ProRPC

Strengthening Procedural Rights in Police Custody

STRATEGICALLY STRENGTHENING PROCEDURAL RIGHTS: CHALLENGES, OPPORTUNITIES, LESSONS LEARNED

FINAL REPORT

LUDWIG BOLTZMANN INSTITUTE
Fundamental and Human Rights

Co-funded by the European Union

This final report has been produced with the financial support of the European Union. The contents of this publication are the sole responsibility of the authors and can in no way be taken to reflect the views of the European Union.

Project description

The final report was developed in the framework of the EU Project ´From law to practice: Strengthening procedural rights in police custody (ProRPC)' implemented by the Ludwig Boltzmann Institute of Fundamental and Human Rights (LBI GMR, Austria), in cooperation with APADOR-CH (Romania), Fair Trials Europe (Belgium), the Irish Council for Civil Liberties (Ireland), and Rights International Spain (Spain). The ProRPC project started in December 2020 and was finalised in March 2023.

Authors

The final report was written by Moritz Birk, Consultant to the Ludwig Boltzmann Institute of Fundamental and Human Rights, and Giuliana Monina, Head of Programme Line of the Ludwig Boltzmann Institute of Fundamental and Human Rights, with the support of the project partners APADOR-CH (Romania), Fair Trials Europe (Belgium), the Irish Council for Civil Liberties (Ireland), and Rights International Spain (Spain).

Acknowledgments

The project team would like to thank all criminal justice actors, experts, policymakers, practitioners, decision-makers, as well as all the representatives of civil society who participated in the roundtables and consultations of this project for their commitment and engagement.

Our most sincere gratitude goes to the members of the External Advisory Board: Marine Braun (Child Rights Expert), Ed Lloyd-Cape (Emeritus Prof of Criminal Law and Practice at the University of the West of England, Bristol), Ivar Fahsing (Detective Chief Superintendent and Associate Professor at the Norwegian Police University College), and Gwen Jansen - de Wolf (Criminal Defence Lawyer, Founder of Gwen Jansen Advocatuur), for their invaluable advice and expert inputs to the report. We would also like to thank Walter Suntinger (Human Rights Consultant, University Lecturer), Helmut Sax (Senior Researcher/Child Rights Expert at Ludwig Boltzmann Institute of Fundamental and Human Rights), and Gautam Gulati (Prof MD, Forensic Psychiatrist, Adjunct Professor in Law and Medicine at the University of Limerick, Ireland) who have provided precious suggestions for this report.

A big thank you also to Chrissy Ebeling, who supported the research, and Maria Natalia Bueno Torres for the design and graphics.

Vienna, March 2023

Table of content

1. Introduction

Background

Since 2009 the European Union (EU) has adopted a series of secondary law instruments covering numerous procedural rights (the 'Directives').[1] The Directives, setting up common minimum standards, were adopted to address the fundamental rights concerns arising from the increasing use of mutual recognition and cross-border cooperation instruments. Procedural rights are recognised not only as safeguards for a fair trial but also as the most effective means against torture or other forms of ill-treatment, especially in the first hours of arrest.[2]

Although the status of transposition of the Directives varies throughout the EU Member States, most have been transposed into national law. However, findings coming from research, consultations with criminal justice practitioners as well as the European Commission's implementation reports have demonstrated that even if legislative and other measures are adopted to give effect to the Directives, this does not automatically mean that they are adequately implemented in practice.[3]

Multiple research studies and projects were conducted to assess the level of implementation of the Directives.[4] The analyses conducted across Europe have documented key challenges and put forward recommendations. For example, one of the major projects 'Inside Police Custody 2' examined the situation in 9 EU Member States. It resulted in detailed national and comparative reports with targeted recommendations revealing major challenges in the practical implementation of the Directives in police custody, including in the field of legal aid, access to a lawyer, right to information, and audio visual recording.[5]

1. Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings (2016) OJL 297, 04.11.2016, 1 (Directive on legal aid); Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (2016) OJL 65, 11.03.2016, 1 (Directive on the presumption of innocence); Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings (2016) OJ L 132, 21.05.2016, 1 (Directive on procedural safeguards for children); Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings (2010) OJL 280, 26.10.2010, 1 (Directive on the right to interpretation and translation); Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings (2012) OJL 142, 01.06.2012, 1 (Directive on the right to information); Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty (2013) OJL 294, 06.11.2013, 1 (Directive on access to a lawyer).
2. Richard Carver and Lisa Handley (eds), Does Torture Prevention Work? (Liverpool University Press 2016); Julia Kozma and Asbjørn Rachlew, Combatting Torture During Police Custody and Pre-Trial Detention (DIGNITY – Danish Institute against Torture 2018); CPT, 'Access to a Lawyer as a Means of Preventing Ill-Treatment: Extract from the 21st General Report of the CPT' (2011) CPT/Inf(2011)28-part1, 1; CPT, '28th General Report of the CPT: 1 January - 31 December 2018' (April 2019) CPT(Inf(2019), 30.
3. For relevant research see Ed Lloyd-Cape, 'Inside Police Custody 2: Comparative Report' (2018); for the implementation reports see European Commission, 'Rights of Suspects and Accused: Documents', <https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/criminal-justice/rights-suspects-and-accused_en> accessed 02 March 2023.
4. Lloyd-Cape, 'Inside Police Custody 2' (2018) 11; see also FRA, 'Rights in Practice: Access to a Lawyer and Procedural Rights in Criminal and EAW Proceedings' (2019); FRA, 'Child-Friendly Justice – Perspectives and Experiences of Children Involved in Judicial Proceedings as Victims, Witnesses or Parties in Nine EU Member States' (2017).
5. Lloyd-Cape, 'Inside Police Custody 2' (2018); see also country reports of the Ludwig Boltzmann Institute of Human Rights, Austria <https://www.bghelsinki.org/media/uploads/special/2018-Inside-Police-Custody-2-Bulgaria-EN.pdf>; the Bulgarian Helsinki Committee, Bulgaria; the Hungarian Helsinki Committee, Hungary <https://helsinki.hu/wp-content/uploads/IPC_Country_Report_Hungary_Eng_fin.pdf>; Associazione Antigone, Italy <https://www.antigone.it/upload2/uploads/docs/IPC_ITA.pdf>; the Human Rights Monitoring Institute, Lithuania <http://hrmi.lt/wp-content/uploads/2019/03/National_report_Lithuania_2018.pdf>; the Helsinki Foundation for Human Rights, Poland < https://hfhr.pl/en/publications-7798/inside-police-custody-prawa-procesowe-na-posterunkach-policji>; the Association for the Defence of Human Rights in Romania – the Helsinki Committee, Romania <http://www.apador.org/wp-content/uploads/2017/03/IPC-eng.pdf>; the Peace Institute, Slovenia <https://www.mirovni-institut.si/wp-content/uploads/2017/03/Inside-Police-Custody-2-Slovenian-report.pdf>; and Rights International, Spain <https://rightsinternationalspain.org/wp-content/uploads/2022/03/Bajo-Custodia-policial-2.pdf>.

Although the challenges are well-known and reform needs have been identified, implementation is lagging behind and many countries continue to face the same issues. Thus, there remains an urgent need to tackle this implementation gap.

Objective

Based on the above considerations, this project has been developed and implemented with two key questions in mind: WHAT can be done to support the practical implementation of reforms? HOW can this best be done, for example, which methods and tools make work on strengthening procedural rights more effective?

In a nutshell, the project recognises that while change has to be evidence-based and offer practical solutions, law and research evidence alone do not create change. Recognising that you cannot force change upon a system, but change has to happen from within, it requires multiple actors to play a role, including those within the criminal system as well as civil society.

In order to contribute to this debate, the project focused on three main avenues:

1. Elaboration of and exchange on promising practices
2. Engaging key criminal justice stakeholders in broad discussions about effective strategies and reform efforts
3. Involving and fostering exchange between civil society organisations

All contributed to the overall project goal to strengthen the implementation of procedural rights in police custody.

The collection of promising practices was the back-bone of the project and aimed to: provide the necessary degree of technical specificity to inspire and guide stakeholders from other countries; reflect upon how reform efforts and promising practices came about; identify lessons learnt.

In this light, we believe that the project is innovative in two ways: first, it takes a constructive approach focusing on "promising practices" rather than on a detailed analysis of the challenges; second, it tackles not only the substance of promising practices ('what') but also reform processes, engaging itself with the question how to best initiate and achieve change. In fact, while a wide literature exists on challenges and general recommendations for change, very few attempts have been made to study how human rights reform happens. Yet, considering the ever growing implementation gap between international standards and national practice, this project saw the importance of starting this conversation.

Methodology

The project was based on a systemic approach with a view to creating sustainable change in the area of the rights of suspected and accused persons (see below, § 2.1.1). Its methodology built on tools and instruments from strategic development and consulting (such as the ''Change Formula" see more below, § 2.1.2), change management and 'Theory of Change' approaches (see below, § 2.1.3).[6] These

6. The application of the principles of the systemic approach in enhancing the implementation of human rights were already discussed in previous projects of the Ludwig Boltzmann Institute of Fundamental and Human Rights, namely the EU Project 'Strengthening the effective implementation and follow-up of recommendations by torture monitoring bodies in the European Union' (2014-2015) <https://gmr.lbg.ac.at/completed-projects-since-2004/eu-strengthening-the-effective-implementation-and-follow-up-of-recommendations-by-torture-monitoring-bodies-in-the-european-union/?lang=en>; and the EU Project 'Improving Judicial Cooperation Across the EU Through Harmonised Detention Standards – The Role of National Preventive Mechanisms' (2019-2021) <https://gmr.lbg.ac.at/completed-projects-since-2004/improving-judicial-cooperation-across-the-eu-through-harmonised-detention-standards-the-role-of-national-preventive-mechanisms/?lang=en >, which, inter alia, resulted in the publication of Walter Suntinger and Moritz Birk, 'Systemic Thinking in Preventive Human Rights Monitoring: A Dossier for National Preventive Mechanisms' (Ludwig Boltzmann Institute of Fundamental and Human Rights 2021) <https://gmr.lbg.ac.at/wp-content/uploads/sites/12/2021/05/dossier_-_systemic_thinking_-_lbi_gmr.pdf>.

methodologies were used to influence the system in which rights of suspected and accused persons are exercised by generating positive narratives, opening up the space for opportunities for change, and looking for leverage points.

Based on this approach, the 28 months project started with a research phase aimed at collating existing knowledge and information on practical barriers to implementation and promising practices on selected thematic areas: right to information, access to a lawyer, legal aid, and audio-visual recordings, as well as the procedural rights of children as a cross-cutting issue. The research focused on four EU Member States: Austria, Ireland, Romania, and Spain. Additional practices and examples from other EU Member States were gathered via regional consultations as well as the regional research conducted by Fair Trials Europe.

As a second step, four national roundtables were conducted in Austria, Ireland, Romania, and Spain, bringing together selected stakeholders in the area of procedural rights. Among these key stakeholders were representatives from the ministry of justice and interior, lawyers, police officers, prosecutors, civil society actors, and academics.

Further, four regional consultations were held in the respective partner countries. Each corresponded to the following topics:

- Right to information, which took place in Vienna on 5-6 April 2022 and was organised by the Ludwig Boltzmann Institute of Fundamental and Human Rights;
- Access to a lawyer, which took place in Bucharest on 17-18 May 2022 and was organised by APADOR-CH (Romania);
- Access to legal aid, which took place in Madrid on 21-22 June 2022, and was organised by Rights International Spain (Spain);
- Audio visual recording, which took place in Dublin on 18-19 July 2022 and was organised by Irish Council for Civil Liberties (Ireland).

These regional consultations gathered national practitioners and decision-makers from the targeted countries and international experts. They served to facilitate peer exchange between national authorities and practitioners, and among practitioners themselves to enhance understanding of promising practices and willingness to change.

Finally, an EU workshop with civil society organisations (CSOs) was held in Brussels on 18 October 2022 (hereafter EU workshop). The EU workshop, organised by Fair Trials Europe, gathered CSO representatives from across the EU which are actively involved in defending fundamental rights, to discuss the project findings and the role of CSOs in the process of implementing practical change.

The project concluded with the publication of four thematic factsheets and this final report.

The project findings strive to reflect multi- and interdisciplinary perspectives. All project consultations in fact gathered external stakeholders from various fields, such as law, law enforcement, medicine, psychology, linguistics, etc. This project was designed as a follow-up to the comprehensive research of 'Inside Police Custody 2', which already identified challenges and reform needs by conducting observational research in police stations and interviews with lawyers, police officers as well as with suspected and accused persons or former detainees.[7] Building on these results, our project aimed to understand in more detail possible solutions and why change does or does not occur. Hence, the project team decided to primarily target stakeholders who may have the power or the influence to implement change. This approach was also chosen considering the 2-year duration of the project.

7. Lloyd-Cape, 'Inside Police Custody 2' (2018) and all project countries report as quoted in footnote 5 above.

Nonetheless, in the course of the project, it became clear that in the future it would be important to complement our findings with additional research initiatives informed by participatory methods and aiming at finding out more about the perspectives and needs of suspected and accused persons.

Final report

Together with the factsheets, the final report 'How to strategically strengthen procedural rights – challenges, opportunities, lessons learned' takes into account the results from all of the above stated activities, especially lessons learned from the regional consultations, national roundtables, and EU workshop with CSOs.

The final report is mainly intended for CSO representatives but also for any other 'change agents'[8] working towards strengthening procedural rights. It aims to increase their knowledge and their awareness in developing a strategic change process and tools. Its goal is not to provide an academic analysis of change processes and tools or concrete practical guidance to CSOs. Rather, the report is a collection of learnings and reflections identified in this particular project that can be useful for those who may engage in strategic change processes. It also provides further references for the reader to increase knowledge and capacities on systemic change and change process.

Our motivation to write this report comes from the fact that CSOs across the EU have played an important role in strengthening procedural rights. They have researched widely on their implementation, identified promising practices, developed recommendations, and advocated for change. They have facilitated and assisted reforms by supporting national decision-makers and practitioners. This project aimed at better understanding the role of CSOs and increasing their effectiveness in change processes. The project events provided an excellent opportunity to advance the cooperation between CSOs, criminal justice practitioners, and decision-makers to increase understanding of the institutional constraints and factors that can support or hamper change. The project did not expect to get everything right but to learn from the challenges (and failures) for future efforts. This report is attempting to draw some lessons learned to benefit other EU Member States outside the scope of the project as well as policy makers and CSOs to strengthen procedural rights.

(Self-) Reflection and continuous learning are key principles of the systemic approach and should be embedded in every change process.[9] This requires the continuous engagement of stakeholders. A Theory of Change process can be a very useful basis for, if it is used properly, reflecting, adapting, and evaluating our assumptions. The development of effective indicators and a monitoring and implementation framework should be an integral part of the Theory of Change process.[10]

However, most importantly we all need to learn to take a hard look at ourselves and take responsibility for our (in-)action. A systemic approach focuses on systemic rather than individual failures but acknowledges that we all contribute to the status quo. Therefore, we need to ask ourselves: What is our contribution to the problem? What could be our contribution to the solution? We need to carefully reflect upon whether what we do is really effective and what could produce harmful (even if unintended) effects. Building hypotheses and making our assumptions explicit helps in that regard. And ultimately, we have to be flexible, adaptive, and ready to change old patterns.

8. A term that is now widely used for those wanting to achieve a certain change. See Duncan Green, How Change Happens (Oxford University Press 2016) 2; Amnesty International, 'Transform Yourself Into an Agent of Change for Human Rights' (11.11.2015).
9. David Peter Stroh, Systems Thinking for Social Change: A Practical Guide to Solving Complex Problems, Avoiding Unintended Consequences, and Achieving Lasting Results (Chelsea Green Publishing 2004) 77-79.
10. Ibid.

The report is divided into two main chapters: factors and tools of change. The first chapter illustrates the general factors for effective change processes and how these may translate to the area of procedural rights; the second chapter focuses on the tools to influence change, their dis/advantages, strategic use, challenges, and relationship with each other.

2. Factors of change

This chapter explores principles and questions - based on a systemic approach - attempting to provide a useful perspective on how to influence change and how this can be used to strengthen procedural rights. It draws conclusions from the desk research conducted in the framework of the project, the internal exchange among the partner organisations and the consultations with experts from various backgrounds during four national roundtables, four regional consultations as well as one EU workshop with CSOs in Brussels.

2.1 Taking a strategic approach on HOW change happens

The project aimed at generating tangible change in the area of procedural rights based on promising practice examples in selected EU Member States, namely Austria, Ireland, Romania, and Spain. From previous experience it was seen as necessary to provide detailed information on WHAT these practices really look like, the technical details and effects on different target groups, but also HOW they were successfully implemented.

The key challenge in the promotion and protection of human rights in the criminal justice system is the so-called '**implementation gap**'. In 1992, the first UN Special Rapporteur on Torture stated: "The world can no longer avoid the conclusion that while successes have been registered at the international level, only failures can be recorded at the national level. The most vital question before us, therefore, is: how do we bridge this seemingly unbridgeable gap between international success and national failures."[11] Unfortunately, his words continue to be true today. The development of strong human rights treaties, soft law standards, the immeasurable amount of recommendations from international courts or treaty bodies, but also newly developed EU legislation have not led to the desired changes in practice.

Since 2009 the EU has adopted several Directives with the aim of strengthening procedural rights but in practice the situation is still inadequate, and suspected and accused persons remain insufficiently protected. The PRORPC project recognises that procedural rights are a key factor[12] - among many others - in protecting the rights of suspected and accused persons and attempts to strengthen their implementation in practice. Significant resources have been invested in projects finding out what the practical problems are and developing clear policies and recommendations. However, in practice these recommendations have not been adequately followed-up. For example, the practice from Ireland shows that mandatory audio and video-recording (AVR) of police interviews can become a reality and that this can be highly beneficial for all stakeholders. Yet, most countries in the EU fail to follow this example.

11. ECOSOC 'Report of the Special Rapporteur. Mr. P. Kooijmans, pursuant to Commission on Human Rights Resolution 1991/38' 1991 E/CN.4/1992/17 § 288.
12. The effectiveness of procedural rights, e.g. in preventing torture, has been scientifically proven in the research study led by Carver and Handley (eds), Does Torture Prevention Work? (Liverpool University Press 2016).

For these reasons, we believe it is **necessary to sharpen the focus on HOW change happens**. Continuing with the example of mandatory AVR, the interesting questions are not only what this practice concretely looks like but also: How did this change occur in Ireland? What were the key factors that made such an important reform possible? Who were the actors involved in the process? Why is it so difficult to transfer this practice to other countries? What are key factors preventing such an important reform? We argue that just by asking these questions we shift our perspective from a mere description of what needs to be changed to the process that makes such change possible (how).

Thereby the hope is to extract useful learnings from the experience of the project countries and improve our work as 'change agents'. This is why the four regional consultations and the EU workshop with CSOs provided a dedicated space for stakeholders to tell their success stories of how change came about in their jurisdiction. Additionally, the Factsheets developed in the framework of this project not only detail what the identified promising practices look like but also explain what made them possible, what obstacles had to be overcome, what implementation challenges still remain, and above all what lessons learned can be drawn from these experiences.

While conversations on how change happens are common they too often occur on the 'sidelines'. The goal of this project was to make such conversations explicit, to better understand what works and what does not work and draw valuable lessons on being more effective.

Exposed to these questions and methodologies, the experts who participated in the project consultations reacted in different ways. On the one hand, we observed a great interest among participants on change processes. This perspective appeared newer to some than others. On the other hand, some participants found it difficult to shift perspective and reflect on why things occur the way they do. In view of this, some overall learnings can be drawn on how to shift to a change perspective.

Firstly, it is useful to **make this shift in focus explicit**, e.g. by investing time at the beginning of each project activity such as the roundtables and consultations to explicitly discuss the purpose and methodology to focus on how change happens. One way to introduce this may be by providing easy and accessible background information on this perspective, e.g. by explaining the systemic approach, the change formula, or the idea of a Theory of Change (on the tools of change see below chapter 3). This would, however, need to be carefully prepared in advance to be presented in a humble and credible way. It has to be clarified that these are not theories but that they have very practical implications (as Kurt Lewin stated "There is nothing so practical as a good theory").[13] Introductions to new methods need to be kept as simple as possible and it needs to be clarified how they can make the work more effective and impactful. The methods can provide frameworks for reflection, discussion and planning while the practitioners working on the ground remain the experts on how change happens. Newly introduced theories or approaches should not be presented as the 'ultimate truth' but simply as additional perspectives that help to better understand change and make impactful interventions.

Secondly, discussions on change require sufficient time and an adequate setting. They require an adequate introduction to the relevant questions, presenting concrete examples and specific experiences. Discussions are best placed in working group settings to allow each participant to share their perspective. The moderation can be decisive for their effectiveness and should patiently ensure that the discussion stays focused on the how and does not deviate to what does not work or technicalities of promising practices.

13. Kurt Lewin, 'Field Theory in Social Science: Selected Theoretical Papers by Kurt Lewin' (Harpers & Brothers Publishers, 1952) 169.

Thirdly, a 'change perspective' requires **interdisciplinarity**. Most participants in our project events were legal professionals with no specific sociological, psychological, or other relevant key knowledge. Although legal reforms are immensely important and often a necessary basis for change, change is a highly complex phenomenon, especially in the field of criminal justice, requiring an interdisciplinary and holistic perspective. In fact, adopting a mere legal perspective to identify problems or solutions can often be limiting as it comes with a temptation to view change as linear: how often have you experienced frustration over the fact that a sound legal reform did not show any meaningful result in practice? Thus, it is important to involve a broader pool of background and professionals, in addition to legal professionals (see below, §2.4).

Finally, we became aware of the **necessity to better understand the context in which procedural rights exist**, the reality of policing and its impact and the actual needs of all suspected and accused persons. To grasp this reality, interactions across movements, beyond actors and organisations working on criminal justice and procedural rights, might be needed and would be an interesting aspect to include in the design and implementation of future projects. Further, we need to better reflect upon, analyse and understand how individual rights fit into a broader system, structure and practices of policing. Strengthening individual procedural rights are "only part of the picture" to improve the rights of suspects and accused.

Overall, while shifting the perspective on how change happens was not without challenges, the feedback we received from the participants shows that the regional consultations were perceived as inspiring and motivating. The present report hopes to take these first reflections further by exploring useful models and methods to develop and exchange on effective strategies. In the following section, we present three approaches/methods that greatly influenced this project namely the 'Systemic Approach', the 'Change Formula' and 'Theory of Change'.

2.1.1 A systemic approach to human rights practice

The project was based on a systemic approach/ systems thinking. In his work 'Systems Thinking for Social Change' David P. Stroh argues that systems thinking enables practitioners to "achieve better results with fewer resources in more lasting ways."[14] Duncan Green in his famous book 'How Change Happens' formulates this more simply: "Systems thinking changes everything."[15] It particularly does so by:

- Reflecting on one's own assumptions, intentions, and action, including one's own contribution to possible problems and negative consequences of well-intentioned solutions;
- Helping to look for areas of greatest impact and for high-leverage interventions;
- Identifying and mobilising diverse stakeholders to get change going;
- Motivating and supporting continuous learning.[16]

While it is difficult to define a systemic approach, for the purpose of this report we limit ourselves to referring to "10 Guiding Principles of a Systemic Approach" for increasing the effectiveness of human rights practice, already developed in the framework of a previous EU funded project of the Ludwig Boltzmann Institute of Fundamental and Human Rights.[17]

14. Stroh, Systems Thinking for Social Change (2004) 1.
15. Green, How Change Happens (2016) 9.
16. See more in Moritz Birk and Walter Suntinger,'A Systemic Approach to Human Rights Practice' in Patricia Hladschik and Fiona Steinert (eds), Menschenrechten Gestalt und Wirksamkeit verleihen: Making Human Rights Work Festschrift für Manfred Nowak und Hannes Tretter (NWV 2019).
17. The 10 Guiding Principles found in the box are taken from the publication Suntinger and Birk, 'Systemic Thinking in Preventive Human Rights Monitoring' (2021), where they have been applied to Preventive Monitoring work of National Preventive Mechanisms; for a more detailed description see also Birk and Suntinger, 'A Systemic Approach to Human Rights Practice' (2019).

10 Guiding Principles of a Systemic approach

- Begin with the end in mind
- Look at the whole picture instead of focusing only on parts and elements
- Look at the "bottom of the iceber" and understand underlying cultural patterns
- See relations and connections instead of singular events/actors
- Seek actively and integrate different viewpoints and multiple perspectives
- Look at failures in the system, not in persons
- Look at resources and strengths, not only deficits
- Look for entry points and connections, while recognizing the limits of intervention
- Include ongoing reflection and self-reflection

Figure 1: The 10 Guiding Principles of a Systemic Approach

Departing from these principles, the systemic approach is to be understood as a useful additional perspective to our common ways to view, think and act in this world. It is meant to motivate us to:

- **Act in a consistently goal-oriented way** – to 'begin with the end in mind': What do we want to concretely achieve? What does success look like? What is different after the successful intervention and how do we and others recognise this change?
- **View things holistically** - 'looking at the whole picture'. This includes the 'bottom of the iceberg'- namely the hidden factors such as culture/ mindsets/ attitudes – but also relations and connections between events and actors. This can be achieved by integrating different perspectives in our change process.
- **Focus on the system** - rather than looking at and blaming the individuals operating in it, the focus moves to the system, meaning the structural and root causes behind a problem and the resources available for change.
- **View change as circular and highly complex** – this is why flexibility, constant evaluation, seeking feedback, and learning by doing are important systemic principles. Such a view moreover helps us to stay humble and not to despair when change does not occur as we have planned. Rather we learn to stay alert for "windows of opportunity" for change.[18]

These principles influenced the design and evaluation of the project activities, e.g. through the identification of relevant participants, the agenda, and questions for the discussions during the events as will be further shown below.

A systemic approach is particularly advantageous in the field of procedural rights. It helps complement the normative perspective, common among human rights practitioners and legal professionals, towards a holistic view, considering factors, such as attitudes in society towards suspects and accused, the culture in the police, prosecution, or judiciary. It shifts the focus from the problems and deficits to discovering the existing resources of a system and the opportunities for change.

18. See also the "Principles for how to bring about change" in Green, How Change Happens (2016) 22.

This project concretely applied the systemic approach by using the change formula for the activities, looking at problems and solutions holistically, integrating multiple different perspectives (of experts from different backgrounds) and motivating self-reflection and creativity. This yielded very interesting results but also showed some challenges that will be further discussed below.

2.1.2 Applying a 'Formula for Change'

There are numerous 'systemic' tools to support change processes. The so-called 'Change Formula'[19] is a simple model that is closely related to the systemic principles above. It identifies the different elements required to mobilise 'energy for change' and can be used to support the development of entire change processes to individual interventions.

According to the Change Formula the 'energy' for change is created by the necessary combination of a 'driver', 'vision', resources', and 'first steps'.[20]

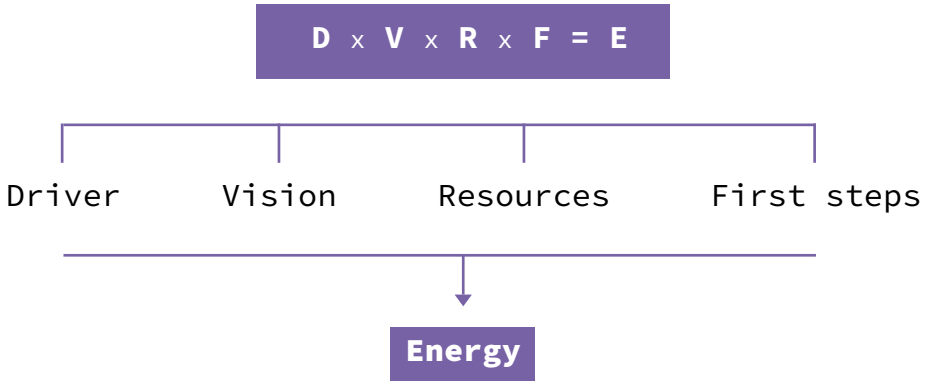

Figure 2: The Change – Formula

The Change Formula was used to design the national roundtables and also served as guidance for the regional consultations. The problem of procedural rights was discussed in great detail in all events but the focus was primarily on the deficiencies in the system that prevent change rather than what 'drives' change. This is despite the efforts of the participants to the project to emphasise that more needs to be done to show the value of procedural rights for the criminal justice system and the society at large. Therefore, it is advisable to foster more explicitly a discussion on the driver of change. The important questions asked here are:

- What is the 'reason' for change?
- Why now?
- Is there a sense of urgency because the problem is of a pressing nature or because a window of opportunity has opened up?
- Who is unhappy with the status quo and why?
- What factors drive and promote change?

The project revealed that we still know too little about and do not emphasise enough the negative impact of poor implementation of procedural rights at the police, prosecutorial or judicial level and how it negatively impacts their own work – e.g. lacking cooperation by suspects/ accused, unprofessional

19. Oliver Schrader and Lothar Wenzl, Die Spielregeln der Führung: Erfahrungen und Erkenntnisse aus Unternehmen (Schäffer-Poeschl 2015) 153.
20. There are different versions of the change formula. We are using the formula as applied by the systemic consulting firm Trainconsuting in Vienna. See Trainconsulting, 'Change: Stay Different' <https://www.trainconsulting.eu/en/consulting-sparring/change/> accessed 03 March 2023; Birk and Suntinger, 'A Systemic Approach to Human Rights Practice' (2019) 32.

interviews, results inadmissible in court – as well as the concrete benefits that the same stakeholders would gain from better implementation. This could greatly influence their willingness to cooperate and promote the necessary reforms. The question emerged during the project events whether it can be expected from the police to be interested in strengthening procedural rights, such as the right to information, when the primary interest is to 'close' a case as quickly as possible. During the project meetings, 'police culture' has been described as a very important factor preventing or driving change. The accounts of the police representatives from Belgium and Ireland at the regional consultations were particularly valuable as they showed what the driver to change can concretely look like. Hearing about the benefits of change from peers makes it of course much more acceptable for authorities (see below, § 2.5).

EXAMPLE

In **Belgium**, where a duty lawyer scheme is in place, an online platform is used to connect lawyers and suspected persons before the first interview by the police. The initiative originally stemmed from Bar Associations who closely collaborated with a developer to put the first version of the scheme in place, and then other actors from the criminal justice system, including the police, were associated to the process.[21] Police authorities were invited to give feedback on the tool, on how to better adapt it to their daily practice. They are part of a working group dedicated to the application and take part in discussions on its successive updates. Contributing to the development of the application and thereby, to the better implementation of procedural rights in police custody, police authorities can also become actors of change, which in turn fosters their understanding of the benefits of such a tool and their willingness to use it. Collaboration and trust bring positive change and can overcome obstacles, including those of a cultural nature.[22]

As explained by a police officer involved in this process: "Police officers prefer suspects to be assisted by a lawyer. It is generally simpler and more constructive. It's all the more simple because in Belgium we have a platform where we can contact lawyers very easily. The exercise (or waivers for adults only) of the right to a lawyer will be recorded on the platform. So the police explain to suspects that it is better to exercise the right to be assisted by a lawyer. They also reassure suspects about the financial aspects of legal aid. In this way, it can be said that they are trying to convince suspects to seek legal assistance. In some situations with more vulnerable persons, the police sometimes contact judicial authorities to get the agreement to consider these persons/suspects who waive as vulnerable persons because these persons do not seem to understand the consequences of waiving their rights."[23]

Developing a vision of the effective implementation of procedural rights is best done by explicitly asking questions about a concrete image of change:

- What is the change we want to see?
- How does the ideal state concretely look like?
- How do you recognise this ideal state? How do others recognise it?
- What would be different than today?
- Who would be significantly affected by the change and how?

21. Bureau de Bruxelles La Lettre, 'Historique de la création de la permanence Salduz' <http://www.barreaudebruxelles-lalettre.be/document/PV/2016-03-15annexe.pdf> accessed 02 March 2023.
22. Carl Piron Ariane Deladrière Emilie Deveux, 'Loi Salduz+ : Évaluation qualitative 2017-2018: Evaluation réalisée par le Service de la Politique criminelle' (Service Public Fédéral Justice) 40.
23. Project CSO workshop, Brussels 18 October 2022.

The development of a vision was done both in the national and regional events and generated much interest and energy among the participants. It was recognised as an important factor for an effective change process (see below, § 2.3). However, the regional consultations and national consultations also showed that focusing too much on obstacles can make it difficult to cultivate a positive image of change, which is important both for actors within the criminal justice system to engage and for decision-makers to support reforms.

The element of **resources** recognises the fact that understanding the drivers and having a common vision does not yet create change but someone has to do something. It thus asks questions as:

- What are the available resources, strengths, etc. that can be used for achieving this vision?
- What resources, strengths have been used for change in the past?
- Which stakeholders could support the change and how?

This point is particularly important as - also witnessed during the project events - the lack of resources is commonly mentioned as a key factor preventing important reforms.

And finally, in order not to fail at big plans every change process needs to clarify the first steps. Questions asked include:

- What are good first steps to take in order to create early success and thus a sense of "feasibility"?
- Who should be involved?
- What are the steps and milestones on the way?

It needs to be clarified who will carry the ideas forward. Therefore, the project's national roundtables developed action plans to strengthen procedural rights. A specific focus on resources not only helped to sketch a feasible way forward but was also a useful way to make representatives in the room feel engaged, responsible, and motivated going forward. However, these action plans were used differently in every project country and remained mostly a first sketch of a strategy. It would be advisable to follow-up on these plans and consider developing them into a more elaborate strategy.

In conclusion, the Change Formula has helped to design effective regional consultations and national roundtables. At the same time, in some countries it was used with much caution for fear of scaring off stakeholders with overly ambitious goals. Moreover, it showed that it can be challenging to structure the inputs and discussions along these factors of change and not fall back into old patterns of 'just' discussing deficits. The lesson learned was that using this formula requires practice and confidence and has to be adapted to the context and target group. In a workshop setting a professional moderation familiar with the formula can be helpful and the organisers have to be ready to be challenged for their approach. When used more often, it promises to familiarise change agents to getting a fuller picture on what is needed to create change.

2.1.3 Developing a 'Theory of Change'

A more elaborate method to develop change strategies is the so-called 'Theory of Change' (Theory of Change). A Theory of Change is a conceptual model[24] or process to describe how change happens and identify the elements leading to change.[25] The definition and uses of Theory of Changes are not uniform and differ according to context.[26] They are sometimes also referred to as "pathway of

24. Moritz Birk and others, 'Enhancing Impact of National Preventive Mechanisms. Strengthening the Follow-Up on NPM Recommendations in the EU: Strategic Development, Current Practices and the Way Forward' (University of Bristol and Ludwig Boltzmann Institute for Fundamental and Human Rights 2015) 89.
25. UNDG LAC, 'Theory of Change: Concept Note' (2016) 1.
26. Sarah Stachowiak, 'Pathways to Change: 10 Theories to Inform Advocacy and Policy Change Efforts' (ORS Impact 2013) 1.

change"[27] or "Theory of Action".[28] Nowadays the Theory of Change approach is used by many organisations such as Amnesty International, Oxfam, and the UN as a standard method outlining how a project hopes to achieve change.

It is used to analyse the linkages among the strategies, outcomes, and goals that are needed to achieve the vision of a project and to make assumptions explicit about "how to get from here to there."[29] A Theory of Change helps to map how complex change could unfold over time and draw logical conclusions between activities and results. A Theory of Change is a method to develop a strategy and the basis for monitoring, evaluating, and adapting as change is fluid.[30] It should thus serve as a living document that gets readjusted to the context.[31]

Commonly, a Theory of Change asks three basic questions:[32]

- What is the change we want to see? – The impact we want to have?
- What needs to happen to make this change?
- What can we do to influence the change?

Consequently, a Theory of Change contains different elements:[33]

- A thorough and systemic **analysis of the problem and why it exists**. A detailed analysis helps to disentangle risks, and windows of opportunity for change.[34] Gaining a deeper understanding how different social, political, legal, and economic systems interact, increases the effectiveness of the project (see below, § 2.2).[35]
- A statement of a **vision** that paints a hopeful image of the desired change and provides motivation and guidance (see also below, § 2.3).
- The identification of the **necessary change**, or in other words the outcomes and results that need to be achieved but do not lie in our main sphere of influence. This requires extensive research and evidence. During every stage of the project the evaluation of the change identified as necessary should be based on sufficient and credible evidence.[36] It can be useful to identify the different dimensions of change (e.g. legal, policy, management, public awareness).
- The identification of activities to undertake to influence the desired change. These should be targeted and measurable (indicators) and can be divided into short-mid- and long-term results. These should ideally be Specific, Measurable, Achievable, Result-oriented and Time-bound (SMART) and connected to indicators. [37]

These steps are mapped on a timeline to show the pathway of change, linking each activity back to the vision:

In line with the systemic approach it is important to **clearly articulate the assumptions** on why each of the steps is necessary to achieve change. The limits of our own views should be recognised and our assumptions constantly revised. Ideally, the development of a Theory of Change **integrates multiple perspectives**, especially from different sectors/movements (in this specific context for example, anti-racism, children's rights, fight against poverty, migration, etc) or disciplines (e.g. psychology, sociology) and to involve external stakeholders in the development of the Theory of

27. Birk and others, 'Enhancing Impact of National Preventive Mechanisms' (2015) 12.
28. Richard English and others, 'Influencing for Impact Guide: How to Deliver Effective Influencing Strategies' (Oxfam 2020) 33.
29. Stachowiak, 'Pathways to Change' (2013) 2.
30. English et al., 'Influencing for Impact Guide' (2020) 36.
31. ibid, 34.
32. Suntinger and Birk, 'Systemic Thinking in Preventive Human Rights Monitoring' (2021) 32.
33. Terms differ across different guides.
34. English et al., 'Influencing for Impact Guide' (2020) 34.
35. UN OHCHR, 'Annex I: UN Human Rights' Theory of Change and Results Framework' (2014) 153.
36. UNDG LAC, 'Theory of Change: Concept Note' (2016) 4.
37. OHCHR, 'Human Rights Indicators' (2012) 50.

Change from the beginning. The early engagement of all stakeholders leads to better understanding of the problem and builds important relationships for the change process. Next to meeting expectations, carving out the collective vision of the project can also be empowering and motivating for everyone involved.[38] Another key element is to recognise the importance of identifying and understanding the concrete needs of suspected and accused persons, who are directly confronted by the criminal justice system, and especially those who are the most impacted by policing (marginalised communities, people experiencing poverty, migrants, etc).

In order to continuously and critically reflect upon assumptions according to the changing circumstances, it is important to develop a **framework to monitor the progress** and to use and update a Theory of Change. For that purpose, it is helpful to consider the 'loop model', highlighting the importance of constant reflection and (self-) reflection. The process of intervention starts by gathering information, building hypotheses on how change happens and what we need to do to influence, planning and implementing the intervention and evaluating it, drawing lessons learned that then feed into the next loop of intervention.[39]

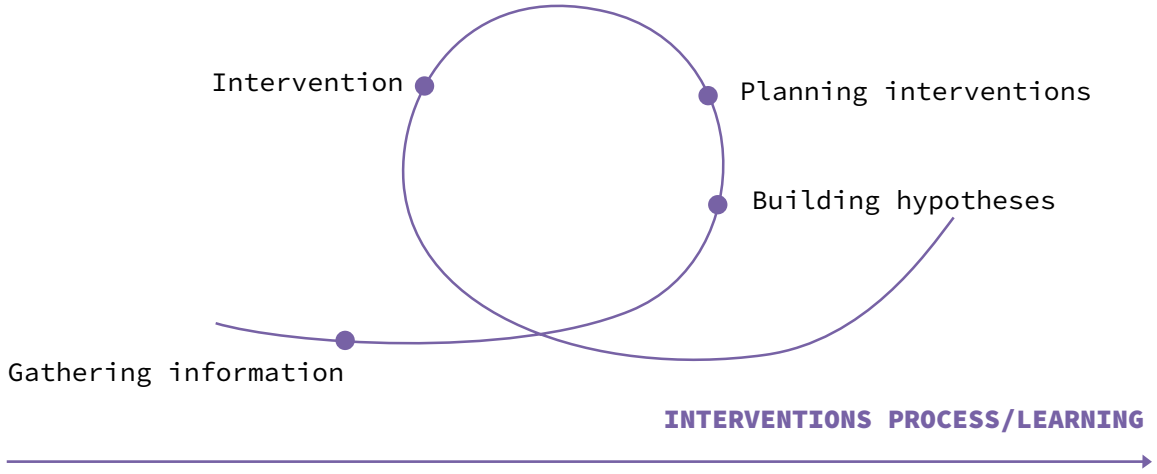

Figure 3: The systemic loop process model

A systemic understanding of change, integrating multiple perspectives, carefully mapping, reflecting, and revising our assumptions and using them as our constant guidance in our change processes can seriously increase the impact of our work. At the same time, it must be acknowledged that developing and implementing a Theory of Change can be a complex and elaborate process. Many organisations do not have the resources to develop a holistic and participatory strategy. Moreover, the capacities in strategy development, implementation, and evaluation are often missing.

The project partners confirmed the importance of investing time to elaborate strategic planning. The national roundtables provided an important first step by developing 'action plans' that contained the following questions:

- Problem: Which challenges do you have and want to address?
- Goal: How should the situation be after the change?
- Need: What needs to be done to achieve the change/goal?
- What can you do?

It is important that these are properly followed up and expanded, prioritising the activities that are

38. Stachowiak, 'Pathways to Change' (2013) 1.
39. Roswitha Königswieser and Martin Hillebrand, Systemic Consultancy in Organisations: Concepts, Tools, Innovations (Carl-Auer-Systeme Verlag 2016) 45.

most impactful and dividing roles among change agents to most effectively reach results. For that purpose it was recommended **to provide an explicit introduction to the Theory of Change process at future workshops and ensure a professional facilitation**. Moreover, it should be considered to **strengthen the capacities of actors involved** in developing, implementing, and evaluating a Theory of Change in change projects for the future.

Thus, it would also be very important that the **EU and other key funders increase funding opportunities with an explicit change perspective and the aim to strengthen systemic and participatory strategy development.** This includes empowering and (also financially) enabling the competent CSOs to follow up on their projects and develop stable and sustainable long-term strategies to strengthen procedural rights.

2.2 Gaining a holistic understanding of the problem and why it persists

Every sound **change strategy must be based on a thorough understanding of the problem**, which includes different levels. In order to know where we want to go and how, we have to know where we currently are. This also allows us to base our future actions on evidence and enhance our credibility as change agents.

Despite the broad research already conducted in other projects, it was commonly acknowledged that we, as CSOs working towards the protection of suspected and accused persons in police custody, need to have **a clearer understanding of the broader structure** in which our projects intend to achieve change. For projects to be better anchored in context, and therefore produce better concrete results, the starting point is to identify the needs of people impacted by policing and understand how the effective implementation of procedural rights can strengthen their position and answer their needs. It is important to have a clear understanding of who is taken into police custody, what is their profile, and what are their needs in practice. We also **need to understand how individual rights fit into the broader criminal justice system and incorporate a structural analysis to our work**. Our human rights analysis should go beyond the 'evident rights' (right to liberty, fair trial, and prohibition of torture) and **include the broader human rights impact and positive obligations, including economic, social, and cultural rights**.

For example, it is relevant to ask if individual procedural rights can achieve the aim of restoring the balance of power in police custody and contribute to fairer and more equal justice systems. This requires us, first, to take account of the broader structural issues at play in policing, starting with the mandate given to police authorities (stop and search, racial profiling, use of coercive powers including violence, use of technological tools) and lack of effective oversight mechanisms.[40] Second, we need to take into account the needs of those most affected by policing. These reflections are necessary to understand if and how procedural rights can help to re-balance powers in practice and how they fit into broader criminal justice and policing reform, which again, requires close collaboration consultation with the stakeholders involved.

It is further important to take a close look at why the problem persists, what structural/systemic deficits exist, and what the root causes are. In line with a systemic approach, it is crucial **to go beyond a classical legal analysis that focuses on laws or procedures, but also understand the less visible or invisible aspects of the problem such as psychological or sociological**

40. e.g. European Parliament, 'Democratic Oversight of the Police: Study requested by the LIBE Committee' (Policy Department for Citizens' Rights and Constitutional Affairs 2022); Ojeaku Nwabuzo, 'The Sharp Edge of Violence: Police Brutality and Community Resistance of Racialised Groups' (European Network Against Racism 2021)

elements. The 'iceberg' -model is helpful to direct our focus beyond the visible factors, such as laws and procedures - that are only a small part relevant to change - to the underlying mindsets, attitudes, and cultural patterns etc.[41]

Figure 4: Iceberg

During the regional workshops, the **importance of police culture** and knowledge was discussed as a major influencing factor. As mentioned in chapter 2.1.2, police officers need to be convinced that strengthening procedural rights is a necessity and does not go against their interest to quickly 'close' criminal cases. The implementation of non-coercive investigation methods such as 'investigative interviewing' has led to fundamental changes in some European countries.[42] The police culture will not only influence whether new laws and procedures are eventually properly implemented and lead to a tangible change for suspected and accused persons but is also an influencing factor on the legal reforms themselves. In many countries, police labour unions have a significant influence on politicians and governments and are often not very favourable to strengthening procedural rights.

In view of their role for the implementation of procedural rights, it is also very important to take into account the **attitudes and mindsets of investigating officers, prosecutors and judges. Furthermore, we should not only look at the different actors and institutions in isolation but also the relationship between them**. The way lawyers, police, prosecutors, and judges relate to each other and influence the behaviour of the police in custody may be instrumental for the problem and its solutions. It was, for example, suggested that judges who routinely inquire into the effective provision of procedural rights can positively motivate police officers to respect them. At the same time some participants expressed concerns about the negative influence of a judicial culture that is increasingly punitive and 'tough on crime'.

Naturally, the (perceived) **mindsets and attitudes in the general public, and in government representatives, shape criminal justice policies** and also greatly challenge the potential impact of procedural rights. At the EU workshop with CSOs in Brussels, the issue of rising 'penal populism' was mentioned, where political parties adopt "tough on crime" policies, creating a perception that crime is out of control and can only be handled by hard-line policing, extended criminalisation and harsher punishment. In this context, individual rights cannot offer safeguards that will effectively counterbalance the powers of police authorities. It is important for CSOs to find innovative ways to counter this trend (see below, § 3.2). The participants of the national roundtable in Spain emphasised the importance of 'reinforcing a culture of rights', to create an understanding among key stakeholders and the public why procedural rights are important.

41. Suntinger and Birk, 'Systemic Thinking in Preventive Human Rights Monitoring' (2021) 30; Philipp Hamedl and Giuliana Monina, Monitoring Prison Violence: A Handbook for National Preventive Mechanisms (Ludwig Boltzmann Institute of Fundamental and Human Rights 2021) 44-45.
42. CPT, '28th General Report of the CPT' (2018) 30-34.

Also, **larger social issues such as migration, poverty, and mental health, are increasingly conflated with criminal justice policies**. We need to recognize the limits of our knowledge and strive to increase it, inter alia by cooperating more closely with organisations outside the criminal justice field.

It is, thus, **essential that the approaches used to understand the problem are not purely legal but inter- and multi-disciplinary.** The project 'Inside Police Custody' has taken a very important step in that direction by conducting observational research in police stations and integrating social science methods.

EXAMPLE

The first Inside Police Custody study, conducted in four EU jurisdictions and published in 2013,[43] was carried out by academic researchers using multiple methods to obtain data, including desk reviews of existing laws, procedures and research evidence, direct structured observation in police stations and interviews of key personnel such as lawyers and police officers. **A second study**, conducted in nine EU jurisdictions and published in 2018,[44] used a similar methodology, but was largely carried out by CSOs rather than academics. The research method adopted enabled data to be collected on how procedural rights were implemented in practice (as opposed to data on what stakeholders said about the ways in which they were implemented), and also data on the perceptions of key stakeholders. Together with the desk reviews, this enabled analysis to be conducted and conclusions to be drawn as to, for example, the practical and cultural impediments to effective implementation of procedural rights and how they may be overcome. A key issue in both research projects was securing access to police stations, and in this respect it was easier for academic researchers to obtain the necessary permissions. On the other hand, academic researchers tend not to become involved in change programmes arising from the research findings.

It is also decisive with whom we talk and how to get a full picture of the problem and possible solutions. A **stakeholder mapping** may be very helpful to identify the relevant stakeholders (see below, § 2.4.1). A particularly relevant element in the understanding of a problem and a foundational basis for change strategies is the **issue of power**. "Power lies at the heart of change"[45] and especially hidden power is often the reason why collecting research and evidence are rarely sufficient to change a government's policies. Therefore, we used a stakeholder mapping in the project to identify the different stakeholders and analyse their level of influence (see below, § 2.4).

In order to retrieve the information mentioned above it is key to ensure **that the research conducted to understand the problem is participatory and gives a voice to those most involved and affected by change** (see below §§ 2.4.3 and 3.1).

To conclude, **understanding the complexities of the current reality at all levels is a key component of change processes** as it helps people face this reality and take responsibility for it. Taking into account any possible blind spots in the understanding of the problem of procedural rights, it is very important for **self-critical reflection our assumptions and our role as change agents**. The development of a Theory of Change and organising events with a broad range of stakeholders can be useful in that regard. But it will also be necessary to conduct further in-depth research to fill our knowledge gaps and identify our blind spots.

43. Jaqueline Blackstock and others, Inside Police Custody: An Empirical Account of Suspects' Rights in Four Jurisdictions (Intersentia 2014).
44. Lloyd-Cape, 'Inside Police Custody 2' (2018).
45. Green, How Change Happens (2016) 28.

2.3 Establishing a clear vision to guide our strategies

Each change process should begin with the development of a clear vision. This is expressed in the systemic principle "begin with the end in mind". Having a clear image of change means knowing as concretely as possible what that goal looks like, as this provides orientation and inspiration in the development of strategies and day-to-day actions[46] and serves as the basis for measuring the expected change.[47]

The development of a common vision is, moreover, a crucial step to **build commitment to the desired change**. It helps people make an explicit choice in favour of what they want. It helps them compare the status quo and its 'costs' to the 'benefits' of change and commit to investing the required resources.[48] Developing a vision statement should thus be an inclusive and inspiring process.

A clear vision **provides purpose and energy** to the change agents (see above, § 2.1.2). As mentioned at one of the regional workshops a good vision can be "the reason why we get up in the morning". The fact that most organisations nowadays have, and communicate, a clear 'vision statement' to the outside also shows that a vision not only inspires those who have developed it but it is also supposed to equally motivate and influence others.

It is thus worth considering who the target group of a vision should be. Regarding procedural rights, it needs to be recognised that a vision may need to inspire and motivate all stakeholders relevant for achieving the desired change, such as police officers, as well as society at large. In that case, it may be useful to develop a more holistic vision to include the broader benefits of change, emphasising that procedural rights can help guarantee a fair trial, contribute to fairness and equality in criminal justice systems, increase the professionalisation and public trust in the criminal justice system and so forth. Moreover, a vision statement can also be used to raise awareness and mobilise public interest for the desired change. In that case a simple formulation may be important.

In our project, we engaged in discussions about visions during the consultations which led to interesting discussions and brought to light different perspectives (e.g. on the question of mandatory legal aid). It served as an energising inspiration and prepared the discussions on how the desired change can be influenced.

In the regional consultation in Madrid, a concrete suggestion for a vision for ideal legal aid system was developed and contained the following elements:

- Innovative, client centred and holistic service
- Sufficient and sustainable funding
- Interdisciplinary, well trained (basic training for all actors) and motivated lawyers (providing their services)
- Independent service provision, meaning insulating service from political influence and interference
- Access to legal aid for all if and when they need it
- Adaptability of the threshold to access

The development of a vision was also considered a useful tool for the national roundtables. However, it became a challenge where not all participants agreed on the vision (e.g. police officers not supporting the introduction of AVR of interrogations). Moreover, it was witnessed that some participants struggled

46. See also Diana Whitney and Amanda Trosten-Bloom, The Power of Appreciative Inquiry: A Practical Guide to Positive Change (Berret-Koehler Publishers 2010) 60.
47. Helen Duffy, 'Strategic Human Rights Litigation' (Hart 2018) 237.
48. Stroh, Systems Thinking for Social Change (2004) 76-77.

to dream about ideal scenarios. This was partly because the question was not asked clearly enough to direct the discussions towards an ideal image of the future. But even where it was asked very explicitly, the participants tended to shift back into discussing existing challenges instead of an ideal future. At the same time, the feedback was that already asking the question of a vision in a designated session helped bring the participants from different sectors together and to "reduce the distance".[49] Thus, it is important to reflect on how to strengthen this important focus, e.g. by ensuring that the analysis of the problem is properly concluded before moving to the vision, providing a good introduction on the specific value of developing a common vision to the participants and by ensuring a strict moderation of workshops.

2.4 Engaging key stakeholders for change

Another guiding principle of the systemic approach is to "seek actively and integrate different viewpoints and multiple perspectives".[50] It is of key importance in order to **gain full understanding of the problem and possible solutions** (see above, § 2.2). We do not hold the truth about how change can be influenced but are limited to our perspective. Many different perspectives can allow us to gain a more complete idea of the problem and develop more valuable hypotheses for solutions.

More importantly change depends on a variety of stakeholders and their relations that need to be addressed systematically. From a systemic perspective, change cannot be forced from the outside but needs to be owned and accepted by those who are meant to change their behaviours. This explains why change interventions that are not carefully crafted can often create even greater resistance: "The harder you push the system the harder the system pushes back."[51] Therefore, it is crucial to **engage stakeholders from the very outset**.[52] Engaging key stakeholders individually and collectively, is the foundation for change,[53] not only to understand the problem but also to generate a common vision and responsibility and build relationships for the change process. As one of the participants at the CSO event concluded "change took place where everybody agreed that there was a need for change".[54]

EXAMPLES

A good example can be found in **Belgium** with the process of redrafting the letter of rights handed out to suspected persons in police custody in plain language. While the process was initiated by CSOs (Fair Trials and a plain language experts organisation), other criminal justice stakeholders were engaged from the very beginning of the exercise.

First, a training module was created to raise awareness among lawyers and judges on the importance of plain language in criminal proceedings. The second half of the training was a group exercise in which participants had to comment and redraft the language used in the official letter of rights used in police custody. Based on these exercises and discussions, Fair Trials and the plain language experts created a first version of the alternative letter of rights. It was then presented to representatives of the federal and local police to assess whether it was usable and relevant for them and matched the needs on the ground. A wider team of representatives from the Ministry of Justice also welcomed the initiative.

This broad stakeholder engagement led to the creation of a working group including lawyers, judges, representatives from the federal and local police, and representatives from the Ministry of Justice which finalised a plain language version of the letter of rights. The

49. See Feedback to the Austrian National Round-table
50. Suntinger and Birk, 'Systemic Thinking in Preventive Human Rights Monitoring' (2021) 18.
51. Peter M. Senge, The Fifth Discipline: The Art & Practice of The Learning Organization (Doubleday 2006) 58.
52. See also English and others, 'Influencing for Impact Guide' (2020) 10.
53. Stroh, Systems Thinking for Social Change (2004) 74.
54, Project EU workshop with CSOS, Brussels on 18 October 2022.

success of the redrafting project lies in the fact that all stakeholders were empowered with training on plain language and involvement from the beginning. Consensus between various stakeholders around the need for a new Letter of Rights and on the language used was steadily built from the inception of the project.

However, despite the broad stakeholders engagement and previous Europe-wide evidence-based research showing that current letters of rights are too long and complex to allow suspected persons to understand their rights, the plain language letter of rights is still not used in practice. Although the benefits of such a document for suspected persons is clear, decision-makers still seem to need additional evidence to fully engage in the reform. In 2023, the working group will pilot the new version in various police stations around Belgium, the final objective being to convince decision makers to make the necessary legal changes to officially use it.

2.4.1 Identification of key stakeholders

The first step to engagement is to **identify key stakeholders** ("people and organisations that affect and are affected by the issue").[55] Project partners confirmed that it was not always easy to identify the right stakeholders for the national roundtables. Conducting a 'Stakeholder Mapping'[56] exercise helped in that regard and also allowed us to analyse the influence and interest in the desired change.

It is important to take into account the broader context in which the problem occurs and **not limit ourselves to the 'usual actors**' of the criminal justice system. The stakeholders for strengthening procedural rights involve a broad range of actors and disciplines. These include, for example, but not only, defence lawyers/Bar Associations, legal aid agencies, judges and prosecutors, members of the Parliament, CSOs active in the criminal justice sector but also in other sectors, such as CSOs specialised in migration, children or disabilities rights, anti-racism, poverty, etc. Stakeholders may also include the media, social services, grassroots organisations working directly with communities, medical staff, etc. Project partners confirmed that it was not always easy to identify the right stakeholders. In order to gain a more precise picture it is important to include diverse perspectives in this effort. Therefore, the national workshops carried out a stakeholder mapping exercise as part of the preparation or even the agenda. This resulted in a detailed map including concrete contact persons and questions like:

- What is important to the stakeholder?
- How could the stakeholder contribute to change?
- How much capacity does the stakeholder have to get involved?
- How much interest and influence has the stakeholder in change processes?
- What is the strategy to get the stakeholder involved?

Moreover, the national roundtables were **carefully evaluated** to analyse the role of the different stakeholders in the roundtables throughout the change process. This included questions on the involvement of the stakeholders in the development of a common vision and reluctances observed; the atmosphere and how it developed during the roundtables; any behavioural changes during the roundtables; barriers during the roundtables; what they did and what can be done to overcome them; dominant interest during the discussions.

55. Green, How Change Happens (2016).
56. Stakeholder mapping belongs to the classical tools of a broad Theory of Change approach. For a description of such a process in the context of follow-up strategies to recommendations of NPMs. See Birk and others, 'Enhancing Impact of National Preventive Mechanisms' (2015) 99-101.

During the regional consultations, it was confirmed that many reforms on strengthening the access to a lawyer in the Netherlands, Belgium, and Romania would not have happened without the involvement of lawyers and the Bar Associations.

EXAMPLE

In **the Netherlands**, discussions about reforming the legal aid system started in 2014, when the government proposed a far reaching cuts to the legal aid system. Initiatives aiming at reforming and achieving a less expensive legal aid system continued over the years under different governments. With the motto "not all problems are so complex that they always require a lawyer" government representatives tried to justify cuts on compensation for legal aid lawyers The government plans were opposed by many lawyers who started demonstrations in several cities as well as a Twitter campaign #ikpiketnietlanger, which roughly translates to legal aid lawyers striking. The Netherlands Bar (Nederlandse orde van advocaten, NOvA) supported the legal aid lawyers urging the government to refrain from the cuts and requesting the allocation of an adequate budget to the legal aid system. As a result of this opposition the government decided to take a step back and allocated a budget of 154 million for 2022 to be reduced to 64 million in 2026.[57]

In **Romania**, the system was changed as a consequence of the pressure coming from legal aid lawyers of the Bucharest Bar to make the random appointment system fairer in terms of distribution of cases and that leadership of the Bucharest bar accepted the criticism and decided to change the system.

Our project also showed very well the value of the **involvement of non-legal experts** in the regional consultations, such as amongst others: Prof Gautam Gulati, University of Limerick, Ireland, a medical doctor and forensic psychiatrist; Gavin Oxburgh, former investigator and Professor of Police Science at Northumbria University, UK; Dr. Ivar Fahsing, Detective Chief Superintendent and Associate Professor at the Norwegian Police University College, who shared the perspective of law enforcement; and language experts from the specialised organisation Capito, who could contribute with their expert knowledge on plain language.
The importance of involving **National Human Rights Institutions and National Preventive Mechanisms** established under the Optional Protocol to the UN Convention Against Torture – OPCAT in strategically strengthening procedural rights was also stressed. As they are the central national institution on human rights with a strong mandate and outreach ability, they could play a very important role in the change processes and should remain key allies and precious sources of information in the monitoring and strengthening of procedural rights (see also above, § 2.2).

2.4.2 Engaging state authorities

The **involvement of state authorities** who ultimately have to implement reforms is absolutely crucial. For example, in the implementation of mandatory AVR in Ireland, strong criticisms from the judiciary in judgments in cases where AVR was not used was crucial. The Committees set up to pilot AVR were multi-disciplinary including police, government officials and lawyers. Similarly, in Belgium, the participation of representatives from the Ministry of Justice's criminal policy department in the process of drafting the revised letter of rights allowed the working group to receive direct support from the minister in the piloting phase.

Actively engaging key stakeholders from the state can however be challenging as was also witnessed in this project. It was for example much more difficult than initially estimated to ensure the participation of state authorities in the regional consultations. It is important for future projects to thoroughly analyse this challenge and how it can be overcome.

57. Kees Pijnappels 'De stelselherziening gefinancierde rechtsbijstand is een luchtkasteel gebleken, gebouwd op wensdenken, hypotheses en illusies. Een politieke klucht in zeven bedrijven' (Advocatenblad February 2023).

Models like the Change Formula should already be used in the process of preparation of national roundtables and regional consultation to identify factors that might contribute to active participation. As described above, the Change Formula can be a helpful guide in mobilising the necessary energy for collaboration. It was suggested that it might be helpful to **better convince the authorities of the price paid by the status quo and the 'benefits of change**', e.g. cost efficiency of effective procedural safeguards or 'reframing' them as police professionalism and ways to increase public trust in the police.[58] Moreover, it is necessary to take the concerns of state authorities seriously.

Ultimately, the key to engaging state authorities is to invest in building professional and friendly relationships and trust with both police officers and senior management. It is important to **identify change agents within the state institutions** that provide an entry point for dialogue and establishing trust and can eventually serve as multipliers. The police officers from Ireland and Belgium who were present at several regional consultations are an excellent example. These partnerships take time and are built through successive contacts over different projects and initiatives. Trustful relationships can be fostered by ensuring transparency of our work and involving state representatives from the very beginning of processes.

Through active and enthusiastic participation in the national roundtable key change-makers were identified. Alliances were then forged with these actors through active participation, including and involving them with strategic advocacy and event planning and inviting them as experts to join the regional consultations. Offering knowledge and training to actors, even informally, through engagement with projects like this incentivises actors to engage more, to learn, and become more persuasive in their own institutions.

A good way to increase the engagement of the police was involving them in multi-disciplinary working groups and the planning of events (see below, § 2.6).

2.4.3 Involvement of suspected and accused persons

It was commonly agreed that the **involvement of suspected and accused people, adults, and children**, in the research and change strategy is most important. Those who have real experiences as suspected or accused persons can share precious information and insights about the practical implementation of procedural rights. In order to better represent the views of suspected and accused persons in Ireland - upon the recommendation of the advisory board member Vicky Conway - a small number of semi-structured interviews with people with lived experience were conducted and read out at the national roundtable.

At the EU workshop with CSOs in Brussels, it was mentioned that ensuring effective participation is particularly important regarding those in a situation of enhanced vulnerability and those most impacted by policing. How this should be done in practice needs further reflection. If participation is sought through collaboration with organisations representing these communities' interest, are they really best placed to do so? If direct engagement/ involvement/ participation is considered, how to ensure it does not cause additional harm to impacted persons?

EXAMPLES

The principle of participation is for example well developed in the area of **children's rights** and much can be learned about effective and sensitive processes from this field (including child participatory approaches in political participation, climate change, migration/children on the move, child protection and child justice). For instance, when the UN General Assembly commissioned an in-depth global study on the situation

58. EU workshop with CSOs, Brussels on 18 October 2022.

of children deprived of liberty in 2014, it requested consultations with a wide range of stakeholders, including children. Eventually, more than 270 young people from 22 countries participated, most of them with a criminal justice detention background. A distinct research methodology with dedicated child safeguarding standards was developed for this purpose. In the end, on a qualitative level, the views of children added value both to better understanding of impact of and pathways leading to detention (from excessive criminalisation of child behaviour to dysfunctional child protections systems) as well as of drivers for change (e.g. exposing the inefficiency of existing detention regimes).[59]

2.5 Influencing change through peer to peer exchange

The project had as a specific goal to facilitate peer to peer exchange among national authorities and practitioners at the national and European level to enhance their understanding of promising practices from other EU countries and their willingness to bring about change and engage in reform efforts.[60] The basic idea was that if promising practices are presented from criminal justice actors themselves, e.g. police officers to police officers, these will be more credible to the eyes of their peers and ultimately would make it much more likely to motivate them for necessary reforms. Moreover, criminal justice actors holding similar positions may be capable of sharing a great amount of practical details on the practice, thereby helping to overcome certain doubts or resistance due to lack of knowledge or fear to implement a new practice.

This assumption acknowledged the experience that CSOs are often confronted with the argument that they do not understand the 'reality on the ground', they may have unrealistic expectations or are biased towards the rights of suspects and accused rather than the rights of victims of crime and the protective interests and obligations of the state.

Thus, at the regional consultations we invited state representatives from the different project countries for peer-to-peer exchange. A particularly good example was the regional consultation in Dublin where the Irish police invited participants from other EU Member States to visit a police station to see for themselves how they set up the AVR of interviews. This allowed everyone to get a good first-hand experience of this promising practice, to ask questions about its implementation, challenges, and to witness how police officers accept and benefit from it. Similarly, in Vienna, Bucharest, and Madrid the invited authorities showed great interest in the concrete practices presented by their peers on an accessible letter of rights and effective systems to provide access to legal representation.[61]

Overall, the method of presenting and discussing concrete examples of promising practices is very helpful to illustrate and motivate the relevant stakeholders for reforms. The challenge remains however, to motivate key stakeholders to participate in such regional consultations, notably State representatives (see above, § 2.4.2).

It is thus important to carefully evaluate the reasons behind this and develop solutions for the future on how to more effectively engage key stakeholders from the state (see above, § 2.4). Possible solutions could be to invest more time and resources to highlight the benefits of the regional consultations or more closely involve the police organisations of the host countries in the organisation of the regional consultations and in sending out the invitation to other countries. Moreover, other ways could be

59. Manfred Nowak, The United Nations Global Study on Children deprived of Liberty (Omnibook 2019) and especially 'Chapter 5: 'Views and Perspectives of Children Deprived of Liberty' at 76.
60. Justice Programme (JUST) Rights, Equality and Citizenship Programme (REC) PROPOSAL (PART B) 8.
61. For information on these practices see the factsheets published in the framework of this project.

explored to organise the peer-to-peer exchanges in a less resource-intensive way, e.g. by using electronic and shorter formats that do not require extensive travels. The new digital working formats explored during the pandemic opened up many interesting opportunities in that regard. This may, however, require already existing contacts and exchanges in order to be attractive to the participants and ensure an atmosphere of trust. Moreover, it would be useful to consider how the exchanges of this project can be adequately followed up. Exchange platforms have already been set up that can be further explored.

Another challenge is that a peer exchange may motivate and convince the affected state authorities of the promising practices, but the change fails on the political level. It is thus important to consider how key decision-makers can also be involved and ensure the adequate follow-up to the expert discussions. This is best discussed within a larger Theory of Change (see above, § 2.1.3) and considering the adequate tools such as advocacy or awareness-raising (see below, § 3.2).

2.6 Building alliances across movements

The building of alliances and coalitions has been described as a key factor for effective change processes.[62] They can contribute in gaining a fuller understanding of the problem, developing an inclusive change vision and to engage key stakeholders in the process. Alliances provide support and create a network of contacts to easily coordinate interventions.

EXAMPLE

In the past years, Fair Trial sought to build a cross-movement coalition, in particular on racial justice. While Fair Trial focuses on how discrimination and bias occur throughout the criminal proceedings (e.g. pre-trial detention, sentencing), other organisations bring different perspectives, including on police practices (use of violence; racial profiling); the criminalisation of migration; digital rights and technology; organisations representing certain communities that face racial inequality across all social and economic policies. That is why in the experience of Fair Trials, "working across movements" is key to deepen and improve our understanding of often complex issues. In many cases, people who end up being arrested face additional other issues, such as structural racism (racial profiling), an uncertain migration status, homelessness or other situations of poverty, substance abuse, mental health issues. Thus, it is critical to work with other movements in view of bringing a comprehensive response to all underlying issues that are linked to policing, arrest and police custody. Moreover, working in coalitions helps civil society organisations amplify messaging.

This project aimed at fostering broad national alliances for the strengthening of procedural rights, namely through the organisation of national consultations and the development of action plans. These exchanges provided a good opportunity to discuss problems and generated energy and motivation for reforms.

EXAMPLE

As part of **Ireland's** action plan, efforts were made to create an informal alliance for strengthening procedural rights. In preparation of the national workshop, an expert advisory group was put together to exchange information. This group initially included just defence lawyers and academics. However, after the national workshop, the network was expanded to include motivated police officers. This was due to the genuine interest and enthusiasm of the police officers engaged in the project as well as their commitment

62. OHCHR, 'Chapter 31: Advocacy and Intervention with the National Authorities' in Manual on Human Rights Monitoring (Revised edition) (2011) 8; Cheryl Thomas and others, 'Developing Legislation on Violence Against Women and Girls' (Advocates for Human Rights 2011) 761.

to procedural rights. The aim of the group is to facilitate exchange via email about recent developments in research, legislation, and case law. It is planned in 2023 to hold quarterly updates on custody via Zoom. The expansion of this group to include sympathetic police officers is an example of how well the project worked in terms of stakeholder collaboration. Through involving police officers in travelling to other Member States to learn from their peers and including them in preparing for the Irish regional consultation, as a means to exhibit what the Irish police were doing well, the police officers involved felt part of the wider process and were open and willing to engage in a multi-disciplinary group.

It is important that the regional consultations connecting stakeholders, establishing a common vision and collecting measures in action plans are properly followed up to maintain the energy for change. These can be used to develop a proper Theory of Change (see above, § 2.1.3) and establish (in-)formal networks to accompany their implementation, evaluation and adaptation.

The connections to national stakeholders established or strengthened during the project events remain active to different degrees facilitating important reforms in the future. For example, in Romania, the participants from the Ministry of Justice and General Prosecutor Office are open to amending the official letter of rights with a simplified, alternative one, provided there are plain language experts involved and that APADOR-CH acts as facilitators of the discussion. Representatives of the police are also willing to take up the issue of vulnerability of adult and minor suspects, willing to be trained and change "procedures" to better detect the needs of those vulnerable during the criminal proceedings. In Ireland, the participants from the Department of Justice have promised a meeting to be briefed on the fact sheets and final results of this project. ICCL is helping academics to push for their easy-to-read notice of rights and are staying in touch with the police to help push for change inside that institution.

A common challenge in establishing and coordinating networks is that most organisations, especially when primarily project-funded, do not have sufficient resources. A solution may be to use existing formats or processes for collaboration or exchange such as Advisory Boards to Ombuds Institutions (e.g. in Austria), other civil society networks, dialogue forums between ministries and CSOs, networks for the implementation of the universal periodic review of human rights treaties, etc. Moreover, CSOs **may consider investing internal resources or actively seek funding** to support the setting up of networks. In that regard it is important to consider that alliances may initially cost but ultimately save resources through effectively using synergies. Therefore, the EU and other funders are encouraged to provide targeted funding for coalition building.

Finally, it is important to recognise that collaboration is a skill that can be strengthened. Therefore, in order to ensure effective engagement of key stakeholders it may be useful to **develop people's and organisation's capacities to collaborate**, think systematically, hold productive conversations, and take responsibility for the current reality (see below, § 3.4).[63]

63. Stroh, Systems Thinking for Social Change (2004) 75.

2.7 Using windows of opportunity and finding innovative and effective ways to strengthen procedural rights

All of the above-mentioned show how difficult it is to influence change, particularly as CSOs coming from 'outside'.

A systemic approach can help in recognising the limits of our possibilities, to remain humble and serves as a useful guidance to carefully craft effective interventions. It is important to **detect small signals of change and seize 'windows of opportunity**'. These can be scandals published in investigative reports or monitoring bodies, miscarriages of justice, unforeseen political changes, international developments etc.[64]

EXAMPLES

For example in **Austria** 2013, a 14-year old juvenile was sexually abused by other inmates in a Vienna remand prison, creating a public scandal, which lead to changes in the placement regulation for inmates and an expert group report with far-reaching recommendations to reduce pre-trial detention of juveniles.[65]

Ireland is currently undergoing police reform through legislative reform. A new Bill aims to codify police powers and rights in custody.[66] This offered a window of opportunity to link this project to a live moment in time and history to make the new legislation as progressive as possible.

In **Belgium**, in the process of reforming the Letter of Rights, Fair Trials reached out to the Conseil Supérieur de la Justice, which had recently published a report analysing the public's lack of trust in the judiciary. One of the identified causes of the luck of trust was the complexity of legal language. Thus, the Head of the Conseil Supérieur de la Justice at the time supported the efforts to promote the use of plain language through training activities and participated in the initiative organised by Fair Trials (see above, § 2.4).[67]

In **Romania**, a strike by lawyers in February 2019 was supported by APADOR-CH and a (project-based) working group of criminal justice experts. They argued for higher legal aid remuneration during the negotiations for a new Legal Aid Fee Protocol. A public statement of solidarity by APADOR-CH and the development of objective indicators by the working group to substantiate the claims ultimately led to the adoption of a new Protocol increasing the fee for legal aid lawyers. The involvement of APADOR-CH and conclusions of the working group and some of its recommendations served as important input in the negotiating process.[68]

Several experts who attended the workshops identified the ECtHR judgment Salduz v. Turkey[69] as an important regional opportunity for change. In Salduz v. Turkey, the court ruled that if defendants are not offered legal assistance from the moment of arrest, their fair trial rights are violated. The ruling

64. English and others, 'Influencing for Impact Guide: How to Deliver Effective Influencing Strategies' (Oxfam 2020) 14.
65. 'Jugendstrafvollzug: Fragezeichen und Reformversprechen' (Kurier 10.07.2013) <https://kurier.at/chronik/oesterreich/jugendstrafvollzug-fragezeichen-und-reformversprechen/18.650.896>-.
66. 'Garda powers to be modernised and updated under new Bill from Minister Humphreys' (Department of Justice 14.06.2021) <https://www.gov.ie/en/press-release/6ed9f-garda-powers-to-be-modernised-and-updated-under-new-bill-from-minister-humphreys/>.
67. Conseil Superieur de la Justice, 'Project Flavour: Clear Language on the Agenda of the Judicial System' (2018) <https://csj.be/admin/storage/hrj/projectflavour.pdf>.
68. Fair Trials, 'Where's My Lawyer? Making Legal Assistance in Pre-Trial Detention Effective' (2019) 17.
69. Salduz v. Turkey (2008) (Application no. 36391/02) https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-89893%22]}

triggered the so-called Salduz reforms where by various EU Member States undertook reforms to improve the access to a lawyer.[70]

The EU procedural roadmap[71] has created an even greater opportunity as it directly obliged EU Member States to undertake significant reforms. These were however all too often only transposed in law and remain poorly implemented in practice. The many projects identifying and analysing the problems in that regard have created further opportunities but have often not been properly followed up and the critical findings and recommendations by projects like 'Inside Police Custody'[72] have not been taken up by other CSOs, international actors (such as the CPT), or the media.

A recent global opportunity to strengthen procedural rights mentioned by experts are the **Principles on Effective Interviewing for Investigations and Information Gathering (Méndez Principles)**. The Méndez Principles contain an explicit paragraph on 'Legal Safeguards' that states:

"Legal and procedural safeguards grounded in international legal norms are an essential component of the interviewing process. Their effective implementation before, during, and after the interview contributes to the success of the process, by ensuring respect for human rights and enhancing the reliability and evidentiary value of the information obtained. They increase the likelihood of professional, effective interviews and the observance of fair treatment throughout the information-gathering and judicial processes. Therefore, it is in the interest of authorities, including interviewers, to ensure that interviewees are treated with dignity and due respect for the relevant legal standards because it produces legally sound outcomes. The authorities must ensure the effective implementation of the following safeguards throughout the interview process:

a. Right to information about rights
b. Right to remain silent
c. Right to information about the reasons for arrest and any charges at the time of the arrest
d. Access to interpretation
e. Right to notify a relative or third party of one's detention
f. Right of access to a lawyer, including through legal aid
g. Right of access to a doctor and an independent medical examination
h. Right to contact with the outside world
i. Registration of persons held in detention
j. Full recording of the interview
k. Right to review and sign the interview record
l. Right to be brought promptly before a judge or other judicial authority
m. Access to effective and independent complaints mechanisms and oversight[73]"

The Méndez Principles clarify the importance of procedural rights not only for suspected and accused persons but particularly for the authorities to ensure a professional information-gathering and judicial process. It thus provides the opportunity to re-frame the issue and gain support by the authorities. Police experts have confirmed that the Méndez Principles are of great interest for police organisations worldwide and an opportunity to explain that effective procedural rights are not merely a human rights obligation but a matter of professional and effective policing. The very purpose of the principles are mentioned in paragraph 4: "There is a need to move questioning culture away from accusatory, coercive, manipulative and confession-driven practices towards rapport-based interviewing. This includes the application of legal and procedural safeguards throughout the interview process, which reduces the

70. Marion Isobel 'Case Watch: Salduz Fever Sweeps Europe' (Open Society Justice Initiative, 25.04.2011) https://www.justiceinitiative.org/voices/case-watch-salduz-fever-sweeps-europe
71. Council of the European Union, 'Roadmap With a View to Fostering Protection of Suspected and Accused Persons in Criminal Proceedings' (2009) 11457/09 DROIPEN, 53 COPEN 120.
72. Lloyd-Cape, 'Inside Police Custody 2' (2018); Zach, Katona, and Birk, 'Inside Police Custody 2: Country Report' (2018).
73. 'Legal Safeguards' in Principles on Effective Interviewing for Investigations and Information Gathering (2021) (Méndez Principles) § 61-62.

risks of ill-treatment, produces more reliable information and helps to ensure a lawful outcome of the investigation or intelligence operation". The principles outline how this can be done and give substantial positive guidance for how to make such changes on a national and international level.

Similarly, other UN principles, such as 2012 UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems and the corresponding UNODC/UNDP publication 'Early access to legal aid in criminal justice processes: a handbook for policymakers and practitioners' continue to

offer windows of opportunities and offer practical advice on dealing with possible challenges.[74] But not only positive developments are important opportunities. It is important to also recognise **crises as 'critical junctures'**. They can open doors to change that was previously unthinkable, forcing political leaders to change their assumptions, stop defending the status quo, and initiate reforms that involve high political risks.[75]

In particular, where bigger systemic changes seem unattainable a **focus on resources** available to support the strengthening of procedural rights is very important. This is in line with the project's emphasis on promising practices. However, it is not always necessary to look to other countries for promising practices but sometimes small, less obvious practical changes, e.g. management or policing practices, contain great potential for change.

A method called 'appreciative inquiry' aims to specifically identify such small 'highlights' that can be scaled for greater change and has been used in the prison and policing context as well.[76] It can be used by researchers or monitors to specifically focus on what works already well and thereby also mobilises energy for change. Another alternative to the often debilitating focus on problems and deficits is called 'positive deviance'. It equally focuses on people's assets and knowledge based on the idea that for any given problem someone has already found a solution that just needs to be identified. It looks for "outliers who succeed against the odds",[77] often just small behavioural changes that can be multiplied to great effect. In the area of procedural rights this may be positive practices of individual police departments or officers e.g. to provide accessible information on rights.

The opportunities and resources for change are much greater when **looking at the bigger picture in the context of which inadequate procedural rights occur** (see above, § 2.2). They are not isolated but connected to bigger issues in the criminal justice system and wider society. Consequently, developments in other areas such as police and justice reform, poverty prevention etc. should not be overlooked as possible opportunities for change.

Recognising that change may occur slowly, it is important to remain patient, **persistent, and also pursue small, incremental changes**. Starting small played an important role in strengthening the access to a lawyer in Belgium. Also, for the introduction of AVR in Ireland, piloting the reform was an important success factor. However, the long piloting phase - the project ran from 1993 to 1999 -showed how long it can take to convince all stakeholders the need for reforms. In order to adapt to the circumstances and seize opportunities for change, it is important to learn by doing and therefore to seek ongoing feedback in the piloting process.[78]

After the national roundtables, the project organisations evaluated possible next steps including questions such as:

74. UNODC and UNDP, Early Access to Legal Aid in Criminal Justice Processes: A Handbook for Policymakers and Practitioners (United Nations 2014).
75. Green, How Change Happens (2016) 16-17.
76. Alison Liebling and others, 'Appreciative Inquiry and Relationships in Prison' (1999) 1(1) Punishm Soc; Walter Suntinger and Moritz Birk, 'Appreciative Inquiry: Mobilizing Potentials within police Organizations to Realize Human Rights' (2020).
77. Green, How Change Happens (2016) 24.
78. Green, How Change Happens (2016) 21.

- What is needed to foster discussion and concrete action?
- How can resource constraints be overcome?
- What are the open questions beyond this project?

They showed that further efforts are needed to strengthen our knowledge of the problem of procedural rights, to exchange and deal with the perspectives and mindsets and engage all stakeholders in the discussion and the development of joint solutions.

Applying a systemic and strategic approach to change promises to increase our impact on strengthening procedural rights. Tools like the Change Formula and a Theory of Change can be helpful to organise change processes and to undertake the necessary interventions. The project identified the most common interventions to strengthen procedural rights and during the project events it was discussed how these can be used most effectively. The chapter below outlines these main tools summarising the discussions and offers reflections on their understanding, purpose, strategic use, challenges and how they can be overcome.

3. Tools of change

In the area of procedural rights, research is particularly important because it is very difficult to know what is going on in police stations or other places which are not accessible to the external world and to the public. It was broadly acknowledged by CSOs involved in the project that we **need to better understand the problem of procedural rights and the profiles of the persons who find themselves in this situation** in order to influence change.

3.1 Research

Definition and purpose

Research is the **foundational element to start any successful change process.** Only by understanding the full extent of a problem and why it persists, can one know how to influence it (see above, § 2.2). In the project we have adopted a broad definition of human rights research, which goes beyond academic research. There is no general definition of human rights research but the common element is the goal to promote human dignity and well-being. Human rights research analyses a problem in relation to human rights obligations, including the socio-political context in which a problem is situated, and thereby helps to have a realistic idea regarding change and in choosing the most suitable tools of change. Research is also a crucial base for the other tools of change, such as advocacy, strategic litigation, and capacity development.

In the area of procedural rights, research is particularly important because it is very difficult to know what is going on in police stations or other places which are not accessible to the external world and to the public. It was broadly acknowledged by CSOs involved in the project that we **need to better understand the problem of procedural rights and the profiles of the persons who find themselves in this situation** in order to influence change.

Principles and strategic use

Chapter 2.2. outlines the importance of gaining a holistic understanding of procedural rights in the context of police custody. Above all, relevant research needs to identify who is taken into police custody, what is their profile, and what are their needs, as procedural rights cannot be dissociated from the systemic context in which they are expected to be implemented. Moreover, research needs to

analyse how suspects and accused as well as other key stakeholders (and society at large) are affected by inadequate procedural rights and why the problem persists.

Effective research needs to (strive to) be based on **reliable and credible data** and be **impartial and balanced**, showing different sides and perspectives of the problem. A key component of human rights research is interviews. Interviews should be held with those affected (suspected and accused persons) as well as those responsible (e.g. police officers) and those involved in the context (e.g. lawyers, doctors, judges and prosecutors). This not only improves the results of the research but also increases its credibility and the chances that the findings and recommendations are accepted by all those that need to be influenced. Moreover, interviewing a broad range of stakeholders helps to engage them from the outset (see above, § 2.4) and to build trustful relationships for the change process.

Research should aim at having a societal impact. As a speaker at the EU workshop with CSOs said: "Sometimes we forget what we need our research for." Therefore, it is useful to critically self-reflect when, and how, research is most useful and to embed research into a clear change strategy such as a Theory of Change. Thus, to achieve societal impact, we believe it is beneficial that research on the problem and its systemic causes (as conducted in the project Inside Police Custody 2)[79] is ideally complemented by in-depth research on promising practices of other countries serving as models of change (see factsheets). It is further desirable that research results are spelled out in effective recommendations meeting the SMART-criteria: Specific, Measurable, Achievable, Results-oriented, and Time-Bound.[80]

Our project's findings showed that **research into other jurisdiction's best practices** was perceived as an extremely valuable resource by both partners and stakeholders involved. This seemed especially true when the research on promising practices was detailed enough to put stakeholders from other countries in a position to understand the main features of a practice originating from a different system. Our experience also showed that reflections and lessons learnt from the implementation of the practices were particularly appreciated, as they could be useful in replicating the practice in different national contexts. Further, we found that research on promising practices was especially effective and convincing when accompanied by testimonies of the stakeholders directly involved in the development or implementation of the practice.

Another key finding of the CSOs involved in the project was the importance of **close involvement with suspected and accused persons** working with them rather than just on them. To this end, the methods of '**action research**' could be particularly useful. Action research is defined as a "democratic and participative orientation to knowledge creation. It brings together action and reflection, theory and practice, in the pursuit of practical solutions to issues of pressing concern. Action research is a pragmatic co-creation of knowing with, not only about, people."[81] Designing action research starts with deciding to what extent the CSO wants to involve impacted persons. It ranges from training impacted persons to undertake the research themselves to involving participants in taking research decisions (e.g. on what to ask and how to ask it), to consult and inform them about planned actions, or to inform them about the research results.[82] With the end of the project in mind, researchers do not simply investigate the present but also initiate action to improve the future.[83] For this reason, action research functions with recurrent cycles consisting of reflection, planning, implementation, observation, and evaluation. These cycles are repeated until every participant of the project notices change.[84] They go beyond simply presenting

79. Lloyd-Cape, 'Inside Police Custody 2' (2018); Zach, Katona, and Birk, 'Inside Police Custody 2: Country Report' (2018).
80. For a detailed description on how to draft effective recommendations see APT, 'Briefing No 1: Making Effective Recommendations' (2008).
81. Hilary Bradbury, 'Introduction: How to Situate and Define Action Research' in Hilary Bradbury (ed.), The SAGE Handbook of Action Research 3rd edn, (SAGE Publications 2015).
82. Anna Góral and others, Action Research: A Handbook for Students (Instytut Spraw Publiczynch 2021) 49.
83. Ishwara P. Bhat, 'Action Research in Law: Role and Methods' in Idea and Methods of Legal Research (Oxford Academic, 2020) 533.
84. ibid535.

results and closing a file. Action research invites everyone involved in the research to constantly reflect on the methodology and the envisioned goals of the project.

Similarly, the so-called **open innovation in science (OIS) methods** could offer a good framework on the existing participatory approaches to involve impacted persons in the research process as well as on their benefits.[85] Opening up research processes does not serve an end in itself. Rather, it aims at shifting the power and ownership towards the impacted persons by having them actively involved in research decision-making as equal collaboration partners instead of passively receiving information about research projects. On the one hand, this contributes to the empowerment of those affected by research as well as the democratisation of knowledge. On the other hand, it leads to better quality in research and an increased societal relevance of research (e.g., novel insights, more efficient processes, higher impact, directing research towards societal relevant topics, closing the gap between science and society, better understanding of and insights into gaps and priorities in the research are).[86]

EXAMPLE

According to the OIS methods, the impacted persons can be involved at different steps of the research process here are three levels of activities:

· **ENGAGEMENT:** Information and knowledge about research is provided and disseminated (e.g., dissemination of research to the public (via media, social media), raising awareness of research through media, science festivals and open days at universities and research centres.)

·**PARTICIPATION:** Impacted persons take part in research studies (e.g., being recruited in clinical trials, completing questionnaires, participation in interviews and focus groups)

· **INVOLVEMENT:** Impacted persons and, when not possible, their closest representatives (e.g. former detainees, relatives of detainees) are actively involved in research (e.g., as grant holders and co-applicants, through identifying research opportunities, agenda setting, members of project advisory and steering groups, co-developing information or materials, undertaking interviews with researchers, and carrying out research).[87]

This project did not adopt the mentioned methods but involved experts from various fields, such as medicine, psychology, linguistics, and history, which led to **multidisciplinary knowledge creation**.[88] These elements of action were a strength of the project because they led to honest exchange on realities in the field. Many participants were inspired by the multidisciplinary input and said they wanted to try to implement some ideas in their national detention procedures. Moreover, the project was based on the results of the comprehensive research project 'Inside Police Custody 2' that involved **innovative research methods** such as observational research and focus group discussions. For an overview of effective methods to conduct research in the area of procedural rights it is worth consulting the national and comparative project reports.[89]

85. Open Innovation in Science (OIS) itself is defined as a process of purposively enabling, initiating and implementing inbound, outbound or coupled knowledge flows and (inter/transdisciplinary) collaborations along one or more stages of the scientific research process. See Susanne Beck and others, 'The Open Innovation in Science Research Field: A Collaborative Conceptualisation Approach' (2022) 29(2) Industry and Innovation 139.
86. Raphaela Kaisler and Benjamin Missback, 'Co-Creating a Patient and Public Involvement and Engagement 'How to' Guide for Researchers' (2020) 6 Research Involvement and Engagement 6 as well as the useful additional resources here 'OIS Resources: Explore the Resources Developed or Suggested by the OIS Center' (Ludwig Boltzmann Institute Open Innovation in Science Center) <https://ois.lbg.ac.at/ois-resources>
87. Kaisler and Missback, 'Co-Creating a Patient and Public Involvement and Engagement' (2020) 3.
88. Bhat, 'Action Research in Law' (2020) 535.
89. See Lloyd-Cape, 'Inside Police Custody 2' (2018); Zach, Katona, and Birk, 'Inside Police Custody 2: Country Report' (2018) and other national reports of the project.

Challenges and how to overcome them

Researching on and with suspected and accused persons also poses serious challenges. It needs to be considered that persons in police custody are at a particularly high risk of torture and ill-treatment and that talking to researchers/ CSO representatives may increase this risk. Research must therefore expressly address the issue of possible risks and ensure that the principle of 'do no harm' is followed. Therefore, it is useful to conduct an explicit risk assessment as part of every research plan. Further guidance on how to interview suspects and accused can be found in guide books e.g. on monitoring police custody.[90] Access may be an additional challenge in research. In many countries researchers cannot easily access police stations let alone observe interrogations.

EXAMPLE

In the 'Inside Police Custody 2' project "some national research teams had to radically revise their research methodology as a result of lack of cooperation, at a political and administrative (that is, relevant government, ministries) level, and on the part of the police. Despite the fact that observational research in police stations has been conducted in previous projects in a range of countries with the cooperation of the relevant authorities, that the research was funded by the European Commission, and that assurances were provided regarding the confidentiality of research data (so that no person or location could be identified from any published data, and that research data would be stored securely), agreement for researchers to be based in police stations and/or to accompany lawyers to police stations, was not forthcoming in a number of countries in the study."

Therefore, it is very **important to build trustful relations** with the authorities and convince them that more transparency and external evaluations are necessary and useful (see above, § 2.4). In general, conditions should be created to ensure independent monitoring and collection of data. As reported in a recent report by Fair Trials, "depending on good partnerships with state authorities in order to be allowed access to prisons to deploy studies, or having authorities dismissing people's accounts of injustice, carries the risk of researchers self-censoring in their work."[91]

Moreover, **close cooperation with institutions that have privileged access**, such as NHRIs and NPMs may remedy the lack of access and should be fostered. Past projects have shown NHRIs and NPMs can play a bigger role in the strengthening of procedural rights. While many NHRIs and NPMs are routinely monitoring procedural rights in the early stages of custody, others do not do it often enough, due to lack of resources, capacities, or different strategic priorities.[92] National oversight mechanisms remain, however, key allies and precious sources of information in the monitoring of procedural rights.

Another key challenge is to ensure that research generates the desired impact. Experts emphasised the importance of bringing research back to the communities. Further, it needs to be acknowledged that research can only be one part of the change process and needs to be followed up and combined with other change tools.

90. See Michael Kellett, 'Monitoring Police Custody: A practical guide' (APT 2013); See some of our reflections in the context of research in prison: Fair Trials, 'Equality Data in Criminal Justice: Report' (2022); The Méndez Principles (2021: Michael Boyle and Jean-Claude Vullierme, 'A Brief Introduction to Investigative Interviewing: A Practitioner's Guide' (CPT 2018).
91. Fair Trials, 'Equality Data in Criminal Justice' (2022) 27.
92. Giuliana Monina and Nora Katona, 'Strengthening the Rights of Suspects and Accused in Criminal Proceedings the Role of National Human Rights Institutions' Institutions' (Ludwig Boltzmann Institute for Fundamental and Human Rights, 2019) 9, 107. See also Giuliana Monina 'Strengthening The Prevention Of Torture In South-East Europe: For The Effective Monitoring Of Safeguards In Police Custody: Final Report' (Ludwig Boltzmann Institute for Fundamental and Human Rights, 2021) written in the framework of the Project "Strengthening the Prevention of Torture in South-East Europe: for an Effective Monitoring of Safeguards in Police Custody". The project was implemented on the occasion of the Croatian Chairmanship of the South East Europe NPM Network (SEE NPM Network) by the Croatian National Preventive Mechanism, in cooperation with the Ludwig Boltzmann Institute of Fundamental and Human Rights, the Association for the Prevention of Torture and with the financial support of the Joint Project "European NPM Forum", funded by the European Union and the Council of Europe, and implemented by the Council of Europe.

3.2 Advocacy

Definition and purpose

Advocacy can be defined as "all communication that is intended to persuade or produce a particular change in action or behaviour."[93] Advocacy interventions can materialise in many ways, for instance, in public campaigns social media action. A more narrow understanding of advocacy is what is also referred to as lobbyism, the act of influencing a decision maker, usually to make legislative or policy changes.[94] This can involve elements of pressure, awareness-raising, and support through providing expert advice and can take place in bilateral or multilateral meetings, behind closed doors or in roundtables or panel debates. The OHCHR provides broad guidance on advocacy in its 'Manual on Human Rights Monitoring' that shall be briefly outlined below with reflections from exchanges during the project.

Public communication or awareness raising is another important type of advocacy. Generally, awareness raising refers to "fostering communication and information in order to improve mutual understanding and mobilise communities to bring about changes in attitudes and behaviour".[95] For raising awareness advocates can resort to various measures such as public campaigns in the form of audio-visual or printed material, training, or social media action.[96]

Principles and strategic use

Utilising reliable and credible data is key for the integrity of a CSO and for it to be invited to the table. Competence and credibility are key ways to convince decision makers. It is equally the foundation for effective campaigning and awareness-raising.

As mentioned above, effective advocacy should be **based on thorough research, SMART recommendations and ideally embedded in a larger advocacy strategy (e.g. as part of a Theory of Change)**. The strategy includes the goals and outcomes of the lobbying interventions which also serve as benchmarks to measure the success of the advocacy.[97]

Meeting stakeholders requires extensive preparation. Firstly, the goal of the meeting must be clear to all advocates.[98] The communication should be specifically tailored to the stakeholder and framed in such a way that it explicitly or implicitly persuades to act. Prior to the meeting, extensive research must be conducted on the political system, the title, responsibilities of the legislator, and their position on the human rights issue at hand.[99] Questions and opposing opinions of the targeted stakeholder must be anticipated and answers must be prepared.[100] It is also advisable to review recommendations of other organisations to increase leverage during the meeting.[101] Additionally, all information that will be

93. OHCHR, 'Chapter 31: Advocacy and Intervention' (2011) 4; another definition of advocacy is "Advocacy, i.e. the act of arguing for something to be done, denotes the various strategies used to strengthen the promotion and protection of human rights, either in respect of a specific case/ situation or more broadly. (…) consists of several methods that can be used to influence the targeted actors (…) may use public campaigns, lobbying and complementary means such as litigation (…)" in Ilias Bantekas and Lutz Oette, 'Chapter 3: Human Rights in Practice' in International Human Rights Law and Practice (Cambridge University Press 2020) 144.
94. Marijana Grandits, 'Human Rights and Lobbyism' in Manfred Nowak, Karolina M. Januszewski, and Tina Hofstätter, All Human Rights for All: Vienna Manual on Human Rights (Intersentia 2012) 635.
95. OHCHR, 'Chapter 31: Advocacy and Intervention' (2011) 4.
96. OHCHR, 'Awareness-Raising Under Article 8 of the Convention on the Rights of Persons with Disabilities: Report of the Office of the United Nations High Commissioner for Human Rights' (2020) A/HRC/43/27.
97. The Advocates for Human Rights, 'Chapter 7: Advocacy' in Paving Pathways for Justice & Accountability: Haman Rights for Diaspora Communities (2014) 104, Duffy, 'Strategic Human Rights Litigation' (2018) 237, English and others, 'Influencing for Impact Guide' (2020) 36, Tina Power, Michael Power and Ben Batros, 'Strategic Litigation Toolkit: Prepared by ALT Advisory' (Digital Freedom Fund) 15.
98. The Advocates for Human Rights, 'Chapter 7: Advocacy' (2014) 112.
99. OHCHR, 'Chapter 31: Advocacy and Intervention' (2011) 18.
100. ibid 112-113.
101. ibid 12.

presented must be verified.[102] In particular, if personal testimonies are used, their reliability should be assessed so that their use will not cause harm.[103]

Setting the tone for the meeting is decisive for its success.[104] Engaging respectfully with the stakeholders and complying with customs, cultures, and hierarchies are very important. Finding a common interest in changing the situation and showing understanding for the authorities may often be more impactful than criticising.[105]

A combination of several **follow-up activities** can increase the impact of, and dismantle resistance to, change. It is worth actively maintaining the line of contact and monitoring the stakeholder's activities to continue the dialogue and measure the impact of the intervention.[106] Advocacy meetings are rarely effective by themselves and will usually have to be complemented by other communication that is able to increase the pressure on decision-makers to act. Moreover, it is important to recognise that effective advocacy is aimed at changing attitudes that sustain human rights violations,[107] among political decision makers as well as the general public. Questioning belief systems is particularly relevant for ensuring the rights of suspected and accused persons as they are often viewed as criminals rather than rights holders. Consequently, the public and political interest in procedural guarantees is rather small. Effective communication on human rights has received increased attention and helpful guidance has been produced by organisations such as the EU's Fundamental Rights Agency (FRA).[108]

10 Keys to Effectively Communication Human Rights (FRA)

1. Tell a human story
2. Identify issues of broader interest to the general public
3. Trigger people's core values
4. Cut a long story short
5. Get visual
6. Embrace positiviy
7. Give your message an authentic voice
8. Strengthen communication with media
9. Diversify communication strategies to address different audiences
10. Ensure sufficient resources for your communication work

Figure 5: 10 Keys to Effectively Communicating Human Rights (FRA)

Participants in the project highlighted the importance of going beyond providing information about the rights of defendants to focus on **changing negative attitudes** towards them in awareness-raising programmes. Consequently, awareness-raising programmes aiming at eliminating attitudinal barriers should appeal emotionally to a community for it to see, for instance, disability-based discrimination and exclusion as unfair or unjust for the community itself and not just "others".
The project provided numerous opportunities to advocate for strengthening procedural rights

102. ibid 11.
103. ibid 11.
104. Ibid 18.
105. Ibid 5; Suntinger and Birk, 'Appreciative Inquiry: Mobilizing Potentials within Police' (2020) 7.
106. The Advocates for Human Rights, 'Chapter 7: Advocacy' (2014) 116.
107. OHCHR, 'Awareness-Raising Under Article 8' (2020).
108. FRA, '10 Keys to Effective Communicating Human Rights' (2018).

ranging from national roundtables and regional consultations to targeted advocacy activities. The national roundtables assembled a very broad range of actors around the table to discuss the problem and possible solutions to strengthen procedural rights and develop action plans. It was thus a great opportunity to motivate state authorities to undertake reforms. The Change Formula helped to design the roundtables with a specific end to influence change in mind and resulted in the development of national action plans. The regional consultations specifically added the element of peer-to-peer exchange across EU Member States and allowed exchange between countries with promising practices and those in need of reform (see above, § 2.5). Particularly noteworthy was the regional consultation in Ireland that added the element of a study visit to a police station to witness the practice of AVR. This generated great interest on the part of state representatives.

The challenge, however, was that the stakeholders who attended the events were experts, representatives of public authorities, but rarely political decision makers that had the power to initiate structural/ legal changes (see also above, § 2.5). In future projects, it would thus be important to consider how multilateral advocacy meetings can be designed to also engage this target group. One possibility often used is to follow up expert consultations with a public discussion where the results and recommendations are being presented to politicians asking them to take a position.

The need to raise awareness and mobilise the public was also discussed at the project's EU workshop with CSOs, and the participants suggested numerous innovative ways to do this including the development of podcasts or videos or campaigning, putting at the centre storytelling and human stories. For example, in the context of this project four videos with the respective focus on access to information, access to a lawyer, access to legal aid, and AVR recordings were created. It is anticipated that the dissemination of the videos on social media will attract the attention of criminal justice actors in other Member States and also foster dialogue. In the videos, various criminal justice stakeholders, like police officers and lawyers, talk about their real life experiences, which creates a believable and convincing message.

Challenges and how to overcome them

The general guidance on effective advocacy provided by organisations such as the OHCHR emphasises that **advocacy is a tool that should be used strategically and a skill that can be trained**. Moreover, advocacy needs **to take into account the advances in social sciences and normative change and the advances made in research on the human actor, means of communication and group dynamics**.[109] Moreover, it has been critically noted that in some CSO advocacy may be internally marginalised and dismissed as an implicit side product of the organisation's overall objective.[110]

The 'marginalisation' of advocacy is often also caused by a lack of resources.[111] Therefore, thorough planning of interventions is highly relevant to use the few available resources wisely. In its comprehensive manual on advocacy with national authorities, the OHCHR laid down a useful step-by-step plan for bilateral as well as multilateral lobbying with stakeholders. Before starting an intervention, it is advisable to determine the target audience of advocacy. For this exercise, stakeholder mapping helps to distinguish between officials who have no power to act and actors who are capable of transmitting human rights messages (see above, § 2.4.1).[112] Moreover, the lack of resources can be mitigated by improving the coordination and cooperation of advocacy efforts, using synergies and avoiding duplications (see above, § 2.6). The participants in the projects highlighted the importance of building advocacy coalitions to coordinate and reinforce messages.

109. Ryan Goodman, Derek Jinks, and Andrew Woods, Understanding Social Action, Promoting Human Rights (Oxford University Press 2012)7-8.
110. Chris Stalker and Dale Sandberg, 'Praxis Paper 25: Capacity Building for Advocacy' (International NGO Training and Research Centre 2011) 8.
111. Ibid 10.
112. OHCHR, 'Chapter 31: Advocacy and Intervention' (2011) 5.

Although storytelling and human stories may be powerful in advocacy and campaigning, the participants at the event with CSOs in Brussels warned of the risk of exposing and re-traumatising persons concerned. Advocates should thus always be guided by the "do no harm principle" which implies that a risk assessment of the short and long-term effects for the individual and their community is conducted.

3.3 Strategic Litigation

Definition and purpose

During the project, litigation and strategic litigation in particular, were identified as a very important tool to influence change in the area of procedural rights. There is no commonly agreed definition of strategic litigation.[113] However, in the framework of this project, strategic litigation can be understood as bringing a certain case to the courtroom to create broader change in society. Thus, strategic litigation is concerned not only with the specific case but also with the impact of the case on society, governments, and institutions.[114]

Principles and strategic use

The strategic litigation expert Helen Duffy urges that lawyers need to **start cases with a clear end in mind**. Often lawyers only start to think about the influence of their case when it is closed. However, the impact of a case can be already controlled with the selection of a case.[115] The NGO Validity (previously known as Mental Disability Advocacy Centre), for example, uses the acronym SPARR to select its cases. The SPARR selection criteria consists of Strength (Is the case a strong one?), Potential (Does the case have the potential to help other people?), Added-Value (Is the case one which can add value through expertise?), Relevance (Is the case relevant to our mission?), and Resources (Do we have the human and financial resources to litigate the case through domestic courts, and, if necessary, to a regional or international body?).[116] These criteria may assist other NGOs to determine the goal and impact of the case from the start.[117]

After the case is selected, it is important that the lawyers become **familiar with the socio-political context of the case** (see above, § 2.2). Moreover, research concerning opposing opinions, deeply rooted prejudice in society, and risks linked to the case are similarly important for a realistic impact assessment.

Challenges and how to overcome them

Strategic litigation may also bear significant reputational, physical, mental, and financial risks. The **client's interest constitutes the starting point** of the case and should not suffer for the greater cause of the case. Strategic litigation offers an opportunity to tell a relatable and personified story. This was also highlighted by the participants at the EU workshop with CSOs. However, lawyers should always be guided by the 'do no harm principle' which implies that a risk assessment of the short and long-term effects for the client and their community is conducted.

There are discussions on whether the client's interests and the overall impact of the case can be at odds. However, this tension can be mitigated by involving the client from the beginning, explaining the overall strategy and impact planning,[118] and by giving clients the opportunity to make decisions concerning the case.[119]

In the context of legal aid reforms, it is often lawyers themselves that bring cases to courts lamenting the inadequate

113. Duffy, 'Strategic Human Rights Litigation' (2018) 3.
114. ibid 235
115. ibid 235.
116. Validity Foundation, 'What Is Strategic Litigation?' (2011).
117. Duffy, 'Strategic Human Rights Litigation' (2018) 235.
118. ibid viii.
119. Power, Power and Batros, 'Strategic Litigation Toolkit' (Digital Freedom Fund) 41.

compensation for their duties. For example, in the Netherlands it was thanks to a complaint brought to the court of Amsterdam by a lawyer that the principle of mandatory representation for minors suspected and accused of a crime was extended to minors that are summoned to come to the police station and not deprived of liberty.[120] More generally, it is important to **consider the larger impact of litigation** including potential 'unintended consequences'. Embedding strategic litigation into a larger strategy or a Theory of Change is important for litigators and clients to agree upon the intended outcome and expectations.[121]

Combining strategic litigation with other advocacy tools, like coalition building and media outreach, may increase the impact of strategic litigation.

Ultimately, to enhance the impact of litigation, it is important that **CSOs build trustful and sustainable relationships with lawyers and bar associations**. It is thus recommendable to find ways to ensure regular exchange between CSOs, who are familiar with human rights shortcomings in law and policies, and practising lawyers, who may then use this information to identify potential cases and bring them court (see also above, § 2.4).

3.4 Training

Definition and purpose

Training can be defined as "the process of learning the skills you need to do a particular job or activity".[122] Human right training is defined in the UN Declaration on Human Rights Education and Training, Article 2, as follows: "human rights education and training comprises all educational, training, information, awareness-raising and learning activities aimed at promoting universal respect for and observance of all human rights and fundamental freedoms and thus contributing to, inter alia, the prevention of human rights violations and abuses by providing persons with knowledge, skills and understanding and developing their attitudes and behaviours, to empower them to contribute to the building and promotion of a universal culture of human rights."[123]

Training is "an essential element of any change process that organisations undergo in order to adapt to concrete realities and related challenges."[124] The participants in the project all acknowledged the importance of training to strengthen procedural rights. Only if the key stakeholders involved - from police to lawyers - have the adequate capacities, can procedural rights be effectively guaranteed.

Principles and strategic use

There is extensive guidance on how to carry out effective training to promote human rights and the rule of law.[125] The key aspect of effective (human rights) trainings is that it must target competencies at different levels, namely:

- Knowledge,
- Skills
- Attitudes.[126]

120. Rechtbank Amsterdam, No. AMS 21/809 10-11-2021 <https://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RBAMS:2021:6411>.
121. Tina Power, Michael Power and Ben Batros, 'Strategic Litigation Toolkit: Prepared by ALT Advisory' (Digital Freedom Fund) 15.
122. Cambridge Dictionary, 'Training' (2023).
123. United Nations Declaration on Human Rights Education and Training (2011) A/RES/66/137 (adopted December 2011) article 2(1).
124. Walter Suntinger, 'Chapter 13 Police Training and International Human Rights Standards' (2018) in Ralf Alleweldt and Guido Fickenscher, The Police and International Human Rights Law (Springer 2018) 281-282.
125. See, amongst many others, Ibid. and UNODC, 'Police Reform' (2023) <https://www.unodc.org/unodc/en/justice-and-prison-reform/cpcj-tools-police.html>; FRA, 'Fundamental Rights-Based Police Training – A Manual for Police Trainers' (2019); OSCE and ODIHR, 'Guidelines on Human Rights Education for Law Enforcement Officials' (2012).
126. See the 'Human rights education triangle' in FRA, 'Fundamental Rights-Based Police Training' (2019) 14; OSCE and ODIHR,

Moreover, any training needs to be targeted and take into account the specific needs of the participants.[127] It should thus be based on an adequate problem analysis (see above, § 2.2) as well as a **thorough assessment of the needs of the target group**. When assessing the current capacities, it is useful to not only focus on the deficits but also on the existing resources and achievements. An emphasis on existing promising practices and resources promotes interests, open communication, and cooperation.[128] Consequently, energy is mobilised, and staff are motivated to grow.[129]

Moreover, a global comparative study on the effectiveness of torture prevention mechanisms found that training that equips police with specific professional skills are much more effective than general 'human rights trainings'. Instead of training on what should not be done, the focus should be on how they can do things differently.[130]

In order to strengthen procedural rights, it is important to consider in which area and for which stakeholder the capacities need to be strengthened. These can include police, prosecutors, judges, as well as lawyers, medical staff and CSO representatives.

In the course of our project, the training programme known as 'SUPRALAT' was repeatedly mentioned as a success story. SURPALAT was developed in the framework of the EU-funded Project "Strengthening the procedural rights of suspected and accused persons in pre-trial proceedings through practice-oriented training for lawyers", which took place between 2015 and 2017 and which was coordinated by Maastricht University.[131] The training occurred in Belgium, Ireland, The Netherlands, with the partners from the University of Antwerp, Dublin City University, Hungarian Helsinki Committee, and Provincie Limburg Opleiding en Training.[132] It consisted of a train-the-trainer program through which 50 lawyers were trained to train others and a blended learning model where participants had the opportunity to access online material and offline sessions.[133] At the Madrid workshop SUPRALAT was defined as the "gold standard for solicitor training" and its success was identified in the fact that the training was interdisciplinary and covered classes of psychology and communication in addition to law, which was only one small aspect of it. Another aspect described as particularly relevant was the strong emphasis on open, uninhibited engagement within the group of participants.

The project was extended with a follow-up project called NETPRALAT, always co-funded by the European Commission and executed by Catalan Bar Council (Spain), Centre for Human Rights Defence (IRIDIA, Spain), Polish Bar Council (Poland), Human Rights Monitoring Institute (Lithuania), European Legal Interpreters and Translators Association, and the University of Maastricht (The Netherlands). The project was executed from 2014-2020 and had similar methodology to the SUPRALAT training. In the context of NETPRALAT, lawyers were trained to train other lawyers. The guide for training lawyers and the curricular of the NETPRALAT course are fully accessible online.[134]

Another interesting training programmes in the field of procedural rights is the CRIMILAW project implemented between2020 and 2022 by the European Lawyers Foundation in partnership with

'Guidelines on Human Rights Education' (2012) 23.

127. For further information on basic characteristics see also Walter Suntinger, 'Human Rights Trainings' in Manfred Nowak, Karolina M. Januszewski, and Tina Hofstätter, All Human Rights for All: Vienna Manual on Human Rights (Intersentia 2012) 617.

128. Suntinger and Birk, 'Appreciative Inquiry: Mobilizing Potentials within Police' (2020) 8.

129. ibid 12.

130. Carver and Handley (eds), Does Torture Prevention Work? (2016) 79-80.

131. For more information can be found in Anna Pivaty, 'Maastricht University, 'A Quiet Revolution in the Dutch Criminal Procedure' (Maastricht University, 02.03.2017); Hungarian Helsinki Committee, 'SUPRALAT: Strengthening Suspects' Rights in Pre-trial Proceedings Through Practice Oriented Training for Lawyers in Criminal Proceedings (2015-2017)' (01.10.2015).

132. Hungarian Helsinki Committee, 'SUPRALAT: Strengthening Suspects' Rights in Pre-trial Proceedings Through Practice Oriented Training for Lawyers in Criminal Proceedings (2015-2017)' (01.10.2015).

133. Anna Pivaty, 'Report on the SUPRALAT Project' (European Criminal Bar Association) 1.

134. NETPRALAT, https://www.netpralat.eu/project/. Formació Advocacia Catalana, 'English E-learning Modules' https://www.formacioadvocaciacatalana.cat/course/view.php?id=451.

Abogacía Española, the Bars of Cyprus, Italy and Poland, and the Bars of Athens, Budapest and Paris,[135] as well as the training programmes conducted by the Academy of European Law Academy (ERA) in 2013,[136] and more recently in 2020 - 2021.[137]

The recently adopted Principles on Effective Interviewing for Investigations and Information Gathering (Méndez Principles),[138] already mentioned above, will have a major impact on strengthening the capacities for professional policing and procedural rights.

As noted by Dr. Ivar Fahsing, Detective Chief Superintendent and Associate Professor at the Norwegian Police University College, interviewing of suspects requires specific training if it is to be performed in a professional manner. Detectives must understand the true role of an investigative officer and learn to think differently. The aim of interviewing is not to confirm what the officer thinks may have happened or to coerce the interviewee into providing information or confessing but rather to actively seek and test for all potential explanations related to suspects innocence. This might reduce cognitive biases and helps officers meet the legal threshold of 'beyond a reasonable doubt' as well as reduce wrongful confessions and miscarriages of justice. Officers who approach interviews with an open mind are far more productive; they effectively apply the presumption of innocence in practice by generating and actively testing alternative hypotheses through systematic planning, rapport building and evidence collection from human sources. Furthermore, investigative interviewing favours empathy and analytical and communicative skills. Altogether, this may contribute to a culture change within the police and increase officers' well-being and job motivation.[139]

Challenges and how to overcome them

A key challenge in the area of training mentioned by the participants in this project is the potential lack of interest and resources to invest in such training from the part of criminal justice stakeholders. Specifically, when training is offered by CSOs there can be reluctance from the authorities and trainers may be dismissed as 'not knowing the challenges on the ground'.

Thus, it is important to **embed training activities in a larger strategy** (e.g. a Theory of Change) and explicitly reflect on how the respective stakeholders can be motivated to strengthen their capacities. Further, with regard to the police, it can be helpful to frame it as a need to strengthen 'professional capacities' rather than 'human rights training'. Importantly, the participants have to understand why they benefit from such training. An approach appreciating the existing resources and involving experts with a first-hand knowledge of the practical challenges of the target group is helpful.

Moreover, it is useful for CSOs to conduct training together with criminal justice actors (e.g. police or judges and prosecutors). This allows state trainers to gain an external perspective, and civil society trainers to gain an internal perspective and allows participants to gain a fuller picture of the problems and solutions addressed. The cooperation also sets a good example for the benefits of a strong cooperation between the state and civil society and builds relationships for future cooperation.
Single interventions are unlikely to create **sustainable change**. One-off training, for example, tends

135. Abogacía Española Consejo General, 'Crimilaw: Training of lawyers in European instruments on criminal procedural law (2020-2022)' (2023).
136. The project was implemented together with the Italian School for the Judiciary and the Romanian National School of Clerks and its results are available here: ERA, 'Handbook Project JUST/2013/JPEN/AG/4496 Procedural Rights in EU Criminal Law' <https://www.era.int/upload/dokumente/18183.pdf>.
137. The project was implemented together with the Centre for Judicial Studies, The Croatian Judicial Academy, The Estonian Prosecution Office, The European Judicial Training Network, The European Legal Interpreters and Translator. The results are available here ERA, 'Applying Procedural Rights in the EU – State of Play' Academy of European Law' <https://procedural-rights.legal-training.eu/events/>.
138. Méndez Principles (2021); see also the E-Learning modules offered by the UNODC on Investigative Interviewing: University of Oslo, 'UNODC Global eLearning Course on Investigative Interviewing now Available' (2022) <https://www.jus.uio.no/smr/english/about/id/news/2022/unodc-global-elearning-course-on-investigative-int.html> accessed 02 March 2023.
139. Boyle and Vullierme, 'A Brief Introduction to Investigative Interviewing' (2018); CPT, '28th General Report of the CPT' (2018).

to be ineffective unless there are organisational support structures and networks in place.[140] Further, research shows that training is likely to be more accepted and effective, and information is more likely to be appreciated, when **integrated into the curriculum** of, for example, police academies and when it provides practical assistance to officials.[141] Only if the organisational structure of detention facilities allows for change to happen, can it occur. Therefore, the **explicit support for training of the management** is essential.[142] Training can never be a standalone measure but must be complemented by other interventions, e.g. legal or institutional reforms.

140. Stalker and Sandberg, 'Praxis Paper 25' (2011) 21.
141. Monina and Katona, 'Strengthening the Rights of Suspects and Accused in Criminal' (2019) 79.
142. Council of Europe, 'HELP Guidebook on Human Rights Training Methodology for Legal Professionals' (2016).

Bibliography

Abogacía Española Consejo General, 'Crimilaw: Training of Lawyers in European Instruments on Criminal Procedural Law (2020-2022)' (2023) <https://www.abogacia.es/en/conocenos/bruselas/proyectos-europeos/nuestros-proyectos-europeos/crimilaw-formacion-de-abogados-en-los-instrumentos-europeos-sobre-derecho-procesal-penal-2020-2022/> accessed 02 March 2023.

Academy of European Law (ERA), 'Applying Procedural Rights in the EU – State of Play' Academy of European Law' <https://procedural-rights.legal-training.eu/events/> accessed 02 March 2023.

Academy of European Law (ERA), 'Handbook Project JUST/2013/JPEN/AG/4496 Procedural Rights in EU Criminal Law' <https://www.era.int/upload/dokumente/18183.pdf> accessed 02 March 2023.

Alison Liebling and others, 'Appreciative Inquiry and Relationships in Prison' (1999) 1(1) Punishm Soc. Amnesty International, 'Transform Yourself Intointo an Agent of Change for Human Rights' (11.11.2015) <https://www.amnesty.org/en/latest/education/2015/11/transform-yourself-into-an-agent-of-change/> accessed 02 March 2023.

András Kristóf Kádár, Nóra Novoszádek, and Dóra Szegő, 'Inside Police Custody 2: Country Report for Hungary' (Magyar Helsinki Bizottság 2018) <https://helsinki.hu/wp-content/uploads/IPC_Country_Report_Hungary_Eng_fin.pdf> accessed 02 March 2023.

Anna Góral and others, Action Research: A Handbook for Students (Instytut Spraw Publiczynch 2021). Anna Pivaty, 'A Quiet Revolution in the Dutch Criminal Procedure' (Maastricht University, 02.03.2017) <https://www.maastrichtuniversity.nl/blog/2017/03/quiet-revolution-dutch-criminal-procedure> accessed 02 March 2023.

Anna Pivaty, 'Report on the SUPRALAT Project' (European Criminal Bar Association) <https://www.ecba.org/extdocserv/conferences/palma2017/SUPRALATreport_ECBA.pdf> accessed 02 March 2023. Association for the Prevention of Torture (APT), 'Briefing No 1: Making Effective Recommendations' (2008) <https://www.apt.ch/sites/default/files/publications/Briefing1_en.pdf> accessed 02 March 2023.

Bulgarian Helsinki Committee, 'Piloting Equality Data Collection in Criminal Justice Systems across the EU (EQUALITYDATA)' <https://bghelsinki.org/en/equalitydata> accessed 02 March 2023.

Bureau de Bruxelles La Lettre, 'Historique de la création de la permanence Salduz' <http://www.barreaudebruxelles-lalettre.be/document/PV/2016-03-15annexe.pdf> accessed 02 March 2023.

Cambridge Dictionary, 'Training' (2023) <https://dictionary.cambridge.org/dictionary/english/training> accessed 02 March 2023.

Carl Piron Ariane Deladrière Emilie Deveux, 'Loi Salduz+ : Évaluation qualitative 2017-2018 Evaluation réalisée par le Service de la Politique criminelle' (Service Public Fédéral Justice) <http://www.dsb-spc.be/doc/pdf/Rapport-Salduz-qualitatif_FR.pdf> accessed 02 March 2023.

César Rodríguez-Garavito, 'Beyond the Courtroom: The Impact of Judicial Activism on Socioeconomic

Rights in Latin America' (2011) 80(7) Texas Law Review.

Cheryl Thomas and others, 'Developing Legislation on Violence against Women and Girls' (Advocates for Human Rights, 2011) < https://www.endvawnow.org/uploads/modules/pdf/1355776748.pdf> accessed 02 March 2023.

Chris Stalker and Dale Sandberg, 'Praxis Paper 25: Capacity Building for Advocacy' (International NGO Training and Research Centre 2011) <https://www.intrac.org/wpcms/wp-content/uploads/2016/09/Praxis-Paper-25-Capacity-building-for-advocacy-Chris-Stalker-with-Dale-Sandberg.pdf> accessed 02 March 2023.

Claudio Paterniti Martello and others, 'Inside Police Custody 2: Country Report of Italy' (Associazione Antigone 2018) <https://www.antigone.it/upload2/uploads/docs/IPC_ITA.pdf> accessed 02 March 2023.

Conseil Superieur de la Justice, 'Project Flavour: Clear Language on the Agenda of the Judicial System' (2018) https://csj.be/admin/storage/hrj/projectflavour.pdf accessed 02 March 2023.

Council of Europe, 'HELP Guidebook on Human Rights Training Methodology for Legal Professionals' (2016) < https://rm.coe.int/help-guidebook-on-human-rights-taining-methodology-for-legal-professio/1680734cac> accessed 02 March 2023.

Council of the European Union, 'Roadmap With a View to Fostering Protection of Suspected and Accused Persons in Criminal Proceedings' (2009) 11457/09 DROIPEN, 53 COPEN 120 <https://data.consilium.europa.eu/doc/document/ST-11457-2009-INIT/en/pdf> accessed 03 March 2023.

David Peter Stroh, Systems Thinking for Social Change: A Practical Guide to Solving Complex Problems, Avoiding Unintended Consequences, and Achieving Lasting Results (Chelsea Green Publishing 2004).

Diana Whitney and Amanda Trosten-Bloom, The Power of Appreciative Inquiry: A Practical Guide to Positive Change (Berret-Koehler Publishers 2010).

Duncan Green, How Change Happens (Oxford University Press 2016).

Ed Lloyd-Cape, 'Inside Police Custody 2: Comparative Report' (2018) <https://www.iccl.ie/wp-content/uploads/2018/12/Inside-Police-Custody.pdf> accessed 03 March 2023.

Erika Leonaitė and Karolis Liutkevičius, 'Inside Police Custody 2: Country Report for Lithuania' (Human Rights Monitoring Institute 2018) <http://hrmi.lt/wp-content/uploads/2019/03/National_report_Lithuania_2018.pdf> accessed 02 March 2023.

European Commission, 'Rights of Suspects and Accused: Documents' <https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/criminal-justice/rights-suspects-and-accused_en> accessed 02 March 2023

European Committee for the Prevention of Torture (CPT), '28th General Report of the CPT: 1 January - 31 December 2018' (April 2019) CPT(Inf(2019) <https://rm.coe.int/16809420e3> accessed 03 March 2023.
European Committee for the Prevention of Torture (CPT), 'Access to a Lawyer as a Means of Preventing Ill-Treatment: Extract from the 21st General Report of the CPT' (2011) <https://rm.coe.

int/16806ccd25> accessed 03 March 2023.

European Parliament, 'Democratic Oversight of the Police: Study requested by the LIBE Committee' (Policy Department for Citizens' Rights and Constitutional Affairs 2022) <https://www.europarl.europa.eu/RegData/etudes/STUD/2022/703590/IPOL_STU(2022)703590_EN.pdf> accessed 02 March 2023.

Fair Trials, 'Equality Data in Criminal Justice: Report' (2022) <https://www.fairtrials.org/articles/publications/equality-data-in-criminal-justice/> accessed 02 March 2023.

Fair Trials, 'Where's My Lawyer? Making Legal Assistance in Pre-Trial Detention Effective' (2019) <https://www.fairtrials.org/app/uploads/2019/10/Wheres-my-lawyer-making-legal-assistance-in-pre-trial-detention-effective.pdf.> accessed 03 March 2023.

Formació Advocacia Catalana, 'English E-learning Modules' <https://www.formacioadvocaciacatalana.cat/course/view.php?id=451> accessed 02 March 2023

Fundamental Rights Agency (FRA), 'Child-Friendly Justice – Perspectives and Experiences of Children Involved in Judicial Proceedings as Victims, Witnesses or Parties in Nine EU Member States' (2017) <https://fra.europa.eu/sites/default/files/fra_uploads/fra-2017-child-friendly-justice-children-s-perspective_en.pdf> accessed 02 March 2023.

Fundamental Rights Agency (FRA), 'Fundamental Rights-Based Police Training – A Manual for Police Trainers' (2019) <https://fra.europa.eu/en/publication/2013/fundamental-rights-based-police-training-manual-police-trainers> accessed 02 March 2023.

Fundamental Rights Agency (FRA), '10 Keys to Effective Communicating Human Rights' (2018) <https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-effectively-communicating-human-rights-booklet_en.pdf> accessed 02 March 2023.

Fundamental Rights Agency (FRA), 'Rights in Practice: Access to a Lawyer and Procedural Rights in Criminal and EAW Proceedings' (2019) <https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-rights-in-practice-access-to-a-lawyer-and-procedural-rights-in-criminal-and-european-arrest-warrant-proceedings.pdf> accessed 03 March 2023.

Gerrit Zach, Nóra Katona, and Moritz Birk, ''Inside Police Custody 2 Suspects' Rights at the Investigative Stage of the Criminal Process: Country Report for Austria' (Ludwig Boltzmann Institute for Fundamental and Human Rights, 2019) <https://gmr.lbg.ac.at/wp-content/uploads/sites/12/2021/09/inside_police_custody_2_austria_en.pdf> accessed 03 March 2023.

Giuliana Monina and Nora Katona, 'Strengthening the Rights of Suspects and Accused in Criminal Proceedings - The Role of National Human Rights Institutions' (Ludwig Boltzmann Institute for Fundamental and Human Rights, 2019) <https://bim.lbg.ac.at/sites/files/bim/anhang/publikationen/guidebook_strengthening_the_rights_of_suspects_and_accused_in_criminal_proceedings_english.pdf> accessed 02 March 2023

Giuliana Monina, 'Strengthening The Prevention Of Torture In South-East Europe: For The Effective Monitoring Of Safeguards In Police Custody: Final Report' (2021) <https://gmr.lbg.ac.at/wp-content/uploads/sites/12/2022/04/see_network_final_report_.pdf> accessed 02 March 2023.

Helen Duffy, Strategic Human Rights Litigation: Understanding and Maximising Impact (Hart Publishing 2018).
Hilary Bradbury, 'Introduction: How to Situate and Define Action Research' in Hilary Bradbury (ed.), The SAGE Handbook of Action Research 3rd edn, (SAGE Publications 2015) <https://study.sagepub.com/sites/default/files/front_tab_request_v3.pdf> accessed 02 March 2023.

Hungarian Helsinki Committee, 'SUPRALAT: Strengthening Suspects' Rights in Pre-trial Proceedings Through Practice Oriented Training for Lawyers in Criminal Proceedings (2015-2017)' (01.10.2015) <https://helsinki.hu/en/training-on-suspects-rights/> accessed 02 March 2023.

Ilias Bantekas and Lutz Oette, 'Chapter 3: Human Rights in Practice' in International Human Rights Law and Practice (Cambridge University Press 2020).

Irish Department of Justice, 'Garda powers to be modernised and updated under new Bill from Minister Humphreys' (Department of Justice 14.06.2021) <https://www.gov.ie/en/press-release/6ed9f-garda-powers-to-be-modernised-and-updated-under-new-bill-from-minister-humphreys/> accessed 02 March 2023.

Ishwara P. Bhat, 'Action Research in Law: Role and Methods' in Ishwara P. Bhat Idea and Methods of Legal Research (Oxford Academic 2020).

Jaqueline Blackstock and others, Inside Police Custody: An Empirical Account of Suspects' Rights in Four Jurisdictions (Intersentia 2014).

Julia Kozma and Asbjørn Rachlew, Combatting Torture During Police Custody and Pre-Trial Detention (DIGNITY – Danish Institute against Torture 2018) <https://rm.coe.int/1680797130> accessed 03 March 2023.

Krassimir Kanev and Stanimir Petrov, 'Inside Police Custody 2: Country Report for Bulgaria' (Bulgarian Helsinki Committee, 2018) <https://www.bghelsinki.org/media/uploads/special/2018-Inside-Police-Custody-2-Bulgaria-EN.pdf> accessed 02 March 2023.

Katarina Vučko and Neža Kogovšek Šalamon, 'Inside Police Custody 2: Country Report for Slovenia' (The Peace Institute 2018) <https://www.mirovni-institut.si/wp-content/uploads/2017/03/Inside-Police-Custody-2-Slovenian-report.pdf> accessed 02 March 2023.

Kees Pijnappels 'De stelselherziening gefinancierde rechtsbijstand is een luchtkasteel gebleken, gebouwd op wensdenken, hypotheses en illusies. Een politieke klucht in zeven bedrijven' Advocatenblad 2023 – 02 <https://magazine.advocatenblad.nl/2023-02/hoe-een-luchtkasteel-geleidelijk-in-het-niets-verdween/> accessed 02 March 2023.

Kurier, 'Jugendstrafvollzug: Fragezeichen und Reformversprechen' (Kurier 10.07.2013) <htts://kurier.at/chronik/oesterreich/jugendstrafvollzug-fragezeichen-und-reformversprechen/18.650.896> accessed 02 March 2023.

Kurt Lewin, 'Field Theory in Social Science: Selected Theoretical Papers by Kurt Lewin' (Harpers & Brothers Publishers, 1952).

Ludwig Boltzmann Institute of Fundamental and Human Rights, 'EU: Strengthening the effective implementation and follow-up of recommendations by torture monitoring bodies in the European

Union' (Ludwig Boltzmann Institute of Fundamental and Human Rights) <https://gmr.lbg.ac.at/completed-projects-since-2004/eu-strengthening-the-effective-implementation-and-follow-up-of-recommendations-by-torture-monitoring-bodies-in-the-european-union/?lang=en> accessed 02 March 2023.

Ludwig Boltzmann Institute Open Innovation in Science Center, 'OIS Resources: Explore the Resources Developed or Suggested by the OIS Center' (2023) <https://ois.lbg.ac.at/ois-resources> accessed 02 March 2023.

Manfred Nowak, 'Chapter 5: 'Views and Perspectives of Children Deprived of Liberty' in Manfred Nowak, The United Nations Global Study on Children deprived of Liberty (Omnibook 2019) <https://omnibook.com/view/e0623280-5656-42f8-9edf-5872f8f08562/page/111> accessed 02 March 2023

Marijana Grandits, 'Human Rights and Lobbyism' in Manfred Nowak, Karolina M. Januszewski, and Tina Hofstätter, All Human Rights for All: Vienna Manual on Human Rights (Intersentia 2012).

Marion Isobel, 'Case Watch: Salduz Fever Sweeps Europe' (Open Society Justice Initiative 25.04.2011) <https://www.justiceinitiative.org/voices/case-watch-salduz-fever-sweeps-europe> accessed 02 March 2023.

Michael Boyle and Jean-Claude Vullierme, 'A Brief Introduction to Investigative Interviewing: A Practitioner's Guide' (CPT 2018) <https://rm.coe.int/guide-to-investigative-interviewing/16808ea8f9> accessed 02 March 2023.

Michael Kellett, 'Monitoring Police Custody: A practical guide' (APT 2013) <https://www.apt.ch/sites/default/files/publications/monitoring-police-custody_en_0.pdf> accessed 02 March 2023.

Moritz Birk and others, 'Enhancing Impact of National Preventive Mechanisms. Strengthening the Follow-Up on NPM Recommendations in the EU: Strategic Development, Current Practices and the Way Forward' (University of Bristol and Ludwig Boltzmann Institute for Fundamental and Human Rights 2015) <https://gmr.lbg.ac.at/wp-content/uploads/sites/12/2021/09/enhancing_impact_of_national_preventive_mechanisms.pdf> accessed 02 March 2023.

Moritz Birk and Walter Suntinger, 'A Systemic Approach to Human Rights Practice' in Patricia Hladschik and Fiona Steinert (eds), Menschenrechten Gestalt und Wirksamkeit verleihen: Making Human Rights Work Festschrift für Manfred Nowak und Hannes Tretter (NWV 2019).
NETPRALAT <https://www.netpralat.eu/project/> accessed 02 March 2023.

Ojeaku Nwabuzo, 'The Sharp Edge of Violence: Police Brutality and Community Resistance of Racialised Groups' (European Network Against Racism 2021) <https://www.enar-eu.org/wp-content/uploads/enar_report_-_the_sharp_edge_of_violence-2.pdf> accessed 02 March 2023

Oliver Schrader and Lothar Wenzl, Die Spielregeln der Führung: Erfahrungen und Erkenntnisse aus Unternehmen (Schäffer-Poeschl 2015).

Organization for Security and Co-operation in EuropeOSCE and Office for Democratic Institutions and Human RightsODIHR, 'Guidelines on Human Rights Education for Law Enforcement Officials' (2012) <https://www.osce.org/files/f/documents/a/5/93968.pdf> accessed 02 March 2023.

Organization for Security and Co-operation in EuropeOSCE, 'Police Training' (2023) <https://www.osce.org/secretariat/107819> accessed 02 March 2023.
Patricia Goicoechea, 'Bajo Custodia Policial: Informe Nacional sobre Espana' (Rights International Spain 2018) <https://rightsinternationalspain.org/wp-content/uploads/2022/03/Bajo-Custodia-policial-2.pdf> accessed 10 March 2023.

Peter M. Senge, The Fifth Discipline: The Art & Practice of The Learning Organization (Doubleday 2006).

Philipp Hamedl and Giuliana Monina, Monitoring Prison Violence: A Handbook for National Preventive Mechanisms (Ludwig Boltzmann Institute of Fundamental and Human Rights 2021) <https://gmr.lbg.ac.at/wp-content/uploads/sites/12/2021/05/handbook_-_monitoring_prison_violence_-_lbi_gmr.pdf> accessed 02 March 2023.

'Principles on Effective Interviewing for Investigations and Information Gathering' (Méndez Principles) (2021) <https://interviewingprinciples.com/> accessed 02 March 2023.

Raad voor Rechtsbijstand, 'Minderjarigen in A-zaken: vergoeding van 1,5 punt per vervolgverhoor voor vervolgverhoren vanaf 22 december 2022' (22.02.2023) <https://www.rvr.org/advocaten/nieuws/@13073/minderjarigen-zaken-vergoeding-1-5-punt/> accessed 02 March 2023.

Raphaela Kaisler and Benjamin Missback, 'Co-creating a Patient and Public Involvement and Engagement 'How to' Guide for Researchers' (2020) 6 Research Involvement and Engagement.

Richard Carver and Lisa Handley (eds), Does Torture Prevention Work? (Liverpool University Press 2016).

Richard English and others, 'Influencing for Impact Guide: How to Deliver Effective Influencing Strategies' (Oxfam 2020) <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/621048/gd-influencing-for-impact-guide-150920-en.pdf;jsessionid=761175B571CFF40D981600D1638DB1C1?sequence=1> accessed 02 March 2023.

Riley Klassen-Molyneaux, 'Doing Good and Feeling Good: A Critical Analysis of Human Rights Research' (2022) 14(2) J. Hum. Rights Pract.

Roswitha Königswieser and Martin Hillebrand, Systemic Consultancy in Organisations: Concepts, Tools, Innovations (Carl-Auer-Systeme Verlag 2016).

Ryan Goodman, Derek Jinks, and Andrew Woods, Understanding Social Action, Promoting Human Rights (Oxford University Press 2012).

Sarah Stachowiak, 'Pathways to Change: 10 Theories to Inform Advocacy and Policy Change Efforts' (ORS Impact 2013) <https://www.orsimpact.com/DirectoryAttachments/132018_13248_359_Center_Pathways_FINAL.pdf> accessed 02 March 2023.

Susanne Beck and others, 'The Open Innovation in Science Research Field: A Collaborative Conceptualisation Approach' (2022) 29(2) Industry and Innovation. The Advocates for Human Rights, 'Chapter 7. Advocacy' in Paving Pathways for Justice & Accountability: Human Rights for Diaspora Communities (2014) <https://www.theadvocatesforhumanrights.org/Publications/pathways> accessed 02 March 2023.

Tina Power, Michael Power, and Ben Batros, 'Strategic Litigation Toolkit: Prepared by ALT Advisory' (Digital Freedom Fund) <https://digitalfreedomfund.org/support/strategic-litigation-toolkit/> accessed 03 March 2023.

Trainconsulting, 'Change: Stay Different' <https://www.trainconsulting.eu/en/consulting-sparring/change/> accessed 03 March 2023. United Nations Declaration on Human Rights Education and Training (2011) A/RES/66/137 (adopted December 2011).

United Nations Development Group Latin American Countries, 'Theory of Change: Concept Note' (2016) <https://unsdg.un.org/sites/default/files/16.-2016-10-18-Guidance-on-ToC-PSG-LAC.pdf> accessed 02 March 2023.

United Nations Economic and Social Council, 'Report of the Special Rapporteur. Mr. P. Kooijmans, Pursuant to Commission on Human Rights Resolution 1991/38' (1991) E/CN.4/1992/17 < https://documents-dds-ny.un.org/doc/UNDOC/GEN/G91/142/75/PDF/G9114275.pdf?OpenElement> accessed 02 March 2023.

United Nations High Commissioner for Human Rights, 'Annex I: UN Human Rights' Theory of Change and Results Framework' (2014) <https://www2.ohchr.org/english/OHCHRReport2014/WEB_version/allegati/Downloads/8_Annexes_2014.pdf> accessed 02 March 2023.

United Nations High Commissioner for Human Rights, 'Awareness-Raising Under Article 8 of the Convention on the Rights of Persons with Disabilities: Report of the Office of the United Nations High Commissioner for Human Rights' (2020) A/HRC/43/27 <https://www.ohchr.org/en/calls-for-input/report-awareness-raising-under-article-8-convention-rights-persons-disabilities> accessed 02 March 2023.

United Nations High Commissioner for Human Rights, 'Chapter 31: Advocacy and Intervention with the National Authorities' in Manual on Human Rights Monitoring (Revised edition) (2011) <https://www.ohchr.org/en/publications/policy-and-methodological-publications/manual-human-rights-monitoring-revised-edition> accessed 02 March 2023.

United Nations High Commissioner for Human Rights, 'Human Rights Indicators: A Guide to Measurement and Implementation' (2012) HR/PUB/12/5 <https://www.ohchr.org/sites/default/files/Documents/Publications/Human_rights_indicators_en.pdf> accessed 02 March 2023.

United Nations Office on Drugs and Crime and United Nations Development Programme, Early Access to Legal Aid in Criminal Justice Processes: A Handbook for Policymakers and Practitioners (United Nations 2014). <https://www.undp.org/sites/g/files/zskgke326/files/publications/13-89016_eBook.pdf> accessed 02 March 2023.

United Nations Office on Drugs and Crime, 'Police Reform' (2023) <https://www.unodc.org/unodc/en/justice-and-prison-reform/cpcj-tools-police.html> accessed 02 March 2023.

University of Oslo, 'UNODC Global eLearning Course on Investigative Interviewing now Available' (2022) <https://www.jus.uio.no/smr/english/about/id/news/2022/unodc-global-elearning-course-on-investigative-int.html> accessed 02 March 2023.

Validity Foundation, 'What Is Strategic Litigation?' (2011) <https://www.mdac.org/en/node/1054> accessed 15 December 2022.

Walter Suntinger and Moritz Birk, 'Appreciative Inquiry: Mobilizing Potentials within police Organizations to Realize Human Rights' (2020) <http://www.humanrightsconsulting.com/docs/Suntinger%20Birk%20Appreciative%20Inquiry%20-Mobilising%20potentials%20within%20police%20organizations%20to%20realize%20human%20rights.pdf> accessed 02 March 2023

Walter Suntinger and Moritz Birk, 'Systemic Thinking in Preventive Human Rights Monitoring: A Dossier for National Preventive Mechanisms' (Ludwig Boltzmann Institute of Fundamental and Human Rights 2021) <https://gmr.lbg.ac.at/wp-content/uploads/sites/12/2021/05/dossier_-_systemic_thinking_-_lbi_gmr.pdf> accessed 03 March 2023.

Walter Suntinger, 'Human Rights Trainings' in Manfred Nowak, Karolina M. Januszewski, and Tina Hofstätter, All Human Rights for All: Vienna Manual on Human Rights (Intersentia 2012).

Walter Suntinger, 'Chapter 13 Police Training and International Human Rights Standards' (2018) in Ralf Alleweldt and Guido Fickenscher, The Police and International Human Rights Law (Springer 2018).


APADOR - CH
THE HELSINKI COMMITTEE


Fair
Trials


Irish Council for
Civil Liberties


10 Años
defendiendo los derechos y libertades civiles


LUDWIG
BOLTZMANN
INSTITUTE
Fundamental and Human Rights