# Taking lessons learned during the Covid-19 pandemic forward within closed institutions: Illustrative advocacy tools

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# Executive Summary

The EU COVID-19 Solidarity Programme for Eastern Partnership project aims to mitigate the impact of the Covid-19 pandemic and contribute towards longer-term socio-economic resilience of vulnerable groups. Local CSOs play a central and crucial role 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. This report presents some of the main outcomes of the final phase of the larger project that aimed to build and strengthen the capacities of these organizations.

The Covid-19 pandemic both exacerbated human rights violations and brought about opportunities for new ways of criminal justice reform as systems were forced to consider alternatives to the normal way of working. Ten CSOs based in Armenia, Georgia and Moldova advocated to improve the position of both those residing in closed institutions, their families and the staff. The advocacy focus included the following: (1) Ensuring the right to health for those in closed institutions, namely prisoners and mental health patients, for , prevention, vaccinations and other health issues where close contact is an issue; (2) Improving staff training to better equip them with de-escalation methods, as conflicts were often exacerbated due to the pandemic; and (3) recognizing the particularly vulnerable position of women in prison especially with regard to their healthcare. The UN Standard Minimum Rules for the Treatment of Prisoners for people in detention and the United Nations Convention on the Rights of Persons with Disabilities for mental health patients offer a normative framework for evaluating and monitoring these rights.

This report will review these rights and offer some insights into how advocacy has been set up, and where relevant, use illustrative case studies to provide inspiration for others working on similar topics. Moving forward, it is crucial that organizations combine efforts and join forces to advocate, as there is already a wealth of knowledge in terms of both data and good practices. For this reason, we hope to explore and promote further network-building and information sharing regionally and globally. The following organizations have contributed to the work presented here: Center for Legal Initiative, Helsinki Citizen's Assembly Vanadzor, PEF for Freedom (Armenia); Alliance for Better Mental Health, Georgian Association for Women in Business and Union "Partnership for Equal Rights," and Penal Reform International (Georgia); and Asociaţia Obştească "AFI," Moldovan Institute for Human Rights, and Positive Initiative (Moldova).

# Introduction

The Covid-19 pandemic offers both additional challenges and lessons learned within closed institutions, namely prisons and mental health institutions. The human rights that already are threatened for prisoners may be further violated when restrictions on their health and connection to the outside world are threatened. At the same time, the pandemic in itself offered an opportunity to consider innovative ways in which governments and closed institutions could improve conditions and make structural changes to the functioning of these systems.

The EU COVID-19 Solidarity Programme for Eastern Partnership project aims 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 (People in Need, AFEW and the Netherlands Helsinki Committee) 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 supported these key actors to achieve the overall goal via a set of interrelated activities.

The current report focuses on the results of the advocacy element, which aimed to strengthen the skills of CSOs working on topics around closed institutions on advocacy and awareness-raising. Each of the 10 CSOs based in Armenia, Georgia and Moldova had messages that aimed to improve the position of both those residing in closed institutions, their families and the staff. More specifically, three goals – that will be presented here in a case study format – were echoed by multiple organizations and address the human rights violations that were exacerbated by the Covid-19 pandemic. These included: (1) Ensuring the right to health for those in closed institutions, namely prisoners and mental health patients, for , prevention, vaccinations and other health issues where close contact is an issue; (2) Improving staff training to better equip them with de-escalation methods, as conflicts were often exacerbated due to the pandemic; and (3) recognizing the particularly vulnerable position of women in prison especially with regard to their healthcare.

In order to present the results of the three case studies and illustrate which advocacy initiatives are being implemented to protected the rights of populations in closed institutions, the report will proceed as follows. First, a short summary of the larger project will be presented. Second, a short framework will be summarized based on human rights that require closer attention within this area. As an overview of these human rights is not the aim of this report, we will outline the relevant human rights based on the UN Standard Minimum Rules for the Treatment of Prisoners for people in detention and the United Nations Convention on the Rights of Persons with Disabilities for mental health patients. Third, the advocacy messages that were created and implemented by the sub-grantees within the frame of the project will be discussed. The concluding discussion will then reflect on how the ongoing advocacy actions may play a role in protecting human rights.

# About the project

The EU COVID-19 Solidarity Programme for Eastern Partnership project addressed how impact of the Covid-19 pandemic was exacerbated for people in closed institutions, which good practices may have been carried out, and how to best equip local populations with skills to improve the situation for this target group. Both immediate needs were responded too (e.g., through PPE equipment) and longer-term needs related to reform of prisons and mental health institutions.

CSOs play a critical role in this process of changing policies and practices, yet sometimes lack the core skills that can ensure they effectively engage in policy advocacy and development. To this end, the project activities included capacity development opportunities to CSOs and watchdog initiatives for advocacy and policy development in connection to longer-term pandemic resilience of people in the closed institutions. In addition, collaboration between all grant recipients in target countries is encouraged to enhance respective advocacy and policy engagement initiatives.

CSO proposals (10 sub-grantees in total) included advocacy initiatives that were strengthened by their capacity building trajectories. These initiatives ranged from awareness raising campaigns to roundtable discussions to higher level events with key stakeholders. While the exact focus varied among countries and organizations, all initiatives had the larger goal of protecting those residing in mental health institutions and prisons by strengthening their rights and ensuring that they did not suffer from further human rights violations as a result of the Covid-19 pandemic. In the following section, we will review three of those human rights afforded by international mechanisms and outline how advocacy measures supported the protection of these rights.

# Human rights of those in closed institutions

## Review of the right to health for those in closed institutions

*Prisons*

The right to health – both physical and mental – became even more paramount for all vulnerable groups during the Covid-19 pandemic, including for those in closed institutions due to both their close proximity to one another that was particularly debilitating during such a pandemic. Though the pandemic once again brought attention to this issue, prisons have already been required – though often unsuccessfully – to combat the spread of other infectious diseases that are exacerbated by prison overcrowding, limited access to water (or other preventative and treatment items), delays in diagnoses or lack of vaccinations. A similar situation resulted during the pandemic.

Indeed, the right to health of prisoners can best be protected by embedding it within the larger national health system, but often this is not standard practice, despite the general acceptance that those in prison should

receive healthcare equivalent to those outside of prisons (the so-called 'principle of equivalence').[1] The majority of international data on prison health would suggest that the denial of prisoner rights, of which the right to health is crucial, can be found globally (and during the pandemic, both Covid-19 related and non-related issues were not adequately addressed.[2]

Access to health care is also internationally recognized as a fundamental right for prisoners by, among others, the United Nations Standard Minimum Rules for the Treatment of Prisoners, and regional mechanisms such as the Council of Europe (Rule 39 of the European Prison Rules), and the African Commission on Human and Peoples' Rights and the Inter-American Commission on Human Rights. The right to healthcare is also directly linked to the right to life and the right to be free from torture and inhumane or degrading treatment. Furthermore, four overarching principles guide the humane provision of healthcare in prisons: the equivalence of care (as noted above), the necessity to take into account the specific needs of prison populations, medical confidentiality, and the nondiscrimination principle.[3]

As stipulated in the United Nations Standard Minimum Rules for the Treatment of Prisoners:

Rule 24

1. The provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status.

2. Health-care services should be organized in close relationship to the general public health administration and in a way that ensures continuity of treatment and care, including for HIV, tuberculosis and other infectious diseases, as well as for drug dependence.

Rule 25

1. Every prison shall have in place a health-care service tasked with evaluating, promoting, protecting and improving the physical and mental health of prisoners, paying

[1] Lines, R. From equivalence of standards to equivalence of objectives: The entitlement of prisoners to healthcare standards higher than those outside prisons. *International Journal of Prisoner Health,* 2(4), 269-289.
[2] Lines, R. (2008). The rights to health of prisoners in human rights law. *International Journal of Prisoner Health,* 4(1), 3-53. Penal Reform International and Thailand Institute of Justice. (2022). Global Prison Trends 2022. Access at: https://cdn.penalreform.org/wp-content/uploads/2022/05/GPT2022.pdf WHO Europe. (2019). Status Report on Prison Health in the WHO European Region. Access at: https://apps.who.int/iris/bitstream/handle/10665/329943/9789289054584-eng.pdf.
[3] Open Society Justice Initiative. Briefing Paper. (2020). The Right to Health Care in Prison during the Covid-19 Pandemic. Access at: https://www.justiceinitiative.org/uploads/7696dcfd-12e1-4ace-8f28-2a37f4a3c26b/brief-access-to-health-care-in-prisons-07082020.pdf.

particular attention to prisoners with special health-care needs or with health issues that hamper their rehabilitation.

2. The health-care service shall consist of an interdisciplinary team with sufficient qualified personnel acting in full clinical independence and shall encompass sufficient expertise in psychology and psychiatry. The services of a qualified dentist shall be available to every prisoner.

Rule 31

The physician or, where applicable, other qualified health-care professionals shall have daily access to all sick prisoners, all prisoners who complain of physical or mental health issues or injury and any prisoner to whom their attention is specially directed. All medical examinations shall be undertaken in full confidentiality.

The Standard Minimum Rules are much more extensive, were Rules 26-35 continue to outline the rights and protections that should be put in place in prisons. These include guidance related to medical files; the need and availability of urgent care; special accommodations in women's prisons related to prenatal and postnatal care; options for children to stay with their parents and subsequent healthcare for children; health screenings after admission; ethical standards between the physician or other health-care professionals and the prisoners; reporting to the prison directors; inspection by a competent health body; and documentation and reporting of cruel, degrading and inhumane treatment.

*Mental health institutions*[4]

A large number of people with mental health conditions who are living in care homes or residential facilities, including psychiatric hospitals are often the forgotten and abandoned of society. Sadly, stories have emerged in the media where residents or patients of such institutions have been neglected and excluded from COVID-19 response strategies. Change in various forms is a stress factor in any person's life and stress in itself poses a risk for relapse or deterioration in mental health for those living with existing mental health conditions. The change caused by the COVID-19 pandemic posed a high risk for mental health problems that will continue to impact on people's lives, not only those with existing mental health conditions but the broader public, even after COVID-19 has ended or substantially decreased. In that regard, it is important to note the importance of the use of terminology and avoid the term social distancing.

The vulnerability of certain groups, such as persons with lived experience with mental health conditions is exacerbated during a pandemic. Not only are these individuals easy targets of COVID-19 infections (because of somatic comorbidity and living in circumstances where physical distancing is impossible), but they were more

[4] For the second and third rights related to staff training and women in institutions, though there are mechanisms we will not provide a normative framework here as the advocacy tools presented are focused on prisons.

than ever exposed to human rights violations resulting from an inadequate response to protect and respect their lives, in addition to a failure to address their needs and challenges.

The United Nations Convention on the Rights of Persons with Disabilities (CPRD) clearly acknowledges persons with disabilities (including psychosocial disabilities) in emergency situations by ensuring “the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.”

The framework of the Convention on the Rights of Persons with Disabilities (United Nations 2006) transcends national law and offers key guiding principles in the protection of the rights of people with psychosocial and intellectual disabilities.

With regard to the pandemic, the CRPD stipulates that State parties shall (Article 11):

> Take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters;
>
> Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programs as provided to other persons, including population-based public health programs;
>
> Provide those health services needed by persons with disabilities specifically because of their disabilities;
>
> Require health professionals to provide care of the same quality to persons with disabilities as to others;
>
> Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability;
>
> Provide accessible information to persons with disabilities about devices and assistive technologies and forms of assistance, support services and facilities.

It is crucial that states refrain from engaging in any act or practice that is inconsistent with the CPRD in relation to the COVID-19 pandemic, and to ensure that public authorities and institutions act in conformity with the Convention and take all appropriate measures to prevent and eliminate discrimination based on disability.

## Review of the rights to staff rights/education/training

In order to ensure the respect for the rights of individuals in penitentiaries and mental health institutions, it is compulsory that staff are equipped with the necessary tools, mindset and information. The need for prison staff education/training, especially in de-escalation and restraint practices, was highlighted through the presence of the COVID-19 pandemic.

As infection spread rapidly behind prison walls and beyond, mandatory quarantines were enforced, and changes were made to the organizational structures of the prison, staff shortages became inevitable. Staff shortages led to irregular working hours and increases in stress and anxiety, which are main contributors to staff exhaustion. As prison officials had to monitor larger groups without necessary resources, and often for longer periods, heightened use of physical restraints occurred. However, using force should be an exception in prisons and it must be justified under the principles of legality, proportionality, and necessity. In order to avoid human rights violations, it is important that staff be thoroughly informed on the consequences of resorting to use of force, the legal framework that allows for its use, and appropriate alternatives.

*Prisons*

Training prison staff is recognized internationally as a right that must be upheld in order to ensure safety and dignity within prisons. Rather than provide for an overview of legislative mechanisms that uphold staff's right to training and against use of force on prisoners, the United Nations Standard Minimum Rules for the Treatment of Prisoners offer an illustration of a more normative perspective to safeguard this human right.

As stated in the United Nations Standard Minimum Rules for the Treatment of Prisoners:

Rule 75

Before entering on duty, all prison staff shall be provided with training tailored to their general and specific duties, which shall be reflective of contemporary evidence-based best practice in penal sciences. Only those candidates who successfully pass the theoretical and practical tests at the end of such training shall be allowed to enter the prison service.

Rule 76

Training referred to in paragraph 2 of rule 75 shall include, at a minimum, training on: *(a)* Relevant national legislation, regulations and policies, as well as applicable international and regional instruments, the provisions of which must guide the work and interactions of prison staff with inmates; *(b)* Rights and duties of prison staff in the exercise of their functions, including respecting the human dignity of all prisoners and the prohibition of certain conduct, in particular torture and other cruel, inhuman or degrading treatment or

punishment; *(c)* Security and safety, including the concept of dynamic security, the use of force and instruments of restraint, and the management of violent offenders, with due consideration of preventive and defusing techniques, such as negotiation and mediation; *(d)* First aid, the psychosocial needs of prisoners and the corresponding dynamics in prison settings, as well as social care and assistance, including early detection of mental health issues.

Prison staff who are in charge of working with certain categories of prisoners, or who are assigned other specialized functions, shall receive training that has a corresponding focus

Rule 82

Prison staff shall not, in their relations with the prisoners, use force except in self-defense or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations. Prison staff who have recourse to force must use no more than is strictly necessary and must report the incident immediately to the prison director.

Prison staff shall be given special physical training to enable them to restrain aggressive prisoners.

Additional instruments such as the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules) go a step further in detail to advocate for a specific vulnerable group: women. Under Rule 33, it is noted that (1) all staff assigned to work with women prisoners shall receive training relating to the gender-specific needs and human rights of women prisoners; (2) basic training shall be provided for prison staff working in women's prisons on the main issues relating to women's health, in addition to first aid and basic medicine; (3) Where children are allowed to stay with their mothers in prison, awareness-raising on child development and basic training on the health care of children shall also be provided to prison staff, in order for them to respond appropriately in times of need and emergencies.

## Review of women's rights in prisons

Despite the increasing number of women in detention, policies and laws often are written with men in mind, failing to take into account the specific needs of the female population. While it is true that the large majority of prisoners are men, there is still a need for a gender-specific approach that addresses the detrimental effects of imprisonment on women. Time spent in detention also fails to address the underlying factors that cause offending by women, which then is reflected in the increasing recidivism rates in some countries.

In a brief addressing Covid-19 for women in prisons published by UN Women (2020), it was highlighted that globally, women are imprisoned for minor, drug or 'moral' crimes. Furthermore, the situation of women cannot be addressed without a fully understanding of the intersecting layers of discrimination in society, in addition to fewer economic opportunities and their impact on imprisonment rates. With the additional challenges women

face in mind, UN Women made recommendations to improve the current situation, particularly in relation to the Covid-19 pandemic: Adopting a gender-responsive approach that emphasizes non-custodial and community-based alternatives; explore opportunities for gender-responsive reintegration and rehabilitation strategies; special attention to those women with increased vulnerability, such as pregnant women and those with dependent children, and elderly women, women with disabilities or physical and mental health concern.

As highlighted by the UNODC Handbook on Women in Prison (2014), other challenges exist particularly for women. These include barriers to: their access to justice in relation to men; their experience with sexual and gender based violence which has implications on their well-being and mental health needs, also while in prison; drug and alcohol use; family needs, particularly of children while mothers are in detention; and gender-specific healthcare needs.

Indeed the United Nations Standard Minimum Rules for the Treatment of Prisoners addresses the needs of women in prison, but also the Bangkok rules offer a crucial protection for women, as will also be highlighted. The Standard Minimum Rules address women to an extent (e.g., area set aside for women; pre and postnatal care; women staff holding keys; more restrictions on the use of solitary confinement), though without much recognition for their different needs. The non-discrimination principle does emphasize, however, the need for attention to specific approaches. As outlined in the Basic Principle paragraph of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules),

> *In order for the principle of non-discrimination embodied in rule 6 of the Standard Minimum Rules for the Treatment of Prisoners to be put into practice, account shall be taken of the distinctive needs of women prisoners in the application of the Rules. Providing for such needs in order to accomplish substantial gender equality shall not be regarded as discriminatory ( para 1. Basic Principle).*

The Bangkok rules, however, should be seen as a complement to the Standard Minimum Rules, rather than a substitute. When magnified by the Covid-19 pandemic, particularly healthcare needs (including mental health) and rights to family visits where children are concerned required extra safeguarding. According to the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules) (in relation to healthcare and contact with the outside world,

| Rule 6(a) |
| --- |
| Medical screening on entry. The health screening of women prisoners shall include comprehensive screening to determine primary healthcare needs, and also shall determine: (a) The presence of sexually transmitted diseases or blood-borne diseases; and, depending on risk factors, women prisoners may also be offered testing for HIV, with pre- and post-test counselling; (b) Mental health-care needs, including post-traumatic stress disorder and risk of suicide and self-harm; (c) The reproductive health history of the woman prisoner, including current or recent pregnancies, childbirth and any related reproductive health issues; (d) The existence of drug dependency; (e) Sexual abuse and |

other forms of violence that may have been suffered prior to admission.

Rule 26

Women prisoners' contact with their families, including their children, and their children's guardians and legal representatives shall be encouraged and facilitated by all reasonable means. Where possible, measures shall be taken to counterbalance disadvantages faced by women detained in institutions located far from their homes.

Rule 27

Where conjugal visits are allowed, women prisoners shall be able to exercise this right on an equal basis with men.

Rule 28

Visits involving children shall take place in an environment that is conducive to a positive visiting experience, including with regard to staff attitudes, and shall allow open contact between mother and child. Visits involving extended contact with children should be encouraged, where possible.

Rule 43

Prison authorities shall encourage and, where possible, also facilitate visits to women prisoners as an important prerequisite to ensuring their mental well-being and social reintegration.

Rule 45

Prison authorities shall utilize options such as home leave, open prisons, halfway houses and community-based programmes and services to the maximum possible extent for women prisoners, to ease their transition from prison to liberty, to reduce stigma and to re-establish their contact with their families at the earliest possible stage.

# Advocacy efforts based on country focuses

## Healthcare in closed institutions during the pandemic: Armenia, Georgia and Moldova

### *Findings*

The situation based on the four monitoring reports that were compiled in the first phase of the project was presented. Both among countries and within countries differences were found in terms of how institutions responded to the issue of health care. More generally, access to medical care was often limited, particularly when there was a need to obtain consultations with specialists. Vaccination numbers also varied depending on policies and prioritization of people in closed institutions, where it occurred.

In terms of prevention, staff and visitors to detention centres in Georgia were given medical check-ups. Staff working in penitentiaries were given PCR tests once a week, while defendants and convicts received PCR tests once every two weeks.[5] Isolated quarantine areas were available and visitors has to undergo processes before entering the prison. Facilities varied to a large extent in mental health institutions in Armenia. For example, in some cases patients had their temperatures monitored twice a day, and in other cases this occurred to a much less frequent extent. In Georgia, prisoners and staff had a lot of access to facemasks, also when prisoners attended meetings with visitors. Furthermore, it was found that the Ministry of Health did not carry out a needs assessment nor deliver a procedure to provide PPE and disinfectant. A similar pattern was identified for isolating persons, where only in some institutions was a separate space available.

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. In Georgia, however, though the basic requirements for infection control of Covid-19 regulations were met, there were still substantial problems with sustained and continuous care of the patients throughout the pandemic. This became especially problematic where prison overcrowding let to greater inability of staff to de-escalate behaviors and rather resort to physical and chemical restraint practices.

Specific issues for detention institutions in Georgia, in addition to other countries, and placement centers for the mentally handicapped are isolation from the community health system, and residents being dependent on accessing medical services through the Ministry of Justice, Ministry of Interior and Ministry of Labor and Social Protection (in short, other authorities than the Ministry of Health). This situation creates several barriers, which in the context of the COVID-19 pandemic have resulted in human rights violations and inequities in accessing essential services. [6]

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[5] Decree N 975 of the Government of Georgia of June 15, 2020

[6] http://ombudsman.md/wp-content/uploads/2020/06/RAPORT_Covid-19.pdf

Topics that require further advocacy in these countries include: Ensuring equivalent access for persons in places of detention to health services, including crisis response; Increasing the responsibility of the Ministry of Health in the management of public health crises in places of detention and their integration in the national response and the regulatory framework; Increaseing awareness of stigma and discrimination against detainees and people with institutionalized mental disabilities; Respecting the fundamental guarantees and the rights of the persons in state custody in order to promote the correct measures for the prevention, diagnosis and treatment of infectious diseases; and ensuring access to information adapted to the understanding of people with mental disabilities and maintaining links with the community, including the use of digital technologies.

### *Advocacy response within the project*

In Moldova, a tool was developed (AFI) referring to the 14 fundamental rights of patients of the European Charter of Patients' Rights, offering an overview of the health context in detention (see Appendix 1). The tool recognizes patient rights as part of the greater Fundamental Human Rights. Such rights promote patient responsibility, underpinned by the natural right to life, bodily integrity and health within the healthcare system. Patients' rights refer to all the possibilities available to them to defend their interests as patients. Every patient's right is matched by an obligation on the part of the doctor, the medical institution, the public authority or the state to satisfy it. Patients' rights include fair access to healthcare, quality of healthcare, respect for the patient as a human being and respect for the patient's dignity and integrity.

In Armenia, a policy brief is being used to demand better healthcare within prisons particularly within the context of Covid-19 (Appendix 2). The brief was developed by Helsinki Citizens' Assembly Vanadzor with the expert input of psychiatrists and civil society representatives in Armenia, Georgia and Moldova. The aim of this document is to strengthen the current state policy around mental health by providing key recommendations. These recommendations are addressed to policy-makers and highlight the main regulations that would be required to ensure effective services in the mental health sphere during crises such as the pandemic.

During the pandemic, another issue that gained remarkable importance was continuity of care and digitalisation of mental health services to provide distant care and implement telemedicine. In Georgia, this is a new field and needs appropriate clinical and ethical approaches. Therefore, there is a need to develop guidelines and training modules in telemedicine, including clinical and ethical issues for distant care and telemedicine. These guidelines and training modules are a first step to advocacy work, as they provide the tools that may be used to demand that the rights around continuity of care are realized.

## Staff rights: Armenia, Georgia and Moldova

### *Findings*

The country reports indicated that there is insufficient knowledge among professionals about evidence-based de-escalation techniques and that staff in mental health institutions are not equipped with the knowledge and

other resources to treat and manage patients with dignity and respect ensuring obligatory education of staff in human rights and quality services.

More specifically, in Moldova, though there is insufficient staff training on COVID-19 pandemic prevention measures, some employees of psychiatric institutions were trained in this field. For example in the Chisinau Psychiatric Hospital trainings were provided by the institution's epidemiologist; in the Balti Psychiatric Hospital they were trained by the representative of the Public Health Center; and in the Temporary Placement Centre for Boys with Disabilities from Orhei and Temporary Placement Centre for Persons with Disabilities from Brinzeni, some of the managers of the institution were trained on COVID-19 issues by the NGO Keystone and by representatives of the Public Health Center.

In addition to a need for more training and education, staff also suffered from violations to their rights in terms of working conditions. In Georgia, prison staff generally faced quite specific and strict working regimes in the very beginning of the pandemic. They were required to live in prison for almost 3 months without leaving the building. The abnormal working hours, as well as institutional stress and limited communication with family and loved ones significantly influenced their mental health and in some cases even affected physical health conditions. Furthermore, during interviews held with prison staff, many complained about missing their families and longer working hours, as the number of staff in prison was insufficient and they had to work even on the days when officially they were off. The most powerful stressor was that nobody knew for how long they would need to stay on the so-called special regime away from their homes and families.

## Women’s rights in prison: Armenia, Georgia and Moldova

### *Findings*

The challenge for women with children was illustrated in the earlier country reports on Covid-19 in Armenia, Georgia and Moldova. In Armenia, it was found that restrictions on visits with families were especially problematic for women, as they were unable to have physical contact with their children, which led to higher reports of suffering and feelings of isolation.

The restriction of deliveries into prisons furthermore disproportionately affected pregnant women and women with children under 3 years of age, as they were deprived of the opportunity to receive baby food, medicines, personal hygiene and care items for their children. It was further reported that the inherent needs of women were not taken into account in the provision of bathing and walking, psychosocial and health services, and release from detention. Resocialization measures were temporarily suspended, which in the context of lack of human contact aggravated women's mental health condition, negatively affecting their provision of incentives, change of type of correctional facility or parole processes. Other issues that were not addressed despite the fact that they affected women differently were: The types and doses of personal hygiene provided to them; changing the prices of products purchased through the kiosks operating near the penitentiary institutions; insufficient calorie content of food for women with health problems; provision of diet food.

There was also a negative impact on women registered in the probation service as a result of the pandemic, as many of them lost their jobs due to the restrictions and found themselves in a difficult socio-economic situation. This in turn has led to the inaccessibility of health services and certain punishments such as fines and public works.

Similarly in Georgia, not being able to see families and children over extended periods of time had a serious impact on the mental health and well-being of prisoners, including incarcerated mothers. It was also recognized that particularly for women prisoners reintegrating back into their communities and needing greater financial dependence, vocational programmes were needed to a larger extent, potentially online in order to deal with pandemic restrictions.

### *Advocacy response within the project*

Advocacy responses should recognize the differences among genders that exist and may take a number of forms. A first step is to study international and national standards and guidelines for the prevention, care and treatment of Covid-19 in prisons and the probation service from a gender-sensitive perspective, as was done in Armenia. Official statistics, data and information, however are key to such an effort, and should be complemented with personal interviews of other forms of data collection with stakeholders to understand the situation and main challenges.

Advocacy and awareness-raising tools may also take the form of short videos that offer a better understanding of the situation and challenges that women face in prisons. The Center for Legal Initiatives developed such a tool to raise public awareness and sensitivity to the issues of women in prison and probation during the Covid-19 pandemic. To make the main issues more objective, women were identified as heroes for the videos, who presented the systemic problems through personal experience.[7]

[7] The tools are in the final stage but more information can be found here: https://prisoninitiatives.am/news/25887/.

# Discussion and conclusion

In response to COVID-19, countries all over the world instituted restrictive measures by placing communities into lockdown, and promoted physical distancing to avoid the spread of the coronavirus. The repercussions of lockdown measures showed severe impact on both economies and communities. The world saw an increase in unemployment, domestic violence, suicide rates, racism, an increase in people experiencing mental health problems, and of course how people with mental health conditions, especially in prisons, care homes or residential facilities are severely affected (neglected) and sadly risk dying – all directly related to the COVID-19 crisis.

In an earlier report, the results of a monitoring phase were presented, illustrating the challenges that were found in closed institutions Armenia, Georgia, Moldova and Ukraine, in addition to the responses that some countries or institutions implemented, both in terms of policy and practice. As a next stage, organizations were invited to develop and implement advocacy actions based on those findings by strengthening their policies and practices where it was most needed. In some cases, these small-scale projects led to change – e.g., as a result of meeting with key stakeholders, the development of trainings, communication materials to raise awareness both for the target group and for larger society, exchanges (also regionally) and policy actions, to name a few.

The good practices that resulted from the pandemic, particularly in terms of looking for alternatives to detention should not be understated. One sub-grantee did address this issue specifically, formulating recommendations to encourage governments to prioritize this option (Appendix 3 in Georgia). As the larger goal of international norms and values is to use detention as a last resort, the pandemic also brought about opportunities to better understand and respond to prison overcrowding and high incarceration rates.

The significance of including persons with lived experience in the development of emergency response strategies from the onset must be noted, and assess the needs and challenges of the lived experience community within specific community and country contexts. Governments and institutions must respond accordingly with specific attention to ensure that the human rights of persons with mental health conditions are at all times upheld. Persons with lived experience with mental health conditions must be authentically involved, not only in the development of the response strategy, but further in the implementation, monitoring and evaluation thereof, and also in awareness and protection campaigns. Peer support in times of crisis is of particular value. Peer support workers can make an enormous impact in helping to address the mental health needs of people. The lived experience between a peer support worker and the person using peer support services promotes connectedness, acceptance and inspires hope.

In terms of recommendations and moving forward, we concluded the following:

- Ensure there is a user-centered approach, where the target group/those affected are included to the greatest extent possibly, ideally throughout the advocacy decision making process;

- While resources and time are limited, invest efforts into the strategy planning process and networking – here it becomes possible to know what other organizations are already doing, how to align efforts and already have concrete and efficient plans in place;

- Do not aim to reinvent the wheel – there is a wealth of information already in terms of Covid-10 pandemic good practices in closed institutions;

- Continue to implement an intersectional approach that recognizes the needs of more vulnerable groups. Where this is not the focus of an organization, work together with those organizations that have specific target groups such as women or ethnic minorities;

- In terms of moving forward: (1) A global effort may still be realized. This can be in the form of a larger advocacy movement around alternatives to detention in order to decrease incarceration rates or a more policy focus where international standards are adapted or new guidelines are implemented. (2) Create a digital platform where all resources related to closed institutions in crisis can be stored.

As a result of the work carried out by the ten organizations, the ground was laid and strengthened in terms of know-how around advocacy, demanding change and improving the rights of people in closed institutions. Equally important to the development of tools and holding of meetings was the networking that occurred and the opportunities that arose for organizations to thoroughly develop advocacy plans that aimed to, among other areas, respond to the healthcare needs of those more vulnerable during a pandemic, recognizing extra staff training is required and addressing that certain groups – in this case women – also must have special attention given to their specific needs. While here we presented only a few of those initiatives and topics, offering network-building and international exchange to respond to a pandemic can strengthen national initiatives and leader to greater long-term change within prison and mental health reform.

# APPENDICES: TOOLS

## Appendix I. Right to health (Moldova)

**PRISONERS' RIGHT TO HEALTH**

**IN THE CUSTODY OF THE NATIONAL ADMINISTRATION OF PENITENTIARES**

**The provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status** *(Rule 24, Nelson Mandela Rules)*

| The 14 fundamental rights of patients of the European Charter of Patients' Rights | | |
|---|---|---|
| | **Description of standards** | **Health context in detention** |
| **RIGHT TO PREVENTIVE MEASURES** | *Every individual has the right to a proper service in order to prevent illness.* | - Medical examinations at every entry and exit of the institution;<br>- Medical examinations on admission and during detention for infectious diseases (Tuberculosis, HIV infection, viral hepatitis and others);<br>- Access to HIV harm reduction programmes (sterile syringes, consumables, lubricants, condoms, etc.);<br>- Access to vaccination programmes;<br>- Adequate conditions of detention (accommodation, food, dietary and age-appropriate food, hygiene and sanitary products). |
| **RIGHT OF HEALTH CARE ACCESS** | *Every individual has the right of access to the health services that his or her health needs require. The health services must guarantee equal access to everyone, without discriminating based on financial resources, place of residence, and kind of illness or time of access to services.* | - Availability of prison hospital and medical units in each prison;<br>- Free access to medicines and investigations in accordance with protocols and guidelines approved by the Ministry of Health;<br>- Providing medical examinations and consultations in medical institutions outside the prison system on a contract basis;<br>- Ensuring the prisoner's right to a private or independent doctor in addition to the services provided by the authorities;<br>- Preventive medical examinations and on demands of at least one general practitioner (family doctor), dentist and psychiatrist;<br>- Access to 112 service. |
| **RIGHT TO INFORMATION** | *Every individual has the right to access to all information regarding their state of health, the health services and how to use them, and all that scientific research and technological innovation makes available.* | - Information on potential health risks and ways to reduce, mitigate or exclude them;<br>- Access to information about his or her health, illness and treatment methods available in detention and available in the community;<br>- Accessibility of information materials on paper, audio, video in the language understood by the person;<br>- Information from different sources - authorities, NGOs, peer-to-peer. |

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| **RIGHT TO CONSENT** | *Every individual has the right of access to all information that might enable him or her to actively participate in the decisions regarding his or her health; this information is a prerequisite for any procedure and treatment, including the participation in scientific research.* | - Providing health services on the basis of informed consent, in understood language to assist prisoners in decision-making;<br>- Information on adverse reactions, risks of administration or consequences of treatment refusal;<br>- Access to technological innovations and clinical trials based on a positive decision of the Research Ethics Review Committee and people voluntary informed consent. |
| **RIGHT TO FREE CHOICE** | *Each individual has the right to freely choose from among different treatment procedures and providers based on adequate information.* | - Providing information on the treatment options available for his or her condition in the prison, prison hospital and civilian medical institutions;<br>- Prison medical units provide primary health care. |
| **RIGHT TO PRIVACY AND CONFIDENTIALITY** | *Every individual has the right to the confidentiality of personal information, including information regarding his or her state of health and potential diagnostic or therapeutic procedures, as well as the protection of his or her privacy during the performance of diagnostic exams, specialist visits, and medical/surgical treatments in general.* | - Confidential medical examination without the presence or supervision of non-medical staff;<br>- Giving access to personal health information to third parties (e.g. lawyer, relatives) only with written consent with express mentioned health status;<br>- Compliance with the provisions of medical ethics in relation to detainees. |
| **RIGHT TO RESPECT OF PATIENTS' TIME** | *Each individual has the right to receive necessary treatment within a swift and predetermined period. This right applies at each phase of the treatment.* | - Isolation, transfer to medical institutions and inclusion in treatment of people with infectious diseases as soon as possible;<br>- Separate escorting (transportation) of people with suspected or confirmed infectious diseases;<br>- Access to the 112 service in case of absence of medical staff in the institution whenever necessary;<br>- Training medical staff to qualify and maintain professional competence. |
| **OBSERVANCE OF QUALITY STANDARDS** | *Each individual has the right of access to high quality health services based on the specification and observance of precise standards.* | - Compliance with medical protocols and guidelines on case management for diagnosis, treatment, care, support and rehabilitation;<br>- Accreditation of prison health services as a provider by the National Council on Health Assessment and Accreditation. |

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| **RIGHT TO SAFETY** | *Each individual has the right to be free from harm caused by the poor functioning of health services, medical malpractice and errors, and the right of access to health services and treatments that meet high safety standards.* | - Use of sterile equipment and supplies, including in dental care;<br>- The right to complain about poorly functioning health services, malpractice or medical errors to prison authorities and national and international human rights mechanisms;<br>- Providing safe medicines, shelf life and proper storage conditions;<br>- The right to seek the opinion of an independent doctor, in addition to any services provided by the authorities. |
| **RIGHT TO INNOVATION** | *Each individual has the right of access to innovative procedures, including diagnostic procedures, according to international standards and independently of economic or financial considerations..* | - Ensuring access to all innovative diagnostic and treatment services and procedures through information, accompaniment and referral to medical institutions outside the place of detention based on the person's needs;<br>- Voluntary inclusion of prisoners in clinical research based on the decision of the research ethics review committee;<br>- Accessible information on how to access high performance health services, on their own or as an alternative opinion. |
| **RIGHT TO AVOID UNNECESSARY SUFFERING /PAIN** | *Each individual has the right to avoid as much suffering and pain as possible, in each phase of his or her illness.* | - Access to palliative care and treatment according to national regulations;<br>- Option of release from detention on grounds of serious illness;<br>- Access to compassionate use treatments and medicines from clinical trials according to regulations and research ethics review committee. |
| **RIGHT TO PERSONALISED TREATMENT** | *Each individual has the right to diagnostic or therapeutic programmes tailored as much as possible to his or her personal needs.* | - Access to National Treatment Protocols and Guidelines and compliance with their provisions in relation to the situation of the person in detention;<br>- The right to participate voluntarily in research and clinical trials approved by Research Ethics Boards. |
| **RIGHT TO COMPLAIN** | *Each individual has the right to complain whenever he or she has suffered a harm and the right to receive a response or other feedback.* | - Submitting petitions to the institution's administration and higher hierarchical bodies;<br>- Submitting petitions to central public authorities (Ministry of Justice, Ministry of Health, etc.) and human rights organisations (Office of the Ombudsman, Equality Council and NGOs)<br>- The right to confidential communication with the bodies monitoring places of detention (Council for the Prevention of Torture, Ombudsman). |
| **RIGHT TO COMPENSATION** | *Each individual has the right to receive sufficient compensation within a reasonably short time whenever he or she has suffered physical or moral and psychological harm caused by a health service treatment.* | - Use of national compensation mechanisms and remedies;<br>- Requesting information and copies of personal medical documentation;<br>- Petitioning international bodies. |

# Appendix 2. Right to Health (Armenia)

### Recommendations

Taking into account the study results, as well as principles and approaches of international organizations, below we present recommendations aimed at safeguarding rights of persons with mental health and intellectual problems in the conditions of the pandemic:

### 1. Observance and elimination of shortcomings in measures aimed at preventing and controlling the virus

Measures of preventing and controlling the pandemic should not be limited to emergency situations, they should have continuous nature, and emerging issues should be given systemic and long-term solutions.

Such measures should include:

- assessment of the cost-effectiveness of financial means allocated to combating COVID-19;
- review of the acting regulations to make them compliant with international standards and human rights (including by ensuring that emergency measures exclude discrimination on the basis of disability);
- examination of causes of death cases in the institutions during COVID-19 and revision of healthcare programs based on the results of the examination;
- assessment and review of the existing and necessary resources (financial, material-technical and human resources), their application mechanisms, institutional opportunities, procedures;
- research on the impacts of COVID-19 on the health of persons with mental health problems;
- development of telemedicine methods and mechanisms;
- engagement of mental health specialists in the process of rights-based response to an epidemic;
- engagement of persons with disabilities and their organizations, as well as close cooperation with them in the process of rights-based response to an epidemic;
- provision of persons with mental health and intellectual problems with comprehensible available information on the virus
- training of medical workers, raising their awareness level regarding rights of persons with mental health problems, and peculiarities of work with them;
- development and implementation of strategies of closing psychiatric institutions and houses providing care to persons with psychosocial and intellectual disabilities by ensuring support in the community through families and/or informal networks, as well as funding of services by state or public service providers;

*in the meantime, as an interim measure in psychiatric institutions;*

- identification of persons in risk groups;
- ensuring equipment and personal protective equipment for admission of persons with a referral for inpatient psychiatric aid, isolation space for virus-carriers and those possibly infected, safe examination space
- excluding violence or neglect towards persons receiving treatment and care, as well as use of coercive measures related to outbreak of the virus;
- Uninterrupted supply of a sufficient number of medications, hygiene items, personal protective equipment and environmental cleaning supplies;
- ensuring human rights during the emergency state, including the right to be free from abuse, violence and ill-treatment, eliminating discrimination, the right to free and informed consent, and access to justice
- proper cleaning of the environment and safe waste management;
- development and approval of user-friendly guide(s) on the following topics:

**psychiatric institutions**

- admission of those having a referral to be hospitalized to a psychiatric institution;
- prevention of virus transmission in the institution, including hygiene rules, testing
- staff safety/contagion risk management;
- management of suspected, confirmed and complicated cases/ including establishment of criteria that make a mental health problem secondary/;
- raising awareness about hygiene rules;
- space cleanliness and safe management of waste;
- visits;
- walks;
- transfer of persons receiving treatment and care (including by establishing criteria as to which symptoms make a person subject to be transferred to a relevant center);
- provision of psychotropic medication;
- provision of medications regulating somatic conditions;
- vaccination of the staff and persons receiving treatment and care by ensuring observance of the principle of informed consent;
- ensuring decent working conditions during the pandemic (including financial rewards, psychological rehabilitation/prevention of emotional burnout) and enshrining pandemic-related rules in employment contracts

**outpatient service**

- regulation of visits;
- provision of psychotropic medication;
- home consultations;
- organizations of visits to homes;
- management of suspected cases of infection;
- management of confirmed cases of infection;
- vaccination by ensuring observance of the principle of informed consent.

### 2. Being prepared to respond to rise of virus cases/emergency situations

Policy-makers should initiate relevant measures to immediately respond to the virus, while policies should be developed by considering the possible crisis situations:

- assigning/forming a relevant person/team at the level of the government and the institution
- development and approval of a mobilization plan in pandemic situations to ensure continual provision of services in the institutions (including by developing alternative mechanisms of providing psychiatric services, and, if necessary, mechanisms of engaging additional human and financial resources, supply of personal protective equipment and hygiene items, procedure of control/restriction of free sale of antibiotics)
- guaranteeing entry of monitoring bodies (including national preventive mechanisms and the European Committee for the Prevention of Torture) to institutions, including places for persons in quarantine.

# Appendix 3. Recommendations for alternatives to detention (Georgia)

Recommendations for improving the practice of non-custodial detention measures

- Review legislative records related to the use of non-custodial measures;
- Broaden the judge's discretion regarding restraining orders;
- Expand and introduce new types of prevention measures;
- Allow judges to use additional measures and restraints as the main prevention measure;
- To change the type of prevention measure - agreement on non-exit and regulatory norms on appropriate behavior and, depending on the category of crime, remove punishment;
- The existing record regarding the bail amount should be changed and removed be the amount determining the minimum amount of bail;
- Revise the norms regulating personal guarantee;
- Review the recommendations of the Prosecutor's Office of Georgia about the rationale use for preventive measures;
- The Prosecutor's Office of Georgia should review the use of preventive measures from a gender perspective;
- Establish a uniform practice of using prevention measures in order to plan workshops and trainings, including the participation of international experts;
- Improve child protection and social welfare services.

Recommendations for improving the practice of non-custodial sentences

- Review the use of legislative records for non-custodial sentences
- Reduce and remove restrictions on the use of non-custodial sentences in relation to the sanctions provided by the Criminal Code;
- Increase the sanctions provided by the Criminal Code in terms of non-custodial sentences;
- Expand the types of punishments;
- Review the regulatory norms of labor useful to the society;
- Expand the judge's discretion in relation to punishments;
- Expand the judge's discretion in relation to the use of conditional sentences;
- Extend the judge's discretion to sentence less than the minimum sanction;
- Improve the coordination between the justice system and penitentiary system;
- Judges should be proactively provided with information about the penitentiary mechanisms, programs, services, services in the system in relation to current operations and planned news;
- Develop the current process of information exchange mechanisms in the execution of punishment in individual cases
- Develop an individual coordination mechanism between the judicial system and the penitentiary system;
- Create a special mechanism that will allow judges to learn about the execution of penitentiary and non-custodial sentences;
- The judge should be given the opportunity, if necessary, before imposing a sentence to understand the position of the convict in relation to specific punishments.

General recommendations

- To create a unified discussion of judges on the issues of ratio in terms of non-custodial preventive measures and non-custodial sentences;
- A multidisciplinary working group should be created on relational issues in terms of the judicial system, the prosecutor's office, the corps of lawyers and with the participation of the penitentiary system;
- Increase the awareness and access of judges with criminological studies, statistical data, and evaluations of organizations and current scientific news;
- Share international experience and best practices through long term trainings and workshops;

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