

NHC report – Covid-19 in closed institutions: National findings and implications moving forward

Armenia, Georgia, Moldova, and Ukraine

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Introduction

The impact of the restrictions that developed because of the Covid-19 pandemic was exacerbated for those required to live in closed institutions. Their vulnerable status meant that their human rights were more at risk and consequently required an appropriate response to ensure their suffering was not magnified by the pandemic. Though countries sometimes struggled to respond, they were in some cases able to implement successful approaches to ensure that rights were not or minimally violated. Unfortunately, these measures appear to be an exception, where most authorities were, at least for the months directly after the outbreak, unable to sufficiently meet the needs of those in closed institutions.

For the project carried out within the action, EU COVID-19 Solidarity Programme for Eastern Partnership, People in Need (PIN), Netherlands Helsinki Committee (NHC), GIP, and AFEW International (AFEW) joined forces to initially propose a set of interventions in Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine to mitigate the impact of the Covid-19 pandemic and contribute towards longer term socio-economic resilience of vulnerable groups. A first step in this project was to explore the situation in the countries under study through intensive monitoring activities, in order to better understand what was needed in terms of advocacy and policy change. The results of this first phase are presented here.

Mechanisms such as the European Prison Rules and the Mandela Rules provide a solid framework of which rights must be considered during a pandemic, when restrictions of liberty are amplified for prisoners and detainees. These may include protections around accommodation, personal hygiene, legal advice, contact with the outside world and social relations, prison regime, reintegration, work, education and other activities, information and perhaps most relevant, health and healthcare services. Unfortunately, what has been observed in prisons globally is a failure to ensure that these protections are met due to limitations brought about by the pandemic. Undoubtedly, these shortcomings also leave questions around protection from torture and other cruel, inhuman or degrading treatment or punishment, and – particularly where restrictions limit contact with the outside world – further challenge the objective of prisons to reintegrate the offender.

For those receiving care and treatment in mental health institutions, some parallels can be drawn with the above group (e.g., hygiene, contact with the outside world, information), though other topics become relevant such as access to mental health care. Significant to this group are the Principles for the Protections of Persons with Mental Illness and the Improvement of Mental Health Care¹. Under this mechanism, mental health care is considered a right to all individuals. Furthermore, in terms of their environment, patients, “shall have the right to be treated in the least restrictive environment and with the least restrictive or intrusive treatment appropriate to the patient’s health needs and the need to protect the physical safety of others” (principle 9). Under Principle 13 (rights and conditions in mental health facilities), the freedoms to communicate with and have visits from others is addressed, in addition to various facilities that should be available.

At the national level, countries have adopted many positive initiatives, perhaps the most notable being early release of prisoners in order to decrease overcrowding and subsequently, higher numbers of infections. At the other end have been complete bans on allowing contact with family and lawyers, illustrating how responses have differed per country. For example, the Order of the Ministry of Justice of Ukraine No. 2541/5 of July 24, 2020 that amended a previous Order affected long and short term visits by relatives to penitentiary institutions and pre-trial detentions by only allowing for short meetings through a solid dividing glass. Similar measures were put in place in Armenia, where the Government’s decision No. 298-N of 16 March 2020 prohibited visits to closed institutions, also restricting contact with the external world. In both these countries, as was the case globally, this specific population also had less access to protective equipment and medical care during the pandemic.

¹ UN General Assembly, 7 December 1991, A/RES/46/119.

While at the normative level those protections outlined above each deserve attention in the countries under study, the monitoring visits did not uncover information related to each of these. What was most relevant were the following, which will also be the focus of this report: Contact with the outside world and social relations; rehabilitation and reintegration; information; healthcare (preventative – including personal hygiene – and response), and for the target group residing in mental health institutes, the right to non-restrictive mental health care.

Monitoring visits were carried out in Armenia, Georgia, Moldova, and Ukraine, in pre-trial detention centres, prisons and mental health institutions. Local partner organizations who were provided with small grants completed reports, which form the basis of this larger report. The monitoring conducted led to recommendations in each country, which will later serve as a starting point for advocacy work. After outlining the project in more detail in addition to the methodology that was used, this report will present a normative framework, which will later be narrowed down to include the protections mentioned above. Before concluding, the analysis will summarise the recommendations that were developed for each of the protections that should be afforded to those in closed institutions in response to the Covid-19 pandemic.

Covid-19 in closed institutions and project background

As part of the EU COVID-19 Solidarity Programme for Eastern Partnership, a set of interventions in Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine were proposed to mitigate the impact of the Covid-19 pandemic and contribute towards longer term socio-economic resilience of vulnerable groups. To achieve this overall goal, the consortium recognises the critical role local CSOs play in service delivery, community mobilization, awareness raising, policy engagement and advocacy for the protection of human rights and civic freedoms during and in the post-pandemic environment. The project supports CSOs and other civic actors to mitigate the impact of COVID-19 on vulnerable persons that then enables these vulnerable persons have access to services and access to accurate information.

This report is more specifically a result of one of the activities of CSOs to monitor the response of closed institutions to the Covid-19 pandemic. Together, the consortium supported a number of CSOs and Watchdog initiatives to monitor the governments' COVID-19 response and adherence to international and national laws and standards. Such activities help fight disinformation and ensure that target groups have access to accurate information about the pandemic and its health risks, related government measures and restrictions.

CSOs were sub-granted to monitor the conditions of people confined to closed institutions (both penitentiary and mental health) as a result of Covid-19 containment measures. This included the full range of relevant issues including (discontinuation of) health care and (lack of) contact with lawyers and loved ones. Cooperation was sought with organizations that already have access to these institutions under a National Preventive Mechanism (NPM) as prescribed by the UNs Convention against Torture's Optional Protocol (OPCAT), or under a similar agreement.

Covid-19 in closed institutions: normative (international) framework

With the outbreak of the Covid-19 pandemic, human rights were called into question, most notably in terms of freedom of movement and individual autonomy. Perhaps more detrimental was protecting the human rights of groups especially vulnerable to freedom of movement, namely those who already were suffering from such restrictions on their liberty. For prisoners, pre-trial detainees and patients in mental health institutions, the pandemic presented many exacerbated challenges to their well-being. For this reason, international mechanisms became particularly vital. It is important to note, however, that despite the existence of these normative frameworks, it was difficult for countries to meet the needs of these vulnerable groups in such trying times. To examine these rights, however, this report will present the parallels that can be drawn between key instruments:

the European Prison Rules and the Nelson Mandela Rules for Prisoners and the Principles for the Protections of Persons with Mental Illness and the Improvement of Mental Health Care for patients residing at mental health institutions.

Both the European Prison Rules and the Nelson Mandela Rules² address the importance of ensuring prisoners and other detainees retain their rights that are not directly related to the restrictions that result from their punishment. These mechanisms provide several protections that are relevant to the situation that resulted from the Covid-19 pandemic: Accommodation; personal hygiene; clothing and bedding; healthcare services; restrictions, disciplines and sanctions (in terms of heightened isolation through solitary confinement, for example); information to and complaints by prisoners; contact with the outside world; social relations and aftercare; prison regime; and inspection and monitoring. These elements are the most relevant, but other arguments can undoubtedly be made in relation to the impact of Covid-19 and prisoner rights (e.g., how work and education opportunities that are limited due to Covid-19 restrictions may also promote reintegration).

In addition to the rights outlined in these mechanisms, DIGNITY, the Danish Institute Against Torture created a single document based on the recommendations and actions taken at the international level with the aim of managing the crisis resulting from the pandemic entering penal enforcement facilities. The “Global guidance and recommendations on how to prevent and manage Covid-19 in prisons” offers 10 recommendations to respond to the issue. These recommendations include more specific advice in the following areas: Address the issue of equality of (access to) healthcare; transparency of prevention and management plans; set requirements for actions that would further limit the freedom of detainees; prevention and containment; develop alternative strategies for visitations; increase access to open air; increase access to accommodation and healthcare services; provide for direct assistance services; and create alternatives for National Preventative Mechanisms. Though this document does not go into much detail of how to address these issues, it does identify the most important issues that require attention during a pandemic.

From the country reports, two primary themes resulted, namely the need to preserve one’s connection to the outside world and the responses around medical care and support. Staying connected to friends and family is crucial in the reintegration and rehabilitation of the target group. In addition to general psychological well-being of individuals, without keeping a bond with others, prisoners may risk social isolation, depression and other negative consequences upon release. Furthermore, as stated in the Nelson Mandela Rules in related to reintegration, “Those purposes [to protect society against crime and to reduce recidivism] can be achieved only if the period of imprisonment is used to ensure, so far as possible, the reintegration of such persons into society upon release so that they can lead a law-abiding and self-supporting life (Rule 4).”

In terms of medical care, there was an obvious need to respond to the pandemic for these groups and the larger population. Both prevention and response will be included. The mechanisms outlined above include extensive rights around this topic, also illustrating the importance of this right for the individual.

Methodology

As noted, this report builds on the country reports that were submitted under the requirements of one of the activities within the project. Using the framework set out in Section 3, each of the reports were analyzed using the areas identified within the framework, where possible. The methods varied to an extent among the countries in terms of number of institutions visited, staff involved, and focus of content. For this reason, the report does not always provide information from all countries, but aims to illustrate the responses to Covid-19 of governments

² The United Nations Standard Minimum Rules for the Treatment of Prisons, 17 December 2015

and closed facilities where data was available. It should also be noted that there was a larger focus on prisons, for which reason the summaries offer more information regarding this target group. Because of the diversity of monitoring, the methods used in each country are briefly described here.

In Georgia, representatives conducted prison visits and interviews with prisoners and prison staff by the Public Defender of Georgia within the Special Preventive Group of the National Preventive Mechanism. Prison monitoring visits were undertaken in August and September 2021 to four prisons. Both staff and detainees were interviewed. Using structured interviews, prisoners were asked to share their perspectives on the provision of healthcare in prisons, including sanitation and hygiene, the possibilities for family visits and other entitlements and the availability of rehabilitation programmes. Using semi-structured interviews, prison staff were asked to discuss topics around the rights of prison staff, state policy and contingency planning/implementation. The monitoring team wore full protective gear and took PCR tests every 72 hours to access prisons (which was required by the regulations at that time).

In Ukraine, the monitoring visits took place in penitentiary institutions and pre-trial detention centres in 2021 in 20 regions of Ukraine. Both open sources and responses of information requests to authorities were analyzed and included in the country report. The report examines the state of implementation of the recommendation of international institutions to combat COVID-19 in prisons. Those individuals carrying out the monitoring process also aimed to identify the rights that were violated, in addition to closely examining the legal basis that Ukrainian legislation offers to inmates.

In Moldova, the country monitoring simultaneously included pre-trial detention centres, penitentiaries and mental health institutions. Data was collected through direct observation, interviews with beneficiaries and staff, and a desk review of internal documents of the facilities (e.g., registers, personal/medical records, regulations). Those monitoring the closed institutions also examined the findings and recommendations concerning the Republic of Moldova in the reports produced by the European Committee for the Prevention of Torture, the UN Committee against Torture, the UN Committee on Persons with Disabilities and the Council for the Prevention of Torture in Moldova.

The monitoring activities in Armenia assessed the state of medical services for somatic diseases of persons in psychiatric institutions during the pandemic, examining which regulations are in place, whether they are applied and adhered to properly, the main obstacles encountered by persons receiving treatment and recommendations to identify good practices, gaps and issues. A legislative analysis was carried out, interviews were conducted with the staff and persons receiving treatment and care, documents pertaining to control and prevention of somatic diseases were examined, and the availability of drugs and conditions were observed. In total, 11 visits were made to three psychiatric institutions under the RA Ministry of Health and four psychiatric institutions under regional administrations. During these visits, 29 interviews were conducted with representatives of the institutions' administrations and those in charge of control and prevention of somatic diseases, including general physicians, neurologists, cardiologists, heads of the department and reception, nurses, and laboratory specialists. An additional 31 interviews were conducted with persons receiving treatment and care (14 men, 17 women).

National Context

Armenia

The Criminal Executive Department within the Ministry of Justice has 12 penal institutions with an official capacity of 5,346³. As of June 15, 2020, the total prison population was 2,145 with an overall prison density of about 40%. Complex regulations were introduced both in relation to the prevention and control of Covid-19. In

³ <https://www.prisonstudies.org/country/armenia>

mid-March 2020, the first COVID-19 tests were administered in Armenian prisons and new restrictions were imposed that prohibited in-person visits and the delivery of parcels. In April 2020, the first COVID-19 cases were recorded in Armenian prisons. The RA Government's decision N 298-Ն of 20 March 2020 was largely in line with international guidelines. In June 2020, the National Assembly of Armenia adopted a law to the Criminal Procedure Code in light of the COVID-19 pandemic, which allowed for the early release of seriously ill patients from places of detention. A study by Aebi and Tiago (2020)⁴ examined the medium-term impacts of COVID-19 on prison populations during the first nine months of 2020, and found that as of June 15, 2020, 429 incarcerated individuals were preventively released from penitentiary institutions during the State of Emergency in the RA. These preventive measures against COVID-19 were found to positively affect the trend of COVID-19 cases in prisons across Armenia.

The national report reported on the experiences for mental health patients rather than prisons. The above information is included, however, as it does illustrate positive measures taken in Armenia. Prevention measures in mental health institutions included, (1) the establishment of an infection control commission, (2) training of staff, (3) placement of posters in public places to educate on virus symptoms and hand hygiene, (4) safe management of wastes; (5) ensuring conditions, furnishing and markings for keeping the necessary distance; and (6) restriction of visits. For control, measures included, (1) requirements for medical examinations of newly admitted persons, (2) regularly taking temperature of patients and staff, (3) providing staff with personal protective equipment, (4) disinfection of relevant areas, and (5) furnishing isolators. For each of these proposed measures, however, no mechanism was introduced to oversee their implementation. Furthermore, due to the pandemic, there was a sharp decrease in applications and admissions in April 2020, though one year later this number substantially increased again. Differences in vaccination numbers were found throughout the institutions monitored⁵.

Georgia

Georgia has 13 penitentiary institutions with the capacity to detain 13,107 individuals. As of June 15, 2020, the prison system reported a population of 9,266, which is a prison density of 71%⁶. Preventative measures to combat the spread of Covid-19 were introduced on 21 March 2020 through a Presidential Edict (N1) that established a state of emergency in the country until 22 May 2020 and enacted 'special conditions' in prisons⁷. Georgia received international praise for its timely preventive measures, crisis management capacity, and non-discriminatory access to health care during the initial surge of COVID-19 cases⁸. The Aebi and Tiago (2020) Council of Europe report suggests that Georgia's penitentiary system successfully combatted the COVID-19 virus, as it does not report a single infection in the Georgian prison system, though this statistic should be taken with caution. Some local CSOs credit the lack of COVID-19 cases to the Georgian penitentiary service not testing for or acknowledging the existence of COVID-19 among the incarcerated population until the end of 2020. However, in early January 2021, penitentiaries started administering PCR and quick antigen tests and 27 positive COVID-19 cases and one death⁹ among the incarcerated population were publicly announced. In February 2021, 194 cases¹⁰ of infected incarcerated individuals were identified through testing.

The most recent numbers of vaccinations reported by the Special Penitentiary Service in November 2021

⁴ <https://www.europris.org/wp-content/uploads/2021/01/Prisons-and-the-COVID-19-2nd-Publication-201109.pdf>

⁵ As of 31 July 2021, in Sevan institution, 365 persons (89.5%) were vaccinated, 43 persons were not vaccinated. In Armash institution, all 85 persons receiving treatment and care were vaccinated; in Gyumri institution, 45 persons had received the first jab, 19 of whom had also received the second jab (38.8%). In Kapan institution, 32 persons were vaccinated (46.4%). Vaccinations had not been launched in NCMHC and Lori institution. 48.7% (501 out of 1028 persons) of persons receiving treatment and care in 6 institutions were vaccinated as of 31 July 2021.

⁶ <https://www.europris.org/wp-content/uploads/2021/01/Prisons-and-the-COVID-19-2nd-Publication-201109.pdf>

⁷ The legal basis for these restrictions is Order № 4109 of the Director General of the Special Penitentiary Service, issued in accordance with Article 58 of the Code on Imprisonment, on the enactment of special conditions in the Georgian penitentiary system.

⁸ <https://www.bbc.com/news/world-europe-53269000>

⁹ <https://on.ge/story/>

¹⁰ <https://on.ge/story/>

indicated that 84% of prisoners were vaccinated, and 92% of prison staff were vaccinated (77% fully vaccinated). The percentage of prison staff rose to 94% in January 2022. These numbers can be compared with the number of adults vaccinated outside of pre-trial detention centres and penitentiaries, which amounted to 35% as of November 2021. Those who were not vaccinated either tended to have a medical reason or had recently contracted the virus. The high numbers could be explained by the fact that vaccinations were necessary for visits with family, as was mentioned by some of the prisoners. For prison staff, conditions were challenging as they faced a very strict working regime when the pandemic first started, being required to live in the prison without the possibility of leaving the building. Long working hours, institutional stress, limited communication with loved ones and not knowing how long the “special regime” would last negatively impacted both their physical and mental health.

Moldova

The first case of COVID-19 in the Republic of Moldova was reported on March 7, 2020.¹¹ The Moldovan Department of Penitentiary Institutions manages 17 penitentiary facilities with an official capacity for 6,735 incarcerated individuals.¹² As of June 15, 2020, the prison system reported an overall prison population of 6,551 incarcerated individuals, resulting in a prison density of 97%.¹³ The National Public Health Emergency Commission instituted a State of Emergency on March 16, 2020 until May 15, 2020.¹⁴ The Commission on Emergency Situations of the Republic of Moldova instituted Provision No. 1 on March 18, 2020, which outlined a strict quarantine for all Moldovan penitentiary institutions.¹⁵ By October 16, 2020, the National Penitentiary Administration reported a total of 203 registered COVID-19 cases, of which 147 were staff members and 56 were incarcerated individuals.¹⁶ Though pathways for independent monitoring exist in Moldova, the COVID-19 situation created many obstacles and complications to delay monitoring visits in 2020.

Ukraine

With a large population of close to 44 million people,¹⁷ Ukraine has 124 penal institutions including 29 pre-trial institutions, 92 colonies for convicted adults, and three colonies for juveniles.¹⁸ The prison system has an official capacity of 88,807, and as of July 30, 2020, the State Penitentiary Service of Ukraine reported a prison population of 51,248, which is a density of 59%. In January 2021 in Ukraine, a joint order was approved, “On Approving the Plan for Anti-Epidemic Actions to Prevent Appearance and Spread of the Acute Respiratory Disease COVID-19 Caused by the Coronavirus SARS-CoV-2 in the Penitentiary Facilities and Pre-Trial Detention Centres of the State Penal Enforcement Service of Ukraine for 2021”.¹⁹ In terms of carrying out vaccinations, each institution of the State Penal Enforcement Service of Ukraine appointed a representative of the administrative office of the State Penal Enforcement Service of Ukraine and health care facilities. These representatives also cooperate with the regional coordinators on behalf of the health care facilities of the Ministry of Health of Ukraine. The official website indicated that vaccinations of prisoners began in July 2021. As of 5 November 2021, 21,162 employees of the State Penal Enforcement Service (86.2%) and 20,724 convicts and detainees (42.3%) were vaccinated. The second dose of the vaccine was administered 15,499 employees of the State Penal Enforcement Service (63.1%), and 14,682 convicts and detainees (29.9%).

¹¹ <https://www.osac.gov/Content/Report/fb154560-fe87-4b5e-966f-18ae7afa5de5>

¹² <https://www.prisonstudies.org/country/moldova-republic>

¹³ https://www.europris.org/wp-content/uploads/2021/01/Prisons-and-the-COVID-19_2ndPublication_201109.pdf

¹⁴ <https://www.osac.gov/Content/Report/fb154560-fe87-4b5e-966f-18ae7afa5de5>

¹⁵ https://gov.md/sites/default/files/dispozitia_cse_nr.1.pdf

¹⁶ <http://anp.gov.md/node/3689>

¹⁷ <https://worldpopulationreview.com/country-rankings/eastern-europe-countries>

¹⁸ <https://www.prisonstudies.org/country/ukraine>

¹⁹ Previous to this, more general measures were adopted following the outbreak of the pandemic: The Resolution of the Cabinet of Ministers of Ukraine (No. 211, 11 March 2020), “On Prevention of the Spread of the Acute Respiratory Disease Covid-19 Caused by Coronavirus SARS-CoV-2 in Ukraine” in addition to the Order of the Ministry of Health (No. 722, 28 March 2020) on the “Organisation of Medical Aid to Patients with the Coronavirus Disease (Covid-19).”

The following sections apply this national (legal) framework to the rights that should be afforded to prisoners as set out in international mechanisms. Below these rights will be examined (to the extent they were included in the country's monitoring) in terms of contact with the outside world (including with professionals), information related to Covid-19 and healthcare.

Findings based on prisoner rights

Contact with the outside world

In general, contact with the outside world was, at least in the first months of the pandemic, a major restriction for prisoners. Order No. 4109 in Georgia suspended the right of prisoners to have visitors, short visits outside the prison and to take leave for extraordinary reason. Short-term visits were later permitted using glass partitions that prevented physical contact with visitors. In Ukraine, Order No. 550/5²⁰ also banned short and long visits in penitentiary facilities and pre-trial detention centres, including those by representatives of mass media, NGOs, religious and charitable organizations. Access of social workers and psychologists was also limited, shifting to online of phone communication with detainees. Law enforcement and judicial officers, however, were still able to access prisons. Rules became more lenient on 24 July 2020 (Order No. 2431/5),²¹ which allowed short visits with glass partitions.

Only much later were restrictions lifted. In Georgia, this occurred from 27 September 2021 when the Special Penitentiary Service announced a planned lift of restrictions on extended (conjugal) visits following recommendations from the National Centre for Disease Control and Public Health and the Ministry of Healthcare. An important note, however, is that these visits were only permitted if the prisoners and their visitors were fully vaccinated. A Resolution²² enacted in Ukraine on 9 December 2020 allowed for long visits under certain conditions: there were free cells for isolation of the convicted following the long visit; visitors could not have any symptoms of COVID-19 of the persons who are visiting; and a negative PCR test that was conducted within the last 48 hours must be provided, including the original document certifying payment for the PCR test to be made for the convict on the 12th day of isolation following the visit or earlier in case there are any COVID-19 symptoms.

When referring to the outside world, in addition to the importance of staying in touch with family and friends, legal rights were at risk where prisoners could not meet with legal representatives or be present in court. From March 2020, Georgian courts began to work remotely and a predominantly online system for conducting court trials/hearings was introduced. Prison computers allowed prisoners to use electronic means of communication to attend online court trials. Where jury trials were carried out, defendants were summoned to in-court proceedings.

Prisoners themselves were often reluctant to have visits with families, due to fear of infecting others or concern about family members having to go through search procedures. Furthermore, for women these restrictions were more problematic, as they were not able to have physical contact with their children, leading to increase suffering and feelings of isolation. This harm indicates how a gendered approach was necessary but lacking.

²⁰ Order of the Minister of Justice of Ukraine "On Prevention of the Spread of the Coronavirus COVID-19 in the Penitentiary Facilities, Pre-Trial Detention Centres and Health Care Facilities of the State Penal Enforcement Service of Ukraine." The ban was extended from 3 April 2020 with the Order of the Minister of Justice of Ukraine No. 1308/5 "On Prevention of the Spread of the Coronavirus COVID-19 in the Penitentiary Facilities, Pre-Trial Detention Centres and Health Care Facilities of the State Penal Enforcement Service of Ukraine" for the duration of the quarantine.

²¹ Order of the Ministry of Justice of Ukraine No. 2541/5 dated 24 July 2020 "On Amending Order of the Ministry of Justice of Ukraine No. 1308/5 dated 2 April 2020".

²² Resolution of the Cabinet of Ministers of Ukraine No. 1236 "On Establishing the Quarantine and Introducing Restrictive Anti-Epidemic Actions to Prevent the Spread of the Acute Respiratory Disease COVID-19 Caused by the Coronavirus SARS-CoV-2 in Ukraine.

The monitoring report in Armenia did not go into much detail, but did indicate that the Decision of the government addressed this issue, establishing that “visits are allowed only if there are no active COVID-19 cases and if sanitary-epidemiological safety rules are observed”.

Rehabilitation and reintegration

Closely linked to the above is the situation of prisoners in terms of their rehabilitation and reintegration. Interviews with prisoners in Georgia indicated there was lower availability of rehabilitation programmes and lower participation when compared before and during the pandemic. While pre-pandemic about 26% of surveyed detainees were involved in educational/vocational training programmes and 16% more in cultural events, these numbers decreased during the pandemic to 9% and 7 %, respectively, following the beginning of the pandemic. This decrease is a result of both lower availability and less willingness to participate oneself due to fear of contracting the virus. In terms of reintegration, the Ukrainian country report found that upon release, individuals did not have access to accommodation and healthcare services, often due to having no passport, lack of free travel to one’s residence of work and due to the provision of non-recurring financial aid at the expense of the State Budget of Ukraine. Currently, those being released are only being supported with donor’s funds within projects implemented by NGOs. This issue, however, is a larger issue related to prisoner release and requires further attention. The lack of a vaccination certificate in Ukraine, however, was a large barrier posed to their reintegration. This shortcoming is also due to the fact that the healthcare facilities in Ukraine are not connected to the electronic health care system, so an international certificate cannot be obtained in the medical unit.

Information related to COVID-19

Though this element represents an important right for prisoners, shortcomings were identified in Georgia. Most notably, in terms of awareness-raising around Covid-19, prevention of the pandemic was not thorough, and information presented on posters was not available in all departments. In Armenia, a similar finding resulted, where prevention was not addressed in awareness raising efforts and where posters did exist, these were random and not found everywhere. In Ukraine and Moldova, no information was provided on this issue.

Healthcare (preventative and response)

Not only were there variations among countries in terms of healthcare, but also within countries different institutions varied in the extent to which they offered protections against the virus. In terms of prevention, staff and visitors to detention centres in Georgia were given medical check-ups using thermal screening and a general epidemiological anamnesis. Staff working in penitentiaries were given PCR tests once a week, while defendants and convicts received PCR tests once every two weeks.²³ Patients were transferred to isolated quarantine areas or the appropriate civilian clinic if they tested positive or if they showed any Covid-19 symptoms. Visitors received rapid tests before they were allowed to enter the prison, or they could present a negative PCR test result that was taken within the last 72 hours. In Ukraine, preventative testing only happened later, where in 2020 both pre-trial detention centres and penitentiaries were not provided with rapid tests nor PCR tests. In 2021, however, testing was conducted in accordance with the recommendations made by healthcare officials. The extent to which this was done comprehensively, however, varied per detention centre. For example, in one institution there were no testing capacities using PCR tests, while in another facility there was no use of daily visual examinations or temperature screenings. Temperature screenings also were not conducted for those who left for court sessions and other activities; these screenings were limited to minors and newly arrived detainees. Finally, a third detention centre did not properly set up disinfection and ventilation mechanisms in various areas of the facility. Similarly in Armenia there was a large discrepancy within the mental health institutions, where in some facilities patients had their temperatures monitored twice a day, and in others to a much less frequent extent. In terms of

²³ Decree N 975 of the Government of Georgia of June 15, 2020

testing, methods varied, ranging from slight suspicion of symptoms to no testing but rather required a negative PCR test and/or isolation before transfer to the general department.

In Georgia, it appeared that facemasks were abundantly provided to both prisoners and staff, and in some cases gloves were also provided. Facemasks were also offered to prisoners when they attended various meetings, for example with visitors, lawyers, investigators, or hospitals. Prisoners reported that they were generally satisfied with the sanitation in prison facilities and with the possibility of maintaining personal hygiene as necessary items were provided either by the respective prison administrations or were available for purchase in prison shops. In Ukraine, several medical units reported that prisoners were not provided with personal protective equipment, did not wear masks, and did not undergo daily temperature screening. Furthermore, used personal protective equipment was not collected and disposed of, and disinfection at the premises was not controlled. Failure to fully engage in social distancing was also found in several facilities in Ukraine. In Armenia, findings indicated that the Ministry of Health did not carry out a needs assessment nor deliver a procedure to provide personal protective equipment and disinfectant. A similar pattern was identified for isolating persons, where only in some institutions was a separate space designated for this purpose. More generally, there was a lack of measures for those individuals residing in psychiatric institutions, leading to a difference in the quality and services of control and prevention of somatic diseases in psychiatric institutions and a surge in deaths.

In terms of response to the pandemic, there were limitations for patients in detention centers. In Georgia, access to medical services was limited during certain moments of the pandemic. These restrictions were most notable for access to consultations with external specialist doctors (who are contracted by the Special Penitentiary Service to provide specialised treatment and care and visit patients in prisons on regular basis or as needed). The number of consultations given by doctors within primary healthcare units (prison doctors) was also affected by the pandemic-related restrictions and staff shortages.

The high vaccination numbers noted above in Georgia began in May 2021, two months after the general population began receiving vaccinations. Despite this delay, both prisoners and prison staff were identified as a priority group.²⁴ Both prisoners and staff had access to the same vaccines as the general population, and vaccinations were voluntary. In Ukraine, the target vaccination groups were also identified as those in confinement facilities and/or pre-trial detention centres and the staff of the confinement facilities and/or pre-trial detention centres.²⁵ This prioritization was due to the high infection risk and the lack of social protection and access to specialised medical aid.

Access to mental health

Access to mental health institutions was a main focus of the monitoring activities in Armenia. It appeared that where there were hospital referrals, no individuals were refused entry. At certain institutions, however, a negative PCR test was required to be admitted, and without such a test, patients would have to wait another 21 days to receive a negative test. There is no legal regulation establishing this requirement, and such a measure – though important to preventing the spread of Covid-19 – does restrict one’s right to medical care.

Recommendations from the project countries

Though the easing of restrictions in many countries may suggest that for the recommendations moving forward some will be less relevant, there are other reasons that the findings from the monitoring visits are essential to understanding the pandemic and its impact. First, while restrictions were lifted relatively quickly in some of the countries mentioned here, in others such as Hungary, restrictions are still in place and require immediate

²⁴ Governmental Decree N975 (dated 15 June 2020) on “the Approval of the List of Priority Persons Subject to Compulsory Testing for Infection (COVID-19) caused by the Coronavirus (SARS-CoV-2) and of Procedures for Conducting such Testing.

²⁵ Order of the Ministry of Health of Ukraine No. 3018 dated 24 December 2020.

attention to safeguard prisoners' rights. Second, some countries are still suffering more than others from the pandemic, and another wave can always occur. Furthermore, even if Covid-19 begins/continues to wane, we have learned what the potential damage can be for people in closed institutions, and pandemics in the future could cause similar issues. For this reason, these recommendations remain crucial.

Contact with the outside world

- A gendered approach should be adopted that recognizes the different plight of women prisoners and detainees, particularly where separation from children may pose a heightened risk.
- Psychological assessments should be carried out to monitor the impact of isolation from friends and family on the prisoner's well-being.
- Alternatives should be set up, or opportunities to meet digitally more often. A detainee-centered needs-based approach is necessary.

Rehabilitation and reintegration

- Where there are no options but to restrict or prohibit visits from family, implement other measures to ensure reintegration is still a focus, for example through online education, access to news or other means.
- Equip those who are released with the digital skills required to reintegrate into their communities to increase their likelihood of social security, jobs, proper healthcare, and access to insurance, among other things.
- Strengthen remote educational opportunities.

Information about Covid-19

- Conduct a broad awareness raising campaign among staff of the State Penal Enforcement Service, healthcare professionals, convicts and detainees about standard preventative actions such as hand hygiene, coughing etiquette and respiratory hygiene, use of personal protective equipment, safe treatment of waste, sanitary actions and importance of vaccinations.
- Create peer support programs to disseminate health information, as detainee volunteer programmes can play a key role in both prevention and control of pandemics and viruses.
- Ensure that a proper consent scheme is in place for people with mental health disorders before beginning any vaccination procedure.

Healthcare (preventative and response)

- Legislation or other legal measures should state that prisoners and other detainees are a priority in the prevention of any virus spreading and be the first to receive vaccinations.
- Prioritize people with mental health disorders, particularly with regard to specialists, when faced with a pandemic.
- Develop alternative mechanisms for other preventive examinations in annual healthcare programmes.

- Covid-19 testing (PCR and rapid) must at all times remain free.
- Healthcare facilities should be connected to the electronic healthcare system to ensure equal and fair access of the convicted and detained to the programme for medical guarantees.
- As was done in Armenia for detainees with mental health issues, develop early release programmes extending past times of crisis for all detainees where alternatives forms of punishment are possible.
- Develop a unified regulation scheme for control and prevention of somatic diseases in psychiatric institutions to ensure equal care for all, particularly in times of a pandemic.

Conclusion

What was clear from the country reports was a need to find the right balance between individual autonomy and a response to the pandemic – a challenge that was also presented in the context of the general population. While the pandemic impacted the psychological and physical well-being of everyone globally, the more detrimental effects to those in closed institutions should not have been overlooked solely because of their limited freedoms. At the same time, restrictions were indeed necessary, and if carried out correctly, affected the severity of the virus. For example, in Georgia it was noted that the response introduced and the restriction of contact with the outside world, in addition to isolation and quarantine measures, had a somewhat positive impact on the prevention of COVID-19.

In terms of the medical response to Covid-19, countries reported a key role in prevention of mass and regular use of PCR and rapid antigen testing for both inmates and staff. Prioritizing this population was also crucial, even though it was not done in all countries. Requiring vaccinations for family visits also appeared to have a positive effect on numbers, assuming these vaccinations were fully voluntary. Information about Covid-19, was not readily available. Without proper information on how to protect one's self from the virus, numbers were likely to have increased.

As was noted, early release schemes can have positive implications for prison reform more broadly, and the pandemic provided an opportunity to understand these dynamics. The 2022 report published by indicated how the number of people in prison worldwide reached an all-time high, yet measures that resulted to respond to the Covid-19 pandemic failed to reduce the global prison population.²⁶ In the project countries, it appeared that only Armenia made use of such a programme, though limited to detainees with mental health issues. Not only would this lead to a culture away from punitiveness, but prison overcrowding would also be addressed. Unfortunately, where these schemes were introduced, both in Armenia and elsewhere, little information is available on how they were implemented and what the impacts were.

While the monitoring visits offered certain insights into the situation in the countries under study, there were limitations to the research carried out. Due to a lack of standardized reporting, we were unable to obtain an overall picture of the facilities in each country. Furthermore, the impact of isolation from family was not explored in much detail, which would shed light on how to mitigate the harm caused due to these specific restrictions. Understanding from prisoners and detainees how to still feel connected to the outside world would help to implement measures to ensure they do not suffer from complete isolation. Furthermore, there were many changes over time, both in terms of the pandemic and the responses of governments and institutions, making it a difficult topic to track.

²⁶ Penal Reform International and Thailand Institute of Justice. (2022). Global Prison Trends 2022. Available at: <https://cdn.penalreform.org/wp-content/uploads/2022/05/GPT2022.pdf>.

Despite these shortcomings, this report does offer insights into the importance of responding to a pandemic. By understanding where countries could have responded more effectively, we can compile data that could be used in the case of a new virus or a new wave of Covid-19. Furthermore, the overviews may be useful to other countries still aiming to safeguard the rights of prisoners. For this latter point, transforming the findings here into important messaging for lobbying efforts can help to support other governments outside of the project countries in addition to the project countries where changes still need to be made.



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