg; Hesse; Lower Saxony; Mecklenburg-Vorpommern; North Rhine-Westphalia; Rhineland-Palatinate; Saxony; Saxony-Anhalt; Schleswig-Holstein; Thuringia); Greece; Hungary (prison administration); Hungary (police administration); Ireland; Italy; Latvia; Lithuania; Luxembourg; Macedonia; Malta; Montenegro; Poland; Romania; Slovakia; Slovenia; Sweden; Switzerland; and Turkey. Once the results are published, NGOs are advised to work with their governments on the results of this questionnaire. The Council of Europe's

Publikationen/Menschenrechtsbericht_2017/
Human_Rights_Report_2017_Short_version.pdf

Council for Penological Co-operation intends to repeat this information-collecting exercise in due course, to ascertain the degree to which the draft Committee of Ministers Recommendation (set to be adopted in 2018) has had a positive effect on improving practices relating to children with imprisoned parents across Council of Europe Member States.

ARTICLE 7 - TEMPORARY PROVISIONS FOR CHILDREN LIVING WITH THEIR IMPRISONED PARENTS

BACKGROUND

The Memorandum emphasises that, as far as is possible, children should not be living in correctional centres or in low security institutions. In exceptional cases, however, this cannot be avoided. Prison management should ensure that children living in prison with their parents are able to enjoy the same rights as other children. In particular, they should be able to freely access the outside world and attend nursery and/or school.

The Council of Europe draft Recommendation, like the MOU, stipulates that any decisions made as to whether a child will live in prison with their parent should take into account the child's best interests as a priority, and should be made on a case-by-case basis. The Recommendation puts particular emphasis on pregnant women and their babies. Pregnant women prisoners should have access to appropriate pre-natal and post-natal healthcare and should give birth in a hospital outside the prison. If an infant lives with their parent in prison, facilities must ensure the child's right to the highest standard of care. Parents living with their infants should be provided with opportunities to look after their children, to cook for them and to spend quality time with them. Any decision to separate an infant from their imprisoned parent after

the child has been living with them in prison should be made on an individual basis, following assessment.

HOW TO...

...ADVOCATE FOR APPROPRIATE PROVISIONS FOR CHILDREN LIVING WITH THEIR PARENTS IN PRISON

- ✓ Find out what facilities are provided for children living with their parents in prison;
- ✓ In addition to the parenting support referenced under Article 5, ensure that parents are allowed to care for their children (e.g., to cook meals for them, get them ready for nursery and school and spend time playing with them), and that specific and practical support is provided on how to do so;
- ✓ Underline the importance of trained staff and professionals such as psychologists in supporting imprisoned parents whose children are living with them. If appropriate, you could offer to provide such services;
- ✓ If appropriate, you could offer to accompany children to nurseries or schools outside the prison;
- ✓ Ensure prison management is aware of the importance of outdoor play areas for children living with their parents in prison;

- ✓ Offer to help decorate and equip child-friendly living areas within the prison;
- ✓ Ensure particular care is provided for imprisoned parents and their children at the point at which the child is to be separated from their parent following a period living in prison.

EXAMPLES OF GOOD PRACTICE

- One of COPE's Sweden-based members, Solrosen, runs baby-massage workshops for imprisoned mothers living with their children at the women's prison in Göteborg, in order to foster attachment and support the relationship between child and mother.
- In Finland, if an imprisoned parent has a young child living with them, they are placed in Vanaja open prison where there is a special family ward, run by an NGO. If the parent is working or studying, the child attends regular daycare outside of the prison. Remand prisoners with small children are placed in Hämeenlinna prison, on a family ward, run by the same NGO. The decision as to whether a child should live with their parent in prison or not is made by municipal child

welfare authorities, who also finance these programmes.¹⁵



¹⁵ EuroPris, *op cit.*, 16.

ARTICLE 8 - CREATION OF A PERMANENT WORKING GROUP

BACKGROUND

Article 8 recommends setting up a permanent working group to monitor the implementation of the Memorandum, once it has been signed. Such a group should be multi-stakeholder in nature and can be composed of representatives of the Ministry of Justice, Children's Ombudsman, National Human Rights Institutions and child welfare NGOs, among others.

There are many advantages to establishing such a working group. Bringing all the aforementioned partners into the discussion is essential to the successful implementation of the Memorandum of Understanding. The working group becomes a cooperative platform for stakeholders who otherwise would not have the opportunity to meet to discuss the topic of children with imprisoned parents. A cross-sectoral approach guarantees that the voices of all stakeholders are heard and that ideas and good practices are exchanged.

All stakeholders in the working group must be treated on an equal footing and be encouraged to work as partners. The functioning of the group should recognise and value the different fields of expertise that each stakeholder brings.

HOW TO...

...SET UP A WORKING GROUP TO MONITOR IMPLEMENTATION

- ✓ Define the working group's purpose and concrete objectives;
- ✓ Make a list of all relevant stakeholders who should be invited to join the working group;
- ✓ List the expected results and cross-sectoral benefits of the working group and present them to the relevant stakeholders;
- ✓ Set up a clear plan detailing the frequency and duration of meetings; ensure each group member's role is defined and agreed upon;
- ✓ Foster ownership: once the group is established, suggest that each stakeholder take the lead on monitoring the implementation of one particular aspect of the Memorandum;
- ✓ Agree on a group member who will be responsible for collecting and sharing good practice from other countries.

EXAMPLES OF GOOD PRACTICE

- The Scottish Prison Services (SPS) works closely and collaboratively with a wide range of statutory public services and voluntary ("third sector") organisations such as COPE member

Families Outside to support the families of those in prison. The SPS recognises that the third sector has a particular contribution to make in certain public policy spheres and that organisations in this sector can often make inroads where the state and market cannot. Public Social Partnerships (PSPs) have been established to support citizens newly released from custody in reconnecting with their families and re-establishing themselves in their communities.¹⁶

- For Fangers Pårørende, the Organisation for Families and Friends of Prisoners (FFP), COPE's member in Norway, has an inter-disciplinary staff team (including social workers, child welfare professionals, psychologists and criminologists) and most Board members have experienced the imprisonment of a family member. FFP is in close dialogue with the prison service and other authorities, and carries out awareness-raising, lobbying and educational work on the consequences of imprisonment on families.¹⁷
- One of COPE's members in Sweden, BUFFF, participates in an annual cross-sectoral event, involving NGOs, the Children's Ombudsman's Offices and the national Prison and Probation

Services from Sweden, Norway and Denmark, entitled "24 hours for children of prisoners".

- One of COPE's members in Croatia is the Children's Ombudsman's Office, which frequently collaborates with and supports NGOs working with and on behalf of children with imprisoned parents across the country. The Ombudsman's Office team regularly visits prisons to monitor visiting facilities for children and to meet with prison staff. The Ombudsman's Office has also organised a roundtable event entitled "Developing a support network for children whose parents are in prison" at the Croatian Parliament. Invited to be part of this network were COPE partner NGO RODA, the prison administration of the Ministry of Justice and the Justice Committee of the Croatian Parliament.

In 2016, Alternative Sociale, COPE's member in Romania organised a roundtable with representatives of local institutions in the city of Iași (school counsellors, medical professionals, social workers, school managers, police officers and journalists) to learn about the needs of children with imprisoned parents and to reflect—in a multidisciplinary setting—on possible solutions and support systems.

¹⁶ EuroPris, *op cit.*, 11.

¹⁷ EuroPris, *op cit.*, 13.

ANNEX 1 – ITALIAN MEMORANDUM OF UNDERSTANDING

Memorandum of Understanding between The Ministry of Justice, The National Ombudsman for Childhood and Adolescence and Bambinisenzasbarre ONLUS (COPE member, Italy)

- With regard to Articles 2 and 3 of the Italian Constitution, which guarantee respect for human dignity;
 - With regard to Article 27 of the Italian Constitution, which promotes the principle of education and resettlement as two of the objectives of a custodial sentence;
 - With regard to Constitutional Law 18 October 2001, n°3;
 - With regard to the United Nations Convention on the Rights of the Child of 20 November 1989, ratified and brought into effect in Italy through Law 27-05-1991, n°176, in particular articles 1, 2, 3, 9, 12 and 30;
 - With regard to the Standard Minimum Rules for the Administration of Juvenile Justice, United Nations, New York, 29 November 1985;
 - With regard to the European Convention on Human Rights, in particular Article 8, which stresses the right to respect for private and family life;
 - With regard to the European Resolution 2007/2116 (INI), adopted in Strasbourg on 13 March 2008, in particular Article 24, which reaffirms the importance of respecting the rights of the child irrespective of their parent's legal status;
- With regard to Resolution n°1663/2009 of the Parliamentary Assembly of the Council of Europe;
- With regard to the European Prison Rules, updated on 11 January 2006 with Recommendation R(2006)2, in particular with regard to paragraph 36 concerning policies supporting parenting and paragraph 24(4), which prescribes visiting rules that allow prisoners to “maintain and develop family relationships in as normal a manner as possible”;
- With regard to the goals of the Council of Europe Strategy for the Rights of the Child (2016-2021);
- With regard to Law 26 July 1975, n°354 in the section which regulates a prisoner's relationships with the external world and with his/her family, especially with regard to preserving child-parent relations;
- With regard to DPR (Italian Presidential Decree) 30 June 2000 n°230: “Regulations concerning provisions in the Penitentiary Act and on the measures entailing restrictions on, and deprivation of personal liberty”;
- With regard to Law 8 March 2001, n°40 “Alternative measures to detention protecting the relationship between female prisoners and their children”, Article 5;
- With regard to Law 21 April 2011, n°62, and in particular the agreement according to Article 4 paragraph 1, as

well as Decree 8 March 2013 “Requirements for Protected Foster Homes”;

- With regard to Circular 10 December 2009 of the Ministry of Justice, Prison Administration Department, Directorate-General for Prisoners and Treatment, entitled “Prison treatment and parenting: facilitating the procedure and prison visit for a child visiting his or her imprisoned parent”;
- With regard to Law 12 June 2011, n°112, establishing the “Autorità garante per l’infanzia e l’adolescenza” (Ombudsman for Childhood and Adolescence);
- With regard to the Ministry of Justice Decree of 5 December 2012, entitled “Approval of the Charter of Prisoners’ and Detainees’ Rights and Duties”;
- With regard to the “Charter of Rights and Duties for Minors who are entering Juvenile Justice Services” issued on 23 April 2013 by the Department of Juvenile Justice;
- With regard to Recommendation CM/Rec(2012)12 of the Committee of Ministers of the Council of Europe to Member States on foreign prisoners and in particular the chapter entitled “Women”;
- With regard to the “Charter of Rights and Duties for Minors who are entering Juvenile Justice Services” drafted on 23 April 2013 by the department of Juvenile Justice (General Direction for the implementation of judicial measures);

- With regard to the Memorandum of Understanding signed on 28 January 2014, in the presence of the Minister of the Interior and between the Chief of Police—General Director of Public Security—and the Ombudsman for Childhood and Adolescence;
- With regard to 23 December 2013 Law n°146, which was modified by the 21 February 2014 Law n°10, establishing the Ombudsman for the Rights of Persons Detained or Deprived of Liberty.

CONSIDERING

The Parties agree on the importance and necessity of renewing the Memorandum of Understanding, signed on 21 March 2014, with the aim to reinforce and expand on the results achieved thus far and to pinpoint new areas and methods of action.

There is agreement among the Parties that the work outlined in the MOU should be continued, with the intent of:

- Maintaining and enhancing contact between children and their imprisoned parents, while safeguarding the child’s best interests;
- Highlighting the unique situation of children with imprisoned parents, so that regulatory interventions and measures are promoted to support and strengthen child-parent relationships, while at the same time ensuring that these children are not stigmatised and/or discriminated against;

- Protecting the child's right to an emotional bond with their imprisoned parent, who has a duty and a right to fulfill his/her parental role;
- Supporting family and child-parent relationships during and after imprisonment, assisting the family and, in particular, supporting the children who may face emotional, social and economic instability, with potential negative repercussions on their health and schooling;
- Overcoming barriers linked to prejudice and discrimination with a view to instigating a process of social integration and cultural change, which is necessary in order to build a supportive and inclusive society;
- Considering the articles signed in this Memorandum of Understanding as references for decision-making and in establishing the *modus operandi* as to measures concerning all parents—including those under the age of 18—who are subjected to restrictions on their liberty;
- Ensuring that adequate support is offered to mothers and fathers in prison, in order for them to feel confident in their role as a parent.

THE PARTIES, EACH WITHIN THEIR AREA OF RESPONSIBILITY, AGREE ON THE FOLLOWING:

Article 1

(Decisions concerning judicial orders, judgments and sentences)

The importance of the following provisions will be brought to the attention of judicial authorities, who will be asked to:

1. Take into account the rights and needs of underage children when a possible precautionary measure is being decided upon following the arrest of their parent or primary caretaker. Priority should be given to alternative measures to pre-trial detention in prison;
2. Ensure that restrictions on contact with the outside world imposed on pre-trial detainees do not violate the right of children to remain in contact with their parent, as stipulated in the United Nations Convention on the Rights of the Child;
3. Choose sentencing measures that take into consideration the child's best interests when a parent or primary caregiver of underage children is being sentenced;
4. Consider the significance of children's needs when granting imprisoned parents with temporary permissions and leaves of absence (bonus or necessity). It is important that parents be present at special occasions such as birthdays and the first day of school, as well as if their child is hospitalised, for example.

Article 2 (Children visiting prisons)

The Ministry of Justice, in collaboration with the Ombudsman for Childhood and Adolescence and the association Bambinisenzasbarre ONLUS, commits to taking all necessary steps to ensure that:

1. The choice of prison for a parent with underage children takes into account the need to guarantee quality and regular contact between a child and their imprisoned parent;
2. A child can visit his/her imprisoned parent within a week after their arrest and on a regular basis from then on;
3. All waiting rooms are equipped with a suitable area for children, where children feel welcomed and acknowledged. In these spaces, staff will welcome families, providing them with such items as bottle warmers or changing tables that may be required during the wait, as well as providing young children with resources such as toys or drawing tables;
4. Every visits room—irrespective of size—has a “children's space” reserved for playing. Space permitting, a designated area should be provided as a playroom. These spaces will be established gradually, with priority given to prisons where longer sentences are served;
5. Buildings are accessible to children with disabilities or to those with special mobility needs;
6. Visits are organised six days a week, allowing at least two afternoons so that children do not have to miss school to visit.

Visits should also be scheduled on Sundays and public holidays;

7. Children are given age-appropriate information about visiting procedures and rules, as well as information on what can be taken to visits and on how security check procedures are handled on their arrival at the prison. This information must be provided in various languages and various formats, such as posters and videos that can be easily understood by younger children;
8. Security checks take into account child rights, in particular their right to privacy, to physical and psychological integrity and to safety;
9. When children visit their parents, visits can take place in a private setting if requested, determined on a case-by-case basis;
10. Children are given information about their parent's life in prison and—where the facilities allow it and it is in the child's best interests—have the opportunity to visit some of the areas their parent spends time in, such as the canteen, recreation rooms, workshops or places of worship;
11. Alternative arrangements are provided to accompany children under 12 years old, if their parent or guardian is not available. This accompaniment can be carried out by qualified social workers. Members of non-governmental organisations (NGOs) or associations active in this field can also be given permission to accompany the children;
12. Where possible, child discussion groups should be regularly organised, with special

attention placed on younger children, in order to assess how children experience prison visits; to discuss how to promote contact using alternative means to physical visits; and to allow the children to provide advice about eventual improvements to facilities and procedures.

Article 3 (Other types of contact with the imprisoned parent)

The Parties also agree to:

1. Avoid considering additional contacts with underage children as "rewards" granted on the basis of the prisoner's behaviour;
2. Develop specific guidelines for situations in which it is complicated for underage children to visit their parent in prison. In these cases, regulations should be in place which systematically allow the use of mobile telephone systems and the Internet, including webcam and chat communications.

Article 4 (Staff training)

1. Prison administration staff, as well as Juvenile Justice and Rehabilitation Youth Centre staff who are present in prisons, should receive specific training on the impact that a parent or relative's imprisonment and the prison environment can have on children.
2. In particular, prison staff must be specifically trained about appropriate

security procedures for children and adolescents, so that specially trained prison officers are present in every prison and juvenile detention centre, and are thus available to support children and families during prison visits.

Article 5 (Information, assistance and support)

Each of the Parties undersigned, within its scope and through its own procedures, will strive to:

1. Give prisoners, their relatives and their children, appropriate, up-to-date and relevant information at every phase of the process, from arrest to release. The information provided should outline procedures and possibilities for maintaining contact, as well as the support that is available to families before, during and after the relative's imprisonment, identifying the NGOs and other qualified associations that are available to provide this support;
2. Offer assistance to imprisoned parents, who may be worried about the impact prison visits may have on their children and/or themselves, so as to encourage regular contact with their children using the available means of communication, especially during the period of time between the arrest and the first possible physical visit;
3. Offer programmes that support parenting, helping to foster a positive child-parent relationship;

4. Encourage imprisoned parents to assume and/or maintain their parental role and responsibility for their child and explore the possibility of providing leave permits—to go home and spend time with family—as an integral part of preparation for release;

5. Support services for parents in prison and in juvenile detention centres that inform them of the social support and educational services provided for families by local authorities and help them fill out official documents pertaining to their family and social situations;

6. Make full use of and cooperate with NGOs and associations to ensure positive child-parent relationships are maintained in all prisons and that priority is given to the NGO whose work most closely aligns with the needs of the prison in question.

Article 6 (Data collection)

1. The Department of Prison Administration and the Department for Juvenile Justice and Rehabilitation Youth Centres will systematically collect any relevant information about the number and age of children whose parents are imprisoned—on remand or in prison—as well as information on the number of family visits that take place on a yearly basis.

2. Statistics on the number of underage children who have one or both parents in prison should be compiled according to age, and must be made available to the public.

Article 7 (Temporary provisions for children living with their imprisoned parents)

Ultimately, children should not reside in correctional centres. Until the goal of having no children living in prison is attained, however, the Parties will imperatively and scrupulously verify that:

1. All children living in prison with their parents can freely access open air spaces;
2. Procedures and agreements with NGOs and associations are carried out so that children are able to spend time outside the prison grounds (if necessary, under the supervision of qualified staff wearing civilian clothes);
3. Children attend nursery schools and schools outside the prison, ensuring that they are always accompanied;
4. The staff working in prisons where children are living includes qualified personnel, trained in the psychological and physical development of children, as well as in their education;
5. Educational and support facilities are offered, preferably outside the prison;
6. Imprisoned parents living with their children in prison are supported in the development of their parenting skills; and have the opportunity to care for and look after their children, by cooking meals for them, getting them ready for nursery school and school, spending time playing with them and participating in other activities both inside the prison and in the open air areas;

7. Psychological and social support measures are provided in order to support the imprisoned parent and child at the point where the child can no longer live in the prison and to ensure that these measures aim to reduce any potential negative impact of the separation.

Article 8

(Creation of a permanent working group)

A permanent working group will be established, composed of representatives from the Ministry of Justice, the Ombudsman for Childhood and Adolescence, the Ombudsman for the Rights of Persons Detained or Deprived of Liberty and the Association Bambinisenzasbarre ONLUS, which is convened every three months by the Ombudsman for Childhood and Adolescence, and which:

1. Will periodically monitor the implementation of this Memorandum of Understanding;
2. Will promote the cooperation of the institutional and non-institutional agencies involved in various ways, with particular

attention given to the arrest phase, as well as to informing and raising awareness among school staff who are in contact with children with imprisoned parents;

3. Will encourage the exchange of good practice, of evaluations and of ideas on the national and European level.

Article 9 (Validity)

This Memorandum of Understanding has a validity of two years from the date of signing; can be modified and updated at any time if the Parties agree; and can be renewed upon expiration.

Rome, 6 September 2016

THE MINISTER OF JUSTICE (ANDREA ORLANDO)

THE PRESIDENT OF THE ASSOCIATION BAMBINISENZASBARRE ONLUS (LIA ROSA SACERDOTE)

THE NATIONAL OMBUDSMAN FOR CHILDHOOD AND ADOLESCENCE (FILOMENA ALBANO)

Memorandum of Understanding
Implementation Guide

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