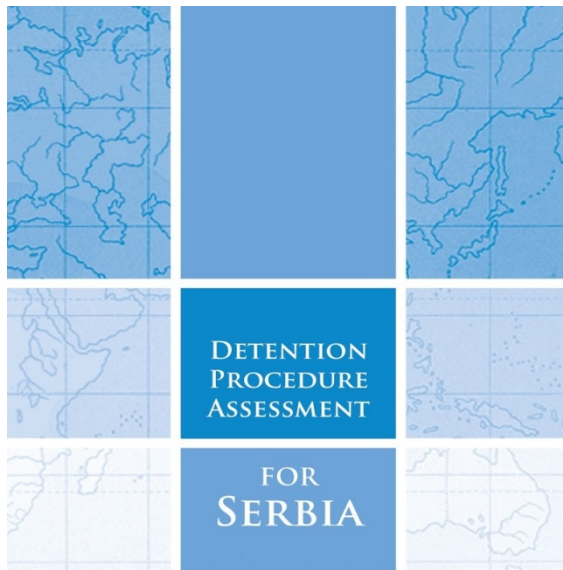


DETENTION PROCEDURE ASSESSMENT-SERBIA



PARTNERS
for Democratic Change
SERBIA



PARTNERI
za demokratske promene
SRBIJA

ACKNOWLEDGEMENTS AND INTRODUCTIONS



DPAT METHODOLOGY

- Analyzes the use of detention procedures in criminal cases from earliest stages through trial
- Qualitatively evaluates the *de jure* procedural and legislative framework governing detention, as well as the *de facto* practices of criminal justice actors
- Draws on international and regional laws, norms, and best practices
- Presents an in-depth neutral and apolitical evaluation of Serbia's detention procedures, legal framework, and practices
- Does not make specific recommendations for reform

GOALS

- Snapshot of Legislative/Operational Framework
- Progress in Overall Reform
- Helpful to Technical Assistance Providers
- General Information
- Further Constructive Discussions/Reforms

Methodology-Primary Instruments and Standards

- International Covenant on Civil and Political Rights
- Standard Minimum Rules for the Treatment of Prisoners
- European Convention for the Protection of Human Rights and Fundamental Freedoms
- Basic Principles on the Role of Lawyers, Prosecutors, Judges

ASSESSMENT PROCESS

- ▶ Assessment team ABA ROLI DC-based criminal/international law expert and Partners program staff
- ▶ 40+ key informant interviewees including prosecutors, judges, public defenders, advocates, investigators, MOJ officials, detention facility staff, Protector of Citizens representative, CSO representatives, law faculty, and others
- ▶ Location of interviews: Belgrade, Novi Sad, Nis
- ▶ *De jure* and secondary source research, including relevant legislation, regulations, court decisions, reports, articles, data and statistics
- ▶ Report was peer reviewed by Serbian stakeholders
- ▶ Conclusions: Positive, Neutral, Negative

ORGANIZATION OF REPORT

- Intro: Purpose/Methodology
- Executive Summary
- Serbia Background: Legal Context; History, Structure of Criminal Justice System, Justice Actors
- Table of Factor Correlations
- Factors
- Dated at Assessment time

THE DPAT REPORT

- **4 sections** comprising **17 factors** representing distinct critical issues and stages of the detention process:
 1. Considerations at All Stages of Detention
 2. Imposition of Detention at the Pretrial Stage
 3. Mechanisms for Challenging Pretrial Detention
 4. Detention Practices
- Each factor includes
 - a statement of the relevant internationally-accepted standards,
 - a conclusion summarizing the country's situation vis-à-vis those standards,
 - and a correlation of positive, negative, or neutral reflecting the country's progress in meeting those standards, followed by in-depth analysis
- Includes a country background section

Factor Correlations

Detention Procedure Assessment Tool Factors		Correlation
I. Considerations at All Stages of Detention		
Factor 1	Due Process	Neutral
Factor 2	Consistency and Fairness	Neutral
Factor 3	Resources	Neutral
Factor 4	External and Undue Influence	Neutral
Factor 5	Victim Involvement	Neutral
Factor 6	Special Considerations for Juveniles	Positive
Factor 7	Special Considerations for Vulnerable Adult Populations	Neutral

Factor Correlations, Cont'd.

II. Imposition of Detention at the Pretrial Stage		
Factor 8	Initial Deprivation of Liberty	Negative
Factor 9	Detention prior to Initial Review	Negative
Factor 10	Oversight of Initial and Investigative Detention	Negative
Factor 11	Detention during the Adjudicative Process	Neutral
III. Mechanisms for Challenging Pretrial Detention		
Factor 12	Extraordinary Remedies	Neutral
Factor 13	Appeal of a Decision Imposing Pretrial Detention	Neutral
Factor 14	Guaranteed Periodic Review of Detention	Neutral
IV. Detention Practices		
Factor 15	Procedures during Confinement	Neutral
Factor 16	Mechanisms for Complaints	Neutral
Factor 17	Personnel and Staffing Procedures	Neutral

OBSERVATIONS/FINDINGS

1. Mostly Neutral Correlations
2. CPC Reform-Early Implementation Stages
3. Juvenile-Procedures and Training
4. Overuse of Detention at Earliest Stages
5. Outside Influences
6. Lack of Time Limits after Preliminary Investigation