



Institute for Development
of Freedom of Information

Prevention and control of COVID-19 in Georgian Prisons and Places of Detention



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Introduction

The global effort to combat COVID-19 can be ineffective if state authorities fail to pay relevant attention to the need of controlling and preventing the spread of infection at prisons and other places of detention.¹

Naturally, persons deprived of their liberty and those employed at detention facilities, constitute a vulnerable group since they live in a closed space, under the circumstances of highly closed proximity and for an extended period of time. They lack the opportunity to adhere to high standards of hygiene, recommended social distancing guidelines and self-isolation. The weak immune system, stress, or poor diet, aggravates the picture.

In addition to the living conditions, the vulnerability of prisoners is triggered by the fact that they usually suffer from severe health conditions (e.g. prisoners are far more likely to live with tuberculosis, hepatitis C, HIV, than the general population)².

Based on the risk of widely spreading the infection at detention facilities, added by the need for strict precaution measures, international organizations such as the World Health Organization, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and the United Nations Office on Drugs and Crime (UNODC) have developed special recommendations for preventing the spread of COVID-19 at prisons.

Recommendations of the WHO Regional Office for Europe

On 15 March WHO Regional Office for Europe (hereafter WHO/Europe) published an interim guide on the measures to be taken by the governments to deal with COVID-19 in prisons and other places of detention.

WHO/Europe did not overlook the fact that during the epidemic those imprisoned are particularly vulnerable due to their limited rights. Thus, the focus of the guidelines is broad and goes beyond the topic of healthcare.

According to WHO/Europe, national governments should take a number of measures, including:

- Access to healthcare in prisons or other detention facilities and persons placed in such institutions shall, without discrimination, enjoy the same quality and standard of healthcare that is available outside of the community;³
- Screening of any person entering or leaving a prison/detention facility. WHO/Europe highlights the fact that it is more cost-effective to diligently conduct the process of the screening than to isolate all newly admitted prisoners. In addition to the financial aspect, unnecessary medical isolation may also harm a person's mental health;⁴

1 WHO Regional Office for Europe, Interim guidance "Preparedness, prevention and control of COVID-19 in prisons and other places of detention", 15 March 2020, p.1. Available at: https://www.euro.who.int/__data/assets/pdf_file/0019/434026/Preparedness-prevention-and-control-of-COVID-19-in-prisons.pdf.

2 Penal Reform International's (PRI), "Global Prison Trends 2019", Healthcare in prisons, p. 2. Available at: https://cdn.penalreform.org/wp-content/uploads/2019/05/PRI-Global-prison-trends-report-2019_WEB.pdf

3 See Footnote 1, p. 3.

4 <http://www.euro.who.int/en/health-topics/health-determinants/prisons-and-health/focus-areas/prevention-and-control-of-covid-19-in-prisons-and-other-places-of-detention>.

- Triage tents for testing prison employees and visitors, assessing risks and conducting screenings of the lower respiratory tract⁵. In case if a person shows any symptoms he/she should be placed under medical isolation for further examination and, if necessary, testing. Those placed under isolation should be explained the reason for taking the measure and should be allowed to notify third parties of their transfer to isolation;
- Regular disinfection, at least once per day, encouragement to observe the rules of individual hygiene, provision of relevant supplies and personal protective equipment to the detained persons and employees; Necessary equipment is in shortage worldwide, however, it is crucial to give priority to detention facilities;
- Taking highly effective and less harmful measures to separate high-risk inmates from the rest of the community, preferably by placing them in solitary confinement cells;
- Informing the prison community. Decisions of the prison management should be transparent. The particularly severe emotional environment should be considered. In addition to psychological support, the information should be provided in a continuous, proactive manner. It should often be emphasized that as soon as the crisis period ends, contacts with the family members will be renewed;⁶
- Contact-free means of communication. Legitimately restricting visits to prisons or other places of detention to prevent the spread of the virus. At the same time prison administrations should not overlook the fact that, in general, those deprived of their liberties may react more severely to various factors. For instance: increased anxiety due to the even greater degree of isolation. Therefore, WHO/Europe recommends to expand contact-free means of ‘visits’, such as the ability to video chat with family members and friends;⁷
- Inadmissibility to interfere with the activities of those bodies whose main mandate is to prevent torture and other cruel, inhuman or degrading treatment or punishment;⁸
- Decisions based on clinically proven medical needs. Any decision that translates into medical isolation within a prison or other facility should be based on clinically proven medical needs. Adequate measures should be taken to prevent possible marginalization or stigmatization of potentially infected individuals;
- Adherence to the so-called “Nelson Mandela Rules”⁹. For instance, restrictions should never amount to torture, or other cruel, inhuman, degrading treatment or punishment; Long-term solitary confinement (more than 15 days) is prohibited; Clinical decisions must be made by qualified physicians and must not be overruled by non-medical prison staff; Prohibition of contact with family is only allowed for a limited time; etc.
- Developing an action plan. Such a plan should describe the details of various activities, those responsible for implementing them, deadlines for carrying out the activities and should include

5 <http://www.euro.who.int/en/health-topics/health-determinants/prisons-and-health/news/news/2020/3/preventing-covid-19-outbreak-in-prisons-a-challenging-but-essential-task-for-authorities>.

6 See Footnote 1, p. 5.

7 Ibid, p.22.

8 Ibid, p. 5.

9 United Nations Revised Standard Minimum Rules for the Treatment of Prisoners.

crisis-management plans. WHO/Europe gives a detailed description of the components that should be reflected in such plans.¹⁰

- It is necessary and unavoidable to start discussions regarding the problem of prison overcrowding (governments should use non-custodial means en masse at all stages of the proceedings). Early release of inmates falling under certain categories is highly encouraged (however, in this case, prison administrations must ensure that individuals have access to relevant accommodation and conditions to quarantine and should inform local authorities for the purpose of enforcing the measures of quarantine).

Council of Europe Commissioner for Human Rights

On April 6, the Commissioner for Human Rights called on the member states of the Council of Europe to actively use alternative means to imprisonment. Among such alternatives, the Commissioner named early release of prisoners, reformation of criminal justice to reduce prison population (temporary or early release, amnesty, house arrest or commutation of sentences), and postponement of investigations and execution of sentences.

According to the Commissioner, the authorities of the Member States should focus on prisoners with serious health problems, elderly prisoners who do not pose risk to the society and those convicted of minor or non-violent crimes.

The Commissioner stressed that effective implementation of the sanitary regulations in Europe and decreasing the burden placed upon prison staff and penitentiary systems will only be possible by reducing the prison population.¹¹

United Nations Office on Drugs and Crime (UNODC)

United Nations Office on Drugs and Crime (UNODC) believes that general measures for the prevention and control of COVID-19 may be ineffective for many prisons that face overcrowding and systemic problems. Thus it is crucial that, without any prejudice to public safety, prison strategies foresee the measures of decreasing inflow of new inmates and releasing prisoners falling under selected categories.¹²

European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

CPT has developed basic principles that the relevant branches of government should take into consideration when fighting the virus.

10 See Footnote 1, p. 11-12.

11 <https://www.coe.int/en/web/commissioner/-/covid-19-pandemic-urgent-steps-are-needed-to-protect-the-rights-of-prisoners-in-europe>.

12 United Nations Office on Drugs and Crime, Position Paper on COVID-19 preparedness and responses in prisons, p.1; Available at: https://www.unodc.org/documents/justice-and-prison-reform/UNODC_Position_paper_COVID-19_in_prisons.pdf.

The Committee considers that States should take every effort to apply alternatives to custodial measures. The provision is imperative in cases when prisons face the problem of overcrowding. Authorities should also actively use the measures of “pre-trial detention, more lenient sentencing, early release, and probation”¹³.

International Practice

In the United Kingdom, the government decided to temporarily release from custody pregnant prisoners, those in Mother and Baby units as well as prisoners who are within two months of their release date. The measures aim at avoiding infecting thousands of prisoners and circumvent the danger of overloading the healthcare system.¹⁴ The regulations will apply to those prisoners only who undergo the process of risk assessment and meet relevant stringent criteria.

To protect public safety the following high-risk prisoners will not be eligible for early release: prisoners who have not served at least half of their custodial term; those convicted of violent or sexual crimes; those convicted of COVID-19 related offenses; those who have committed crimes against the national security; prisoners constituting a danger to children; inmates with coronavirus symptoms; prisoners without housing and healthcare support.¹⁵

The Ministry of Justice will also be working towards ensuring access to additional accommodation for prisoners. “The Parole Board will progress cases through a combination of remote hearings and a paper review process, sometimes combined with case management hearings”.¹⁶

In the United States, early release of prisoners has been launched in various states such as New York, Georgia, California, Alabama, Michigan, Colorado, California, Hawaii, Virginia, Pennsylvania, Philadelphia, Louisiana, Utah, Arizona, Oklahoma, South Carolina, Florida, Washington, Texas, Ohio, Illinois. Local governments in the listed states believe that reducing the prison population is crucial for fighting the epidemic.¹⁷

Moreover, the following countries plan to release prisoners in response to COVID-19: France (France alone has announced the release of about 5-6 thousand prisoners¹⁸), Australia, Poland, Sudan, Bahrain, India, Indonesia, Iran, Jordan, Thailand, the Philippines, Nepal, Germany, Canada, Azerbaijan, Ireland, Israel, and Greece. The list is not exhaustive and is growing day by day.¹⁹

The Turkish parliament has passed a law calling for the release of about 100,000 prisoners (of which about 45,000 will be temporarily released).²⁰

13 European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic “; Available at: <https://rm.coe.int/16809cfa4b>.

14 <https://www.gov.uk/government/news/pregnant-prisoners-to-be-temporarily-released-from-custody>.

15 <https://www.gov.uk/government/news/measure-announced-to-protect-nhs-from-coronavirus-risk-in-prisons>.

16 <https://www.gov.uk/guidance/coronavirus-covid-19-and-prisons>.

17 <https://www.prisonpolicy.org/blog/2020/03/27/slowpandemic/>.

18 <https://www.euronews.com/2020/03/26/coronavirus-inmates-in-france-hit-out-over-prison-hygiene-amid-covid-19-fears>.

19 <https://www.prisonstudies.org/news/news-covid-19-and-prisons>.

20 <https://www.reuters.com/article/us-turkey-security-prisoners/turkish-parliament-passes-bill-to-release-thousands-from-prison-amid-coronavirus-idUSKCN21V241>.

Steps Taken up by Georgia

As of 2019, 9740 prisoners are serving their sentences in Georgia²¹. Besides, during the pandemic, at least 780 employees live permanently on prison facilities. Thus within the penitentiary institutions in Georgia, there are over 10 thousand persons particularly vulnerable to the threats of COVID-19. Therefore, it is necessary to outline the various steps taken by the Georgian penitentiary system to prevent the spread of COVID-19 in prisons.

According to the decision of the Minister of Justice, with the aim of reducing the risk of infecting prisoners, 780 staff members will permanently live on the territory of penitentiary institutions.²²

Besides, newly admitted prisoners will undergo the process of screening and relevant information will be collected regarding their symptoms, travel history, and contacts, after which the new inmates will be placed in the quarantine for 21 days.²³ Unfortunately, there is no publicly available information regarding the type of screening, thus it is unknown whether the screening envisages merely thermal screening or any other measures.

Disinfection has been carried out in all penitentiary institutions, however, no information is available regarding the frequency of the activity, thus it is unknown whether WHO/Europe's recommendation of daily disinfection is thoroughly executed.

Prison visits are temporarily suspended, and, "to partially fill the deficit of communication with the outside world, by the decision of the Minister of Justice [...]" prisoners are given free 15 minutes in addition to the paid calls set by law.²⁴ Moreover, the International Committee of the Red Cross funds another 20 minutes for the calls of the prisoners.²⁵ While we welcome this decision of the Minister of Justice, we believe that more needs to be done in order to maintain the mental health of prisoners considering that all visits to inmates are temporarily terminated.

WHO/Europe recommends introducing other contact-free means of communication. For example, in the UK, where prison visits have also been suspended, prison administrations have provided more diverse means of communication (voice mails, e-mails, video calls). Besides, low-risk inmates have access to secure phone handsets.²⁶

21 <https://www.geostat.ge/ka/modules/categories/132/siskhlis-samartlis-statistika>.

22 <http://www.sps.gov.ge/ka/media/akhali-ambebi/article/23460-thea-tsulukiani-qes-pirobebi-shemushavda-imisthvis-rom-arc-chven-da-arc-patimrebs-ar-gvqondes-imis-gannda-rom-romelime-inspektor-kontroliori-garedan-sheitans-viruss-datselebulebashiq.html>.

23 <http://www.sps.gov.ge/ka/media/akhali-ambebi/article/23455-erthi-kviraa-rac-saetcv-simptomebis-mqone-akhaldakavebuli-piri-penitenciur-datselebulebashi-ver-khvdeba.html>.

24 <http://www.sps.gov.ge/ka/media/akhali-ambebi/article/23457-akhal-koronavirusthan-dakavshirebuli-gansakuthrebuli-pirobebis-periodshi-patimrebi-ufaso-satelefono-zarebith-isargebleben.html>.

25 <http://www.sps.gov.ge/ka/media/akhali-ambebi/article/23464-tsitheli-jvris-saerthashoriso-komiteti-patimrebs-20-tsuthian-ufaso-satelefono-sasaubro-dros-daufinansebs.html>.

26 <https://www.gov.uk/guidance/coronavirus-covid-19-and-prisons>.

Conclusion

International organizations such as WHO/Europe, UNODC, CPT and the Commissioner for Human Rights assert that reducing the prison population is one of the key necessary measures for preventing widespread of COVID-19 in prisons and other places of detention. This recommendation is especially noteworthy for Georgia in the light of the monitoring reports of the National Preventive Mechanism.

For instance, according to the 2016 report, maintaining sanitary-hygienic conditions is particularly challenging at the penitentiary department N17, which raises the risk of spreading infectious diseases at the institution.²⁷ According to the latest data, the problem of prison overcrowding remains unresolved in Georgia. For example, while the maximum capacity of inmates at facility N15 is 1388, 1900 prisoners resided at the institution in 2019.²⁸

According to the 2019 report by the National Preventive Mechanism, the number of staff members employed for ensuring the safety and security of the inmates was not sufficient at the prisons selected for monitoring. Due to the combination of these problems, “[...] institutions fail to provide necessary supervision of the prisoners”.²⁹ The monitoring also revealed the problems of ventilation and sanitation. Some facilities do not have an electronic ventilation system, while others do not even have access to natural ventilation.³⁰ Perhaps most notably, the monitoring revealed that “[...] penitentiary health care system still lacks qualified medical staff [...]”.³¹

Adhering to the rules of social distancing, hygiene, and sanitation are crucial for preventing the spread of the virus. The threat of the widespread becomes even more dangerous under the circumstances of lack of medical staff (some of which may themselves face the need for isolation).

Even though cases of COVID-19 have not yet been detected at the penitentiary system, the Georgian authorities need to develop a crisis management plan in advance.

It should be noted that according to the order of the Minister of Justice of Georgia dated April 16, during the State of Emergency, “[...] probationers and parolees are released [...] from the obligation to register and register for probation by the probation officer”.³² Although the step should be assessed positively it is insufficient to address all existing risks. We believe that in case of such necessity the Georgian penitentiary system should be ready, to immediately release law risk prisoners from custody. The need is also triggered by the fact that an infected individual may be asymptomatic and the virus may “live” in a detention facility for days without the administration or medical staff being aware of it. This risk is reflected in the results of mass coronavirus testing undergoing in the USA prisons, 96% of inmates in four states tested positive while being asymptomatic.³³

27 National Preventive Mechanism, “Report on the Visit to the Prison N17”, 2016, p. 21.

28 National Preventive Mechanism, “Report on the Monitoring Visits to Establishments 2, 8, 14, 15”, 2019, p. 17.

29 Idem.

30 See Footnote 20, p. 32.

31 Ibid, p. 51.

32 Order No. 522 of the Minister of Justice of Georgia of April 16, 2020, Article 1.

33 https://www.reuters.com/article/us-health-coronavirus-prisons-testing-in/in-four-us-state-prisons-nearly-3300-inmates-test-positive-for-coronavirus-96-without-symptoms-idUSKCN2270RX?fbclid=IwAR0h_Dt-VmLcw6LF84AXUfVevFv0p0Y-0RgiqYH1wKgU04vvpJ7ArkWvJIQ.

The penitentiary system, including the representatives of prison administrations, the health care system and the legal professionals should conduct risk-assessment of inmates and develop a list of low-risk prisoners, which will be temporarily released from custody, in the event of an escalation of the crisis. According to the recommendations and experience of various countries, these may be prisoners within the last 12 months of their sentence, those with severe health conditions, elderly prison population, pregnant women, mothers with infants, inmates imprisoned for due to the failure to pay their bails, persons detained for the personal use of drugs, etc.

The topic of urgently releasing prisoners is not on the agenda today. Moreover the lack of the staff members necessary to effectively manage the sanitary situation in the prisons of Georgia is not the issue that can be resolved in a day or two. The issue of 780 employees living at the territory of penitentiary institutions until the end of the pandemic is also highly problematic. Therefore, it would be reasonable for the Georgian authorities to respond to the crisis, by temporarily or permanently releasing selected low-risk prisoners in case if such necessity arises due to the spread of the virus.

It should be noted that the Constitution of Georgia authorizes the President to pardon convicts, without the need of co-signature from the Prime Minister. Accordingly, the president is granted the mandate to work on the issue of reducing the number of individuals placed at the penitentiary institutions. No need to mention, those included in the list of the predetermined list should not pose threat to public safety.

The measure of releasing the prisoners, as noted by various organizations and committees, is not only necessary but also inevitable in countries facing the problem of prison overcrowding. It should also be noted that overcrowding should be defined by taking into consideration the overall capacity of prisons and its population, as well as by the number of inmates placed at shared cells. Decreasing the number of the prison population, will not only serve the purpose of preventing the spread of infection within the prison population but will also benefit the general interest of the public e.g. avoiding overcrowding of hospitals.