

# THE COVID-19 PANDEMIC IN PRISONS AND ITS IMPACT ON PRISON REFORM PRIORITIES

Study for the Council of Europe



Penal Reform International,  
Sharon Critoph and Vicki Prais

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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Cover design: Documents and Publications Production Department (SPDP), Council of Europe

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Layout: Jouve, Paris

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Printed at the Council of Europe

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# Introduction

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**T**his document constitutes the final report for a study commissioned by the Council of Europe, titled, “The Covid-19 pandemic in prisons and its impact on prison reform priorities”. The analysis is based on in-depth research into Covid-19 measures in prisons in six target countries – Albania, Armenia, Georgia, Ireland, Portugal and the Netherlands – and the impact of these measures on prison reform plans and processes.

The selection of countries for the study was based on five criteria:

- a. measures taken to reduce prison populations (including in pre-trial detention), either through early release or reducing new admissions;
- b. women being specifically included in release mechanisms in at least some of the selected countries;
- c. geographical spread across the region;
- d. a balance of small, medium and large prison systems (in terms of size of prison populations or number of prison facilities);
- e. up to four of the countries selected had to be Council of Europe Co-operation in Police and Deprivation of Liberty Unit (CPDLU) beneficiary countries that had previously received technical assistance for reform of their prison systems.

The study prioritised countries making efforts to reduce prison populations, as this is seen as one of the most effective and sustainable measures for preventing and controlling Covid-19 in prisons, by providing space for physical distancing between prisoners. All countries selected introduced a variety of infection prevention and control (IPC) measures within their prison systems.

Turkey was also to be included in the study as the fourth CPDLU beneficiary country, due to the size of its prison population and the significance of measures taken by the prison system to combat Covid-19, most notably mass prisoner releases. However, following consultation with the Council of Europe, Turkey was later dropped from the countries selected as it was clear from an early stage that access to information and input from the authorities would be difficult to obtain within the required time frame.

The research findings contained in this study are based on the questionnaire responses provided by the authorities and stakeholder interviews in each country. Analysis also draws on available information and existing market analysis, including existing Covid-19 studies.

Replies to questionnaires were received from the authorities in Albania, Armenia, Ireland and Portugal. Officials in all six countries, except the Netherlands, participated in the interview process. For Georgia and the Netherlands, the initial research conclusions were sent to the relevant authorities inviting comment. Interviews were conducted using semi-structured interview questions prepared by the research team in co-operation with the Council of Europe. A total of 88 interviews were conducted across the six countries (14 in Albania, 12 in Armenia, 20 in Georgia, 20 in Ireland, 6 in the Netherlands<sup>1</sup> and 16 in Portugal). Some interviewees preferred to send information via e-mail.

Interviewees included former and current prisoners and their family members; staff and managers of prison facilities; ministry officials and policy makers; judges, lawyers and other justice sector officials; monitoring bodies, including National Preventive Mechanisms (NPMs) and Ombudsperson offices; non-governmental organisations (NGOs) and other organisations working in prisons and the justice sector; international and regional organisations and donors with an interest in the sector, including those currently providing support activities; parole, probation and social service representatives; medical bodies and individual medical experts; and prison service providers, including legal aid providers and religious organisations.

The research was grouped under the three main priority areas identified for the current study based on the main issues identified through the initial desk research. These areas included:

1. healthcare interventions and introduction of preventive measures and protocols introduced in direct response to Covid-19;
2. changes in operational procedures due to Covid-19: facing challenges and making adaptations in methods of work and observations on impacts on delivery of services/support to prisoners;
3. studying the impact of Covid-19 on plans for prison reform, on technical assistance provided and future co-operation activities: perspectives for long-term sustainability.

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1. The small number of interviews conducted in the Netherlands reflects the difficulties in obtaining co-operation from the authorities.

The study was designed to learn how prison administrations, staff and prisoners themselves coped with the challenges of Covid-19, with an in-depth practical look at lessons learnt. It will inform the way prisons function better in future in the event of further pandemics and will also consider how international partners can best support prison administrations in these circumstances. The current analysis contains research findings, with a detailed analysis of each country, and incorporates examples of good practice. The study concludes with a set of recommendations for authorities to consider to improve planning for such crises to ensure they are better prepared to respond in future.

The analysis was prepared by Penal Reform International and the international consultants engaged in the study, Sharon Critoph and Vicki Prais.





# Terminology and acronyms

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**T**hroughout this study, we use the terms “prisons”, “penitentiary”, “detention facilities” and “places of detention” interchangeably, referring to any place where people are deprived of their liberty under criminal justice measures or sanctions. This can include pre-trial detention facilities.

The word “prisoner” or “detainee” is used to refer to individuals who have been placed in custody by a competent judicial or legal authority, having been convicted of at least one offence and sentenced to custody, or, alternatively, suspects who are the focus of an ongoing criminal investigation who are remanded by a court into custody pending completion of the investigation or a court decision to release them from pre-trial remand. It should be noted that this generic definition differs in practice in some jurisdictions where there is a distinction between “detainee” (individuals being held pre-trial and/or pre-sentence) and “prisoner” (individuals held in custody after sentencing).

This study references key international and regional human rights standards that underpin and guide the analysis below, including the United Nations Standard Minimum Rules for the Treatment of Prisoners (“the Nelson Mandela Rules”), the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (“the Bangkok Rules”), the UN Standard Minimum Rules for the Administration of Juvenile Justice (“the Beijing Rules”), the UN Rules for the Protection of Juveniles Deprived of their Liberty (“the Havana Rules”), the International Covenant on Civil and Political Rights (ICCPR), the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), the UN Convention on the Rights of the Child (UNCRC), the European Prison Rules (EPR), the European Convention on Human Rights, the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the UN Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment (UNBOP).<sup>2</sup>

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2. UN Mandela Rules, available at [www.unodc.org/documents/justice-and-prison-reform/Nelson\\_Mandela\\_Rules-E-ebook.pdf](http://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf); the Bangkok Rules, available at [www.unodc.org/documents/justice-and-prison-reform/Bangkok\\_Rules\\_ENG\\_22032015.pdf](http://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf); the Beijing Rules, available at [www.ohchr.org/Documents/ProfessionalInterest/beijingrules.pdf](http://www.ohchr.org/Documents/ProfessionalInterest/beijingrules.pdf); the

## Acronyms and abbreviations

CPDLU – Co-operation in Police and Deprivation of Liberty Unit<sup>3</sup>

CPT – European Committee for the Prevention of Torture and Cruel, Inhuman or Degrading Treatment or Punishment

DGS – Directorate-General of Health, Portugal

DGRSP – Directorate-General of Reintegration and Prison Services, Portugal

DJI – Ministry of Security and Justice, Netherlands

EAL – Extraordinary Administrative Leave, Portugal

ERPT – Emergency Response Planning Team, Ireland

EU – European Union

EU4 Justice – EU Technical Support Project

ICRC – International Committee of the Red Cross

GCRT – Georgian Centre for Psychosocial and Medical Rehabilitation of Torture Victims

IGOs – Inter-governmental organisations

IGSJ – General Inspectorate of Judicial Services, Portugal

INSA – Doctor Ricardo Jorge National Health Institute, Portugal

INEM – National Institute of Medical Emergencies, Portugal

IPC – Infection prevention and control

IPS – Irish Prison Service

LGBTI – Lesbian, gay, bisexual, trans, intersex

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Havana Rules, available at [www.unodc.org/pdf/criminal\\_justice/United\\_Nations\\_Rules\\_for\\_the\\_Protection\\_of\\_Juveniles\\_Deprived\\_of\\_their\\_Liberty.pdf](http://www.unodc.org/pdf/criminal_justice/United_Nations_Rules_for_the_Protection_of_Juveniles_Deprived_of_their_Liberty.pdf); UN ICCPR, available at [www.ohchr.org/en/professionalinterest/pages/ccpr.aspx](http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx); UNCAT, available at [www.ohchr.org/en/professionalinterest/pages/cat.aspx](http://www.ohchr.org/en/professionalinterest/pages/cat.aspx); UNCRC, available at [www.ohchr.org/en/professionalinterest/pages/crc.aspx](http://www.ohchr.org/en/professionalinterest/pages/crc.aspx); ECHR, available at [www.echr.coe.int/documents/convention\\_eng.pdf](http://www.echr.coe.int/documents/convention_eng.pdf); CEDAW, available at [www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx](http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx); UNBOP, available at [www.ohchr.org/en/professionalinterest/pages/detentionorimprisonment.aspx](http://www.ohchr.org/en/professionalinterest/pages/detentionorimprisonment.aspx), all accessed 9 September 2022.

3. Formerly the Criminal Law Co-operation Unit (CLCU).

LS/CMI – Level of Service/Case Management Inventory  
NACI – National Agency of Correctional Institutions, Netherlands  
NGOs – Non-governmental organisations  
NCDC – National Centre for Disease Control and Public Health, Georgia  
NPM – National Preventive Mechanism  
OIC – Office of the Information Commissioner, Ireland  
OIP – Office of the Inspector of Prisons, Ireland  
OSF – Open Society Foundations  
PCR – Polymerase Chain Reaction  
PPE – Personal protective equipment  
SNCO – Penitentiary Medical Centre, Armenia  
SPS – Scottish Prison Service  
SPT – UN Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment  
UN – United Nations  
WHO – World Health Organization



# Research findings

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## **Healthcare and preventive measures and protocols undertaken as a direct response to Covid-19**

**T**his section of the study summarises the main healthcare and preventive measures and protocols undertaken in the six target countries and in other Council of Europe member states. The measures taken were broadly similar across the region, but varied in terms of their speed, efficacy and how they were received by prisoners. This section of the study also provides a summary of the different factors that enabled an effective Covid-19 response and also includes obstacles that limited or delayed responses.

In all six countries included in this study, the initial response to Covid-19 within the justice sector was rapid and comprehensive. It should be noted that the successful implementation of initial measures successfully limited the spread of the virus within prisons.

Responses in the six countries and across Council of Europe member states can be grouped into the following categories:

- ▶ emergency release of prisoners and/or measures to reduce new admissions to prison including to pre-trial detention;
- ▶ the suspension of court trials/hearings;
- ▶ Covid-19 screenings, testing and risk assessments;
- ▶ quarantine and isolation within prisons or in other locations;
- ▶ the suspension of activities and transfers within and between facilities;
- ▶ the suspension or limitation of visits from families and lawyers;
- ▶ physical distancing within facilities;
- ▶ hygiene and sanitation measures and the use of personal protective equipment (PPE);
- ▶ priority vaccination programmes.

It is clear that the ability of prison systems to implement these measures and respond effectively to Covid-19 depended largely on how the prison system was functioning pre-Covid and how quickly they were able to adapt to the new Covid-19 measures. Covid-19 was more easily managed

in facilities that were already well resourced, well managed, and supported by good governance arrangements and respect for international human rights standards.

The study found that prison systems needed a number of factors to be in place in order to implement the above Covid-19 measures effectively and efficiently. These are summarised below.

## **1. Availability of international guidance and learning from experience/best practice**

It is evident from research in the six target countries and across Council of Europe member states more broadly that international guidance, including on Covid-19 within prisons, was widely used to develop responses and also to consider the measures introduced against human rights standards to ensure any response was proportional to the threat presented by Covid-19. Guidance in different languages was important. Several respondents reported using international guidance as a measure of good practice, including Council of Europe Covid-related guidance for closed prisons, European Committee for the Prevention of Torture and Cruel, Inhuman or Degrading Treatment or Punishment (CPT) statements,<sup>4</sup> and materials produced by the World Health Organization (WHO)<sup>5</sup> and others.

The Scottish Prison Service (SPS) noted that it “has been cross checking all its actions and activities against human rights protocols” and that its pandemic plan acknowledges, incorporates and implements WHO guidance.<sup>6</sup> The Romanian Penitentiary Service also noted that measures for preventing illnesses and the spread of Covid-19 infection among staff and prisoners “is constantly updated, in accordance with the official information received from the national and international authorities”.<sup>7</sup> Non-governmental organisations (NGOs) also reported that international guidance was widely used when offering lessons, advice and guidance to national authorities.

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4. CPT (2020), “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>, accessed 16 September 2022.
  5. See, for example: Coronavirus disease (COVID-19) (who.int).
  6. EuroPris, “Scottish Prison Service (UK). Prevention Measures in European Prisons against COVID-19”, 26 June 2020, available at [www.europris.org/scottish-prison-service-uk](http://www.europris.org/scottish-prison-service-uk), accessed 16 September 2022.
  7. EuroPris, [www.europris.org/wp-content/uploads/2020/04/Addressing-Corona-virus-in-European-prisons-NAP.pdf](http://www.europris.org/wp-content/uploads/2020/04/Addressing-Corona-virus-in-European-prisons-NAP.pdf), accessed 16 September 2022.

Respondents were keen to learn from good practice in other prison systems to be better prepared in the event of future pandemics.

Throughout the Covid-19 pandemic, and particularly in the early days, it also proved useful to share information about what was happening in other prison systems, particularly in countries where the pandemic had already hit. For example, at the beginning of 2020, even before the first case of Covid-19 was confirmed in Ireland, the Irish Prison Service (IPS) was monitoring the spread of the virus in other countries and began preparations. Senior management of the IPS and the Department of Justice of Ireland noted that there was an acute awareness of the potential impact that Covid-19 could have on prisons. Early indications from other jurisdictions meant the IPS anticipated the potential impact and planned accordingly.

## **2. Broader prison reform**

Ireland and the Netherlands are considered among those countries that already have a good record on prison reform, and this was evident in their Covid-19 response. Other countries that have recently made progress on prison reform in co-operation with the Council of Europe, such as Kazakhstan, were also able to demonstrate improved performance in response to Covid-19. Similarly, other countries including Georgia, Armenia and Albania, where reform programmes are being supported by the Council of Europe, also responded quickly to the threats presented.

In Armenia, ongoing co-operation with the Council of Europe on supporting and developing the prison healthcare system had improved the ability of the system to cope with the demands of the pandemic. However, further investment in prison healthcare is needed. Similarly, in both Armenia and Albania, the completion of construction projects and subsequent improvement in prison conditions undoubtedly aided the Covid-19 response. However, it was clear that existing older prisons struggled to cope. In Ireland, for example, Covid-19 highlighted the need to refurbish some of the older prisons with regard to the availability of technology (such as phone lines), as well as to establish single cell accommodation across the estate.

In Georgia, Covid-19 highlighted acute systemic challenges such as staff shortages (including healthcare staff) and the need to have proper personnel policies in place to address low salaries and poor working conditions both for civilian and uniformed staff.



### 3. Emergency preparedness and contingency planning

Prison systems need emergency contingency plans in place in order to be able to respond swiftly to pandemics such as Covid-19 or other emergencies. Ireland, in particular, had good crisis preparedness and contingency plans – including specific infection control plans – in place long before the pandemic struck, which enabled the service to meet its challenges successfully. Staff had already been trained on infection control, including through an online portal where information on infectious diseases and the use of PPE could be accessed. In addition, the posts of clinical lead as well as the head of infection control were created many months before the pandemic.

Good emergency planning also allowed for faster decision making, resource mobilisation and budgetary flexibility. In Portugal, each prison had a separate contingency plan (adapted following Ministry of Health guidelines), which allowed for adaptation according to local circumstances. The Portuguese authorities also demonstrated good forward planning in terms of purchasing PPE prior to the first “live” case. In Italy, San Vittore Prison in Milan established isolation facilities for suspected cases and new arrivals, set up screening and temperature checking equipment at the prison entrance, and distributed masks and gloves to all staff working in the facility before the first cases of Covid-19 emerged.<sup>8</sup>

When the first cases of Covid-19 were reported in Italy in January 2020, health professionals and prison authorities began preparing for potential outbreaks in prisons, including checking supplies of equipment, medicines and the capacity of prisons to isolate suspected cases not only among prisoners, but also among police officers, healthcare workers and other staff. From an early stage, Italian health professionals were also collaborating with WHO to prepare guidance on best practices and lessons learnt for the prevention and control of Covid-19 in places of detention. This evidence-based guidance was built on the experience of and challenges faced by people working and living in prison. Importantly, the Italian health system was also well prepared to tackle Covid-19 because prison healthcare falls under the responsibility of the Ministry of Health, allowing prison health workers to easily exchange information about outbreaks with colleagues in community hospitals.<sup>9</sup>

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8. Experience of health professionals, police staff and prisoners in Italy informs WHO COVID-19 guidelines for prisons, 28 May 2020.

9. *ibid.*

The SPS also had a robust prison pandemic plan in place that is continually updated to reflect the latest public health advice and provide clear guidance to underpin all operational decision making and practice.

#### **4. Previous experience of dealing with health (and other) crises**

Prison systems with previous experience of dealing with infectious diseases and other crisis situations were generally better prepared for Covid-19. One of the reasons that the IPS was well prepared is because it had to manage an outbreak of tuberculosis in 2017, which led to the introduction of “a whole of prison approach to infection control”.<sup>10</sup> At the time, awareness was a key factor in responding – a large number of staff and prisoners were educated on infection control measures, and prisoners shared this knowledge through peer-to-peer learning with assistance from the Red Cross. It is likely that this experience sensitised the IPS to the steps necessary to implementing effective infection prevention and control (IPC) measures in prisons. In other countries, influenza pandemic preparedness protocols have proved useful in responding to Covid-19.<sup>11</sup>

The Albanian authorities also had recent experience of the need for prisons to be included in national emergency plans due to the earthquake that hit the country and impacted the prison system in late 2019. While there was limited time to implement lessons learnt in the period between the earthquake and the onset of the Covid-19 pandemic, prison authorities and staff members were already operating with a heightened awareness and sensitivity to the impact of crisis situations on both detainees and staff members.

#### **5. Multisectoral approaches and co-ordination and communication between agencies**

Effective co-ordination and communication between government bodies was key to a fast, streamlined and effective Covid-19 response, including co-operation between the ministries most directly involved (including ministries of health, justice and social affairs). In Georgia, for example, the Ministry of

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10. Irish Red Cross, “Irish prisons model best practice on handling COVID-19”, available at [www.redcross.ie/national-news/irish-prisons-model-best-practice-on-handling-covid-19](http://www.redcross.ie/national-news/irish-prisons-model-best-practice-on-handling-covid-19), accessed 16 September 2022.

11. Kinner, S. A. et al. (2020), “Prisons and custodial settings are part of a comprehensive response to COVID-19” *The Lancet* 5, available at [www.thelancet.com/pdfs/journals/lanpub/PIIS2468-2667\(20\)30058-X.pdf](http://www.thelancet.com/pdfs/journals/lanpub/PIIS2468-2667(20)30058-X.pdf), accessed 16 September 2022.

Justice co-operated with the National Centre for Disease Control and Public Health (NCDC) as well as international organisations including the Council of Europe, the International Committee of the Red Cross (ICRC) and civil society.

Co-ordination and communication were seen to be more effective where prison systems responded within an integrated national emergency planning structure, where there were clear divisions of responsibility, and where good communication existed between policy officials and operational staff as to the rules and protocols governing the management of pandemics. In Portugal, all IPC measures were taken by prison healthcare staff in close co-operation with the Ministry of Health. Such multisectoral approaches were also crucial in the development and use of contact tracing systems among prisoners.

The Irish model of contact tracing has been recognised by WHO as a good practice model. When a Covid-19 outbreak is detected in prisons, an Outbreak Control Team, led by a director and consisting of prison management, healthcare staff and the National Infection Control Team, among others, guides, advises and oversees the co-ordination of the response. During each outbreak, the National Infection Control Team and healthcare team arrange for mass testing of prisoners and prison staff. Co-operation between agencies was also seen to be important in the vaccination roll-out in prisons.

In Italy, the benefits of the Ministry of Health being responsible for healthcare in prisons have been evident during the pandemic. Healthcare staff in prisons were able to freely exchange information about outbreaks with specialists from hospitals in the vicinity and benefited from their expertise.<sup>12</sup> In Finland, a preparedness team was established in the Central Administration to monitor and co-ordinate the measures taken to respond to Covid-19. The preparedness team works in close co-operation with the Prisoners' Health Care Unit, which operates under the Finnish Institute for Health and Welfare (THL) and is responsible for monitoring the health of prisoners.<sup>13</sup>

## 6. Collaboration and partnerships

Prison authorities that already had well-established relationships with other stakeholders, including NGOs, international organisations and donors were

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12. Penal Reform International (2020), "Coronavirus. Preventing harm and human rights violations in criminal justice systems", Briefing Note, 7.
  13. EuroPris, "Criminal Sanctions Agency (RISE) (FI). Prevention Measures in European Prisons against COVID-19", 9 November 2020, available at [www.europris.org/criminal-sanctions-agency-fi](http://www.europris.org/criminal-sanctions-agency-fi), accessed 16 September 2022.

also able to respond better to Covid-19. Many of these organisations were able to provide essential materials to prisons, support detainees and staff, facilitate contact with families and lawyers, and develop information material and provide training on Covid-19 prevention and response. The Council of Europe and the European Union (EU) provided PPE to prison authorities in Georgia and Armenia, as well as Montenegro, North Macedonia and Moldova within the framework of co-operation activities.<sup>14</sup> In the Netherlands, it was noted that staff and NGOs working in the six juvenile detention institutions were sharing information, experiences and good practice with each other from early on in the pandemic.

Written agreements between agencies were also important. In Portugal, for example, a co-operation protocol was agreed on between the Directorate-General of Reintegration and Prison Services (DGRSP), Doctor Ricardo Jorge National Health Institute (INSA), the National Institute of Medical Emergencies (INEM) and the Directorate-General of Health (DGS) to undertake and analyse Polymerase Chain Reaction (PCR) tests. Some countries, including Armenia, Albania and Georgia, initially relied heavily on the support of international organisations, including the Council of Europe, to source and supply PPE.

## 7. Effective decision-making processes

In all six countries, decision making and policy direction on Covid-19 responses in prisons was centralised. The decision-making process worked well in countries where a dedicated Covid-19 crisis response mechanism was set up including key stakeholders from relevant sectors. This allowed for faster, consistent responses with built-in checks and balances. In Moldova, a technical-medical support team was established within the prison administration to analyse and manage Covid-19, communicate between institutions and monitor implementation of plans.<sup>15</sup>

Transparency in decision making was evident across all six countries from the early days of the pandemic, and has been a factor in effectively responding to Covid-19 in prisons across the region, including collation of the evidence to support decision making and justify restrictions. In Spain, the authorities

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14. Council of Europe, "Support to the prison systems to combat the COVID-19 pandemic within the framework of co-operation activities", available at [COVID-19 \(coe.int\)](https://www.coe.int).

15. EuroPris, "National Administration of Penitentiaries (MD). Prevention Measures in European Prisons against COVID-19", 23 March 2020, available at [www.europris.org/national-administration-of-penitentiaries-md](https://www.europris.org/national-administration-of-penitentiaries-md), accessed 16 September 2022.

posted infographics and short informative videos on the Department of Justice website, Twitter and Facebook, as well as a section of frequently asked questions, to clarify the measures taken, including for the benefit of family members of inmates. In addition, a helpline was set up early, in March 2020, through which prison social workers continued to provide support to the families and friends of inmates.<sup>16</sup>

However, it is also clear that some local flexibility and devolved decision making is useful, particularly when it comes to easing restrictions in specific facilities or regions less affected by Covid-19. This was evident in the Netherlands, where prison directors were able to make decisions based on the local situation, within agreed national framework guidelines and with appropriate national oversight in place. The Spanish authorities adopted a phased, localised approach to easing Covid-19 restrictions in prisons, depending on how well each healthcare administrative region scored on different aspects of the Covid-19 response, preparedness in local hospitals and levels of infection within the region.

## **8. Timing of restrictions, legality and proportionality**

As many international organisations and local human rights organisations made clear from the outset of the pandemic, it was important that Covid-19 restrictive measures in prisons were timebound, legal and proportionate to the threat of the pandemic.<sup>17</sup> There was generally a good understanding among stakeholders, including prisoners and their families, of the necessity of the control measures initially taken. A common issue raised across the six countries was the delay or inconsistency in easing Covid-19 restrictions, and concerns that restrictions would remain in place in the longer term. In future, it is apparent that better planning will be needed in terms of how, and when, restrictions are eased, and the way in which this is communicated to all those affected.

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16. EuroPris, “Secretariat of Criminal Sanctions, Rehabilitation and Victim Support – Catalonia (ES). Prevention Measures in European Prisons against COVID-19”, 9 November 2020, available at [www.europris.org/directorate-general-of-prison-services-catalonia-es](http://www.europris.org/directorate-general-of-prison-services-catalonia-es), accessed 16 September 2022.

17. CPT (2020), “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>, accessed 16 September 2022; SPT, “Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic”, 25 March 2020 available at [www.ohchr.org/Documents/HRBodies/OPCAT/AdviceStatePartiesCoronavirusPandemic2020.pdf](http://www.ohchr.org/Documents/HRBodies/OPCAT/AdviceStatePartiesCoronavirusPandemic2020.pdf), accessed 16 September 2022.

Many prison systems implemented effective Covid-19 preventive measures to enable restrictions to be eased. Good practice included some form of health check before visitors were allowed entry, either by measuring visitors' temperatures (such as in parts of Spain, the Czech Republic, Georgia, Hungary, Ireland and Poland) or requiring visitors to fill out a form or questionnaire about their health or provide health declarations, like in Georgia, Romania and France. In Cyprus and Hungary, visiting areas were restructured so that visits could take place behind plexiglass.<sup>18</sup> Changes have also been made to meeting rooms to allow more space between people, and visits have been organised outdoors in Croatia.<sup>19</sup>

## 9. Quality of healthcare available

It is clear that good existing healthcare provision enabled a speedier, more streamlined Covid-19 response in terms of staffing, medical supplies and resources. The response was also quicker and more effective in countries that had an integrated prison/community health system, or where good co-ordination and communication channels between the relevant authorities already existed.

Countries with well-resourced, integrated prison health systems were also able to implement fast roll-out of Covid-19 testing and vaccination programmes. In Scotland, the National Health Service worked in co-ordination with the prison service to identify those who were clinically vulnerable due to certain underlying health conditions, including cancer, cystic fibrosis and organ transplant patients, and were therefore at greater risk from Covid-19. People in this group were advised through National Health Service letters and discussions with healthcare staff that they should self-isolate ("shield") for up to 12 weeks.<sup>20</sup>

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18. EuroPris, "Ministry of Justice and Public Order: Department of Prisons (CY). Prevention Measures in European Prisons against COVID-19", 15 October 2020, available at [www.europris.org/ministry-of-justice-and-public-order-department-of-prisons-cy/](http://www.europris.org/ministry-of-justice-and-public-order-department-of-prisons-cy/) and [www.prisonstudies.org/sites/default/files/resources/downloads/keeping\\_covid\\_out\\_of\\_prisons.pdf](http://www.prisonstudies.org/sites/default/files/resources/downloads/keeping_covid_out_of_prisons.pdf), both accessed 16 September 2022.
  19. EuroPris, "Measures and activities in a prison system aimed at the prevention of spread of coronavirus", available at [www.europris.org/wp-content/uploads/2020/04/Covid-19-measures-and-activities-Croatia.pdf](http://www.europris.org/wp-content/uploads/2020/04/Covid-19-measures-and-activities-Croatia.pdf), accessed 16 September 2022.
  20. EuroPris, "Scottish Prison Service (UK). Prevention Measures in European Prisons against COVID-19", 26 June 2020, available at [www.europris.org/scottish-prison-service-uk](http://www.europris.org/scottish-prison-service-uk), accessed 16 September 2022.

## 10. Availability of physical space

Prison facilities that were not overcrowded were better placed to implement physical distancing measures, quarantine and medical isolation, and the separation of vulnerable detainees, where necessary (particularly older people and those with chronic health conditions), without significant disruption to normal allocation procedures. Lack of overcrowding also meant that resources, including PPE equipment, Covid-19 tests and vaccinations were likely to be more readily available to all detainees. Prisons with less physical space also faced challenges with regard to the easing of restrictions, including the ability to resume in-person visits for both lawyers and families, due to the requirement to maintain physical distancing measures. Physical distancing was particularly difficult to implement in countries with multi-occupancy dormitory-style cells, such as Georgia. In Norway, on the other hand, the absence of prison overcrowding enabled single cell occupation and isolation of suspected infectious cases without adversely affecting the living conditions of others.<sup>21</sup>

The SPS sought to provide single cell accommodation to all prisoners. In June 2020, 85-90% of cells were single occupancy. The early release legislation and increased use of electronic tagging enabled the service to provide single cells to more prisoners.<sup>22</sup>

## 11. Staff-detainee ratio and dynamic security

Facilities with a good staff-prisoner ratio were able to cope better with the pandemic, not only in terms of implementation of restrictive measures, but also in keeping prisoners informed about the impact of the pandemic and the mitigating actions necessary to keep prisoners safe. In Finland, students at the Training Institute for Prison and Probation Services were permitted to work temporarily in prisons until April 30 to ease the shortage of staff.<sup>23</sup> Dynamic security approaches were also important in the Covid-19 response, including in the identification of vulnerable detainees, suicide and self-harm

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21. Think Global Health, *How Norway's prisons have weathered a pandemic*, 12 March 2021, available at [www.thinkglobalhealth.org/article/how-norways-prisons-have-weathered-pandemic](http://www.thinkglobalhealth.org/article/how-norways-prisons-have-weathered-pandemic), accessed 16 September 2022.
  22. EuroPris, "Scottish Prison Service (UK). Prevention Measures in European Prisons against COVID-19", 16 June 2020, available at [www.europris.org/scottish-prison-service-uk](http://www.europris.org/scottish-prison-service-uk), accessed 16 September 2022.
  23. EuroPris, "Criminal Sanctions Agency (RISE) (FI). Prevention Measures in European Prisons against COVID-19", 9 November 2020, available at [www.europris.org/criminal-sanctions-agency-fi](http://www.europris.org/criminal-sanctions-agency-fi), accessed 16 September 2022.

awareness, and provision of mental health support. The Covid-19 action plan in Moldova, for example, specified the benefits of adopting a dynamic security approach. The benefit of having a good staff-detainee ratio in implementing good dynamic security became increasingly evident as a result of the pandemic.

## 12. Conditions of detention

In its 2020 Annual Report, the CPT pointed out that the pandemic took place within a pre-existing long-term budgetary crisis in the prison systems of several Council of Europe member states. Significant cuts had been made to the basic essentials needed for prisoners to maintain a dignified life, including by lowering the quality of prison food and reducing heating budgets. The CPT also expressed concern that the likely longer-term economic impact of the Covid-19 pandemic would lead to even deeper budgetary restrictions for prison systems.<sup>24</sup>

It is clear that facilities with poor conditions of detention faced more challenges in their Covid-19 response. In the countries studied, notably Albania, Armenia and Ireland, respondents pointed out that the services and infrastructure in older buildings hampered the Covid-19 response, including in relation to access to sanitation, physical distancing measures, quarantine, and the ability to install modern technology for video conferencing. Poor conditions of detention, including inadequate sanitation, also facilitated the spread of the virus. In the UK, the prisons inspectorate criticised one facility for its conditions of detention, noting a lack of cleanliness and shabby conditions and pointing out that it was particularly unacceptable that access to laundry facilities and the provision of soap should be so poor during a pandemic.<sup>25</sup> In France, prisoners are reported to have filed a complaint about their treatment during Covid-19, referring to “deplorable hygiene conditions”.<sup>26</sup> In Turkey, access to hot water is problematic and until the pandemic, prisoners had to purchase soap and cleaning supplies themselves

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24. CPT (2021), “30th General Report of the CPT”, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, available at <https://rm.coe.int/1680a25e6b>, accessed 16 September 2022.

25. HM Inspectorate of Prisons, “HMP Ford – Urgent need to improve rehabilitation work”, 18 May 2021, available at [www.justiceinspectorates.gov.uk/hmiprisoners/media/press-releases/2021/05/hmp-ford-urgent-need-improve-rehabilitation-work](http://www.justiceinspectorates.gov.uk/hmiprisoners/media/press-releases/2021/05/hmp-ford-urgent-need-improve-rehabilitation-work), accessed 16 September 2022.

26. Euronews, “Coronavirus: Inmates in France hit out over prison hygiene amid COVID-19 fears”, 26 March 2020, available at [www.euronews.com/2020/03/26/coronavirus-inmates-in-france-hit-out-over-prison-hygiene-amid-covid-19-fears](http://www.euronews.com/2020/03/26/coronavirus-inmates-in-france-hit-out-over-prison-hygiene-amid-covid-19-fears), accessed 16 September 2022.



from the prison commissary. After the onset of the pandemic, these were provided free of charge but there were reports of such items not being supplied in some prisons.<sup>27</sup> Prisoners have to clean their cells themselves and are not provided access to laundry facilities for clothes or bedsheets. Maintaining good hygiene and health under these conditions is a challenge even in normal times, and more so during the pandemic.

### **13. Risks and needs assessments**

The importance of thorough risk and needs assessments in all prison systems cannot be overestimated and became even more apparent during the pandemic. While it will take time for the implications of early release mechanisms triggered by the pandemic to be fully understood, it is clear that releases ordered, including in the six target countries, required pre-existing assessments and associated record keeping, ensuring that those released did not pose a risk to themselves, their families or the general public. In the majority of countries globally, those released were low-level offenders who were nearing the end of their sentences, or detainees who were particularly vulnerable to Covid-19 who were assessed as not presenting a risk upon release.

Risk and needs assessments were also important in planning for the potential impact of Covid-19 restrictions, especially in relation to the mental health implications of measures taken. In all countries studied, and across the region, the impact on detainees' mental health of Covid-19 and associated restrictions has been assessed as critical. However, many prison systems were not well equipped to assess and respond to additional mental healthcare needs, including the increase in self-harm and suicide rates that was apparent in some locations. In future, risk and needs assessments should be flexible to respond to the potential impact of crisis situations such as Covid-19 on individuals so that staff can be better informed and prepared to take appropriate prevention and response measures.

### **14. Communication with detainees and staff /awareness raising**

A consistent issue raised across the countries studied was the accessibility and quality of information and regular updates about Covid-19 for prisoners, as well as a lack of information on how and why restrictions were to be

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27. CISST 2020.

implemented. To a certain extent this mirrored the uncertainty, misinformation and confusion about the pandemic within communities more broadly. But it was more keenly felt within prisons, where detainees' access to information is controlled by the authorities and where contact with the outside world had been suspended. Slow or poor communication of information inevitably led to speculation, the spread of inaccurate information, non-compliance and Covid-19 denial, and was associated with unrest in some facilities. Information about Covid-19 in prisons, as in the broader community, needed to be clearly and concisely communicated, based on facts and scientific evidence. Good communication has also been cited as key for uptake of Covid-19 testing and vaccinations. In Hungary, for example, prisoners were regularly informed about contact rules, changes in contact forms and the current epidemiological situation through individual and group sessions, prison radio, bulletin boards and local TV broadcasts. In order to achieve this, prisoners' cells were equipped with televisions.<sup>28</sup> Her Majesty's Prison and Probation Service in England and Wales regularly communicated with staff and prisoners and their families about changes to regimes affecting individual prisons in response to local restrictions through regular written updates. The prison service also added rolling updates for staff using the prison intranet in an effort to keep them informed of changes in relation to the Covid-19 situation.<sup>29</sup>

There has also been concern about the transparency and quality of information on the rate of transmission of Covid-19 within prisons, although there is broad acknowledgement that justice systems in many countries made additional efforts to improve transparency in the context of Covid-19. Staff communication with prisoners about Covid-19 linked closely with dynamic security approaches, in that staff who communicated with prisoners on a regular basis, and who had been trained in communication, were better positioned to impart information about the pandemic and were more likely to be trusted by detainees. Difficulties in communicating with foreign nationals in prison about Covid-19 was noted as problematic in some locations.

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28. EuroPris, «Hungarian Prison Service (HU). Prevention Measures in European Prisons against COVID-19», 8 April 2020, available at [www.europris.org/hungarian-prison-service-hu](http://www.europris.org/hungarian-prison-service-hu), accessed 16 September 2022.

29. EuroPris, «Her Majesty's Prison and Probation Service (UK). Prevention Measures in European Prisons against COVID-19», 26 October, available at [www.europris.org/her-majestys-prison-and-probation-service-uk](http://www.europris.org/her-majestys-prison-and-probation-service-uk), accessed 16 September 2022.

## 15. Building trust

Covid-19 restrictions were easier to implement where there was already a good degree of trust between detainees and staff and where detainees could feel confident in the measures taken by the authorities. This trust and confidence in the authorities is more apparent in facilities where detainees feel they are being treated fairly and equally. Covid-related unrest tended to take place in facilities where there were existing tensions that were inflamed by the measures necessitated by the pandemic. Maintaining good levels of trust and confidence required transparent, fair and equitable application of Covid-19 measures, including in relation to family visits, access to lawyers, quarantine measures and opportunities for early release. It was equally important that mitigation measures and the easing of restrictions were applied fairly while also taking into account individual circumstances.

In Spain, the prison authorities organised information sessions targeted at groups of no more than 10 prisoners from the same residential unit in rooms sufficiently large to ensure social distancing. These sessions were designed so that prisoners could ask questions and express their concerns to staff. Prisoners were informed about the current restrictive measures inside the prisons as well as restrictions implemented in the community. They were given information on how to communicate with their relatives as well as about the health protocols in place to prevent infections and treat potential and positive cases.<sup>30</sup>

Trust in the authorities during the pandemic was also contingent on prison staff following Covid-19 protocols. In England, there was criticism of the impact of staff not regularly wearing face masks.<sup>31</sup> In Ukraine, prisoner responses to a questionnaire sent by a local human rights organisation noted that one of the main shortcomings of infection prevention was the non-compliance of staff with IPC requirements, in particular not using the PPE provided to them.

## 16. Staff resourcing and capacity

An issue raised in some of the countries studied, which was also apparent in the broader desk review of the Covid-19 response in the region, was the lack

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30. EuroPris, "Secretariat of Criminal Sanctions, Rehabilitation and Victim Support – Catalonia (ES). Prevention Measures in European Prisons against COVID-19", available at [www.europris.org/directorate-general-of-prison-services-catalonia-es](http://www.europris.org/directorate-general-of-prison-services-catalonia-es), accessed 16 September 2022.
  31. *The Guardian*, "Prisoners' lives are being put at risk by officers not wearing face masks", 5 January 2021, available at [www.theguardian.com/society/2021/jan/05/prisoners-lives-risk-officers-not-wearing-face-masks-ppe](http://www.theguardian.com/society/2021/jan/05/prisoners-lives-risk-officers-not-wearing-face-masks-ppe), accessed 16 September 2022.

of prison staff capacity (regular prison staff and health staff) to deal effectively with Covid-19. While many plans and protocols to deal with the crisis were well-thought through and comprehensive, these were often not matched with sufficient resources to properly implement the measures. Staff ability to deal with Covid-19 was also raised as a concern and, while emergency staff training on Covid-19 was rolled out in many countries at the beginning of the crisis, the response was more effective in countries such as Ireland, where staff had already been trained to respond to a health crisis.

It is also noted that, in many systems, there were existing staff vacancies that became even more difficult to fill due to Covid-19. Additionally, prison systems were forced to operate at reduced capacity due to staff sickness with Covid-19 and the subsequent requirement to quarantine/isolate. Covid-19 also had a major impact on prison staff's physical and mental well-being. Prison systems needed flexible staffing arrangements and good deployment procedures to allow for readjustment of staffing priorities. Additional overtime payments were necessary to mobilise staff (and additional staff where needed) at short notice. Unfortunately, it remains the case in many countries that prison staff are underpaid and overworked, with rapid staff turnover and low intake of new staff.

The rapid roll-out of staff training on sanitary measures, other IPC measures and the identification of vulnerable groups call into question why staff training was not initiated as part of a crisis preparedness programme.

## **17. Engagement and participation in Covid-19 prevention efforts**

Prisoners have engaged positively in the Covid-19 response across the globe, including by producing face masks, other PPE and hygiene supplies, and by supporting other community initiatives. In some countries, detainees have also participated in public health campaigns, peer education and awareness-raising initiatives, including the establishment of a group among prisoners in Moldova to promote respect for personal and collective hygiene.<sup>32</sup>

These initiatives have been positive on many levels. Prisoners made a crucial contribution in global efforts to combat the pandemic, while also making a

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32. EuroPris, "National Administration of Penitentiaries (MD). Prevention Measures in European Prisons against COVID-19", 23 March 2020, available at [www.europris.org/national-administration-of-penitentiaries-md](http://www.europris.org/national-administration-of-penitentiaries-md), accessed 16 September 2022.

difference at local level. These initiatives not only benefited the community, but also provided constructive activities and rehabilitation opportunities for detainees at a time when other activities, and contact with families, were limited. The success of Covid-19 peer support and peer education programmes should also be noted. This was particularly evident in countries with pre-existing peer support programmes that could be adapted to the context of Covid-19. In Ireland, for example, a well-established programme of detainees working as Red Cross volunteers within prisons was easily adapted to the Covid-19 response. In Northern Ireland, prisoners were engaged in efforts to provide support to local health service staff.<sup>33</sup>

## 18. Prisoner releases and alternatives to detention

In all six countries studied, steps were taken to reduce prisoner populations in direct response to Covid-19, protect vulnerable individuals, reduce levels of overcrowding and facilitate physical distancing, free up space for medical isolation and quarantine, or take some pressure off staff. Across the region, these measures varied – some countries initiated temporary release schemes while others, such as Turkey, implemented mass pardons. While these actions were largely welcomed, concerns were raised in some locations on the impact on other services (probation and social services) of sudden large-scale prisoner releases.

Questions were also asked about the impact on released detainees themselves, who may not have been adequately prepared for release, the potential impact on community safety, and the fairness and transparency of the release decisions and processes. In Portugal, it was noted that the measures taken were generally supported by the public but there were some criticisms from the legal community and civil society that the measures were hurried, and lacked planning and stakeholder consultation.

In some countries, judicial systems required or encouraged increased use of alternatives to detention or postponed custodial sentences. In Bulgaria, Denmark and Latvia, for example, the enforcement of new prison sentences was postponed, and many convicted persons remained at liberty awaiting

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33. *Belfast Telegraph*, "Hydebank Wood inmates bake up some treats for NHS heroes", 11 April 2020, available at [www.belfasttelegraph.co.uk/news/health/coronavirus/hydebank-wood-inmates-bake-up-some-treats-for-nhs-heroes-39119642.html](http://www.belfasttelegraph.co.uk/news/health/coronavirus/hydebank-wood-inmates-bake-up-some-treats-for-nhs-heroes-39119642.html), accessed 16 September 2022.

the beginning of the execution of their sentence. Belgium also introduced a temporary interruption to the execution of prison sentences, referred to as “Corona-leave”.<sup>34</sup>

While there are still many lessons to be learnt about the impact of releases/non-custodial sentencing during Covid-19, it is clear that countries were able to respond better if they had well-established laws and procedures on alternatives to detention including availability of a wide range of pre-trial and post-trial alternatives, and good resourcing and co-ordination mechanisms in place to support community-based alternatives. This was the case in Ireland, where penal policy had already moved towards increased efforts to take as many people out of the penal system as possible when they did not pose a risk. The fact that these policies and practices were already in place enabled a quick response in reducing the prison population through the use of temporary release within existing legislative parameters. However, Covid-19 also accelerated this process and highlighted potential areas for further reform. For example, some interviewees noted the limitations of the existing policy, pointing out that eligibility for temporary release could have been expanded to encompass more people.

While tackling the negative impact of Covid-19, the authorities also need to ensure that the positive initiatives taken are sustainable. An area where the lack of sustainability is evident relates to measures to reduce prison populations, with many prison populations now returning to pre-Covid-19 levels or even higher. Further research is needed into which countries have been able to sustain lower prison populations throughout the pandemic, how this was achieved and the longer-term outcomes for the criminal justice system more broadly.

## **19. Availability of mental health and psycho-social care**

Covid-19 and the associated restrictive measures introduced in prisons had an inevitable impact on prisoners’ mental health and has exposed the weaknesses in mental healthcare provision in many prison systems, not only for detainees but also for staff. Increased incidents of self-harm, suicides and suicide attempts

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34. Penal Reform International (2022), “The impact of the COVID-19 pandemic on non-custodial sanctions and measures. Summary report of a comparative study in Member States of the European Union”, available at [www.penalreform.org/resource/eu-study-impact-of-covid-19-on-non](http://www.penalreform.org/resource/eu-study-impact-of-covid-19-on-non), accessed 16 September 2022.

since the onset of Covid-19 have been noted in several countries.<sup>35</sup> The lack of specialist care was noted, but the need for mental health awareness among regular prison staff was also raised as a priority issue. In Albania, it was noted that mental healthcare needs are not systematically identified or recorded in the prison system, so it is not possible to get an accurate picture of any increase in mental health concerns. This is an important area for future reform.

In Portugal, it was noted that it was too early to see the full impact of the pandemic on the mental health of prisoners and staff. That said, the issue of mental health among prisoners has been of concern and, in March 2020, the authorities issued guidelines on the administration of psychiatric medication and mental and behavioural disorders due to the illegal use of psychoactive substances.<sup>36</sup>

Similarly, in Armenia, it has been difficult to ascertain the impact of the pandemic on the mental health of prisoners and prison staff as there were no data recorded or empirical studies undertaken on this subject. However, the Council of Europe has been instrumental in helping to develop a Toolkit for Mental Health Screening and Risk and Needs in-depth Assessment, which was presented to medical staff of the Armenian penitentiary system in April 2021.

In Italy, when news of transmission of the virus in detention facilities led to riots in numerous prisons, compulsory psychological consultations were set up to help people cope with stress.<sup>37</sup> Other countries sought to counter the impact of Covid-19 on the mental health of detainees and staff by providing new or additional mindfulness and relaxation activities.<sup>38</sup> In Scotland, the authorities took measures to tackle social isolation and the potential detrimental effect on mental well-being and functioning among detainees, including those with known pre-existing conditions. Mental well-being advice leaflets and audio files were developed by psychologists to provide self-help for those in custody who are in isolation while prison chaplains were able to continue to provide

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35. See, for example: *The Guardian*, “Self-harm among women and children in UK prisons rises to record levels”, [www.theguardian.com/society/2021/oct/28/self-harm-among-women-and-children-in-uk-prisons-rises-to-record-levels](http://www.theguardian.com/society/2021/oct/28/self-harm-among-women-and-children-in-uk-prisons-rises-to-record-levels) and [www.politico.eu/article/europe-prisoners-limbo-coronavirus-vaccinations](http://www.politico.eu/article/europe-prisoners-limbo-coronavirus-vaccinations), both accessed 16 September 2022.

36. See Portugal’s reply to questionnaire dated 28 October 2021.

37. Penal Reform International (2020), “Input to the joint questionnaire on COVID-19 and human rights”, Briefing Note, available at <https://ohchr.org/Documents/HRBodies/SP/COVID/NGOs/PrisonReformInternational.docx>, accessed 16 September 2022.

38. The Prison Phoenix Trust, “Yoga helps prison officers cope with Covid-19 stress”, 2 July 2021, available at [www.theppt.org.uk/2021/07/02/yoga-helps-prison-officers-cope-with-covid-19-stress](http://www.theppt.org.uk/2021/07/02/yoga-helps-prison-officers-cope-with-covid-19-stress), accessed 16 September 2022.

pastoral, spiritual and faith-specific care within establishments. Guidance was also made available to staff on coping mechanisms, to protect themselves and to assist in identifying signs and indicators of concern because of problematic behaviour caused by isolation among prisoners.<sup>39</sup>

## **20. Budgetary and resource flexibility**

Responses to Covid-19 required flexible budgets, staffing and other resources. Since the start of the pandemic, the Portuguese authorities have been able to invest approximately €5.7 million on PPE, lease of hospital beds, screens for work spaces, additional cleaning services and employment of additional health professionals. Other countries were able to quickly mobilise to recruit additional staff, although recruiting prison staff during Covid-19 proved to be particularly problematic and the use of contract staff is also reported to have presented challenges in some countries.

In Ireland, at an early stage of the pandemic the IPS also procured PPE and in March 2020 the Director General established the Emergency Response Planning Team (ERPT) at a national level, consisting of senior staff with skills and experience in areas including operations, healthcare, and infection control to decide on measures to prevent and control the spread of the virus in prisons. In addition, a Covid-19 liaison officer was appointed in each prison. In Portugal, the authorities acted quickly to reinforce prison healthcare staff, including by hiring temporary healthcare staff early on in the pandemic.

## **Operational changes due to Covid-19 – Challenges and adaptations in methods of work and consequences for the treatment of prisoners**

This section of the study deals specifically with the impact of Covid-19 and the associated restrictions on the treatment of prisoners and prisoner experience. It focuses on challenges, adaptations and the strategies put in place to mitigate against the impact of the pandemic, including examples of good practice.

The rapid introduction of Covid-19 response measures noted above was challenging for all involved – prison management, staff, prisoners, their families,

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39. EuroPris, “Scottish Prison Service (UK). Prevention Measures in European Prisons against COVID-19”, 26 June 2020, available at [www.europris.org/scottish-prison-service-uk](http://www.europris.org/scottish-prison-service-uk), accessed 16 September 2022.



lawyers and others. These challenges were noted in all six countries included in the analysis and were thematically similar across the board.

The restrictions put in place to respond to the pandemic affected prisoners' access to basic goods and services and eroded protection of their human rights. Revised operational procedures, combined with the threat of Covid-19 itself, also affected the working conditions and well-being of prison staff and the mental and physical health of both detainees and staff. In some countries, responses to Covid-19 in prisons – or a perceived lack thereof – led to unrest. However, it is also noted that the majority of prisoners, across all six countries studied, accepted the reasons for the restrictions and that unrest was limited. It has been pointed out that restrictions were felt more keenly by those in lower-security facilities because they were less accustomed to restrictive measures.

The speed and efficacy of Covid-19 preventive measures were of utmost importance, but the measures put in place to mitigate against the impact of these measures were equally important. Mitigating actions reduced the impact on the human rights of prisoners and helped protect their mental health, while also reducing stress among prison staff, and unrest within prison facilities.

Looking to future crisis preparedness and response, it is clear that more can be done to mitigate against the negative impact of Covid-19 restrictions and that better consideration can be given to how and when restrictions can be eased. A common theme across all countries was that while the authorities have been quick to implement restrictions, they have been slow to ease them, leading to concerns that mitigation measures may become the norm even where the Covid-19 risk is low. The rapid detection of Covid-19 in specific facilities and the speed of the response facilitated more localised responses to new outbreaks, and facilitated the easing of restrictions where Covid-19 was less of a threat.

The impact on prisoners of Covid-19 can be grouped into the following broad categories: reduced contact with the outside world; access to legal services; delays to legal procedures; impact of isolation and medical quarantine; mental health impact of Covid-19 and restrictions; physical health impact of Covid-19; impact on detainee assessments, rehabilitation and reintegration; continuity of treatment/services; access to information; limited access to complaints mechanisms and monitoring bodies; and sensitivity to the impact of Covid-19 on particular groups.

## 1. Reduced contact with the outside world

The suspension or reduction of contact with families, friends and others had an inevitable impact on detainees' mental health, stress levels and overall well-being. In some countries, including Armenia, detainees were affected by the ban on delivery of parcels from families, which significantly reduced their access to essential items such as medicines. Mitigation measures in place to ease the impact included increased telephone calls and the use of video conferencing through applications such as Skype. In Ireland, for example, during the period of time when face-to-face visits were suspended, an average of 1 800 virtual family visits were facilitated each week. In other countries this was simply not possible. Mobile phones were distributed to detainees in Scotland.<sup>40</sup>

Access to alternative contact facilities and the speed with which they were introduced varied across and within countries depending on availability of finance and human resources, and access to technology/internet in facilities. Accessing alternatives to visits was more problematic for poorer families and those living in rural areas. Increased use of video conferencing has also been viewed as a positive development that could be used in future in addition to (not instead of) in-person visits. In Ireland, while commending the positive potential of video technology, interviewees expressed concern at a perceived lack of access as well as concern about their being a substitution for in-person visits. Across the board, all interviewees emphasised that video technology should remain available and be expanded. However, this hybrid option should supplement and not replace face-to-face visits. In Ireland, as elsewhere, interviewees highlighted the importance of physical visits, especially by family members, in maintaining positive contact with the outside world and contributing to prisoners' well-being.

Prioritisation of those prisoners who relied on family visits more than others was also a key mitigating factor. This included children in conflict with the law, parents in prison, and people with particular mental or physical healthcare needs. As restrictions began to ease, prioritisation of access was also important, with children in detention being granted physical visits earlier in the Netherlands and Albania, for example. The Croatian authorities also made

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40. Scottish Government, "Plans for mobile phones to be used to support those in custody", 17 April 2020, available at [www.gov.scot/news/plans-for-mobile-phones-to-be-used-to-support-those-in-custody](http://www.gov.scot/news/plans-for-mobile-phones-to-be-used-to-support-those-in-custody), accessed 16 September 2022.

efforts to mitigate against the impact on family life, particularly for women in prison, by allowing frequent and longer telephone conversations with children and through the introduction of video visits with families.<sup>41</sup>

It was also easier to resume in-person visits in facilities that were able to put in place good Covid-19 prevention measures, including screening, testing, physical distancing, visiting booths and plexiglass partitions. As noted earlier, the availability of physical space was an important factor in enabling visits to resume.

## **2. Access to legal services**

In-person contact with lawyers and legal aid providers was also suspended or restricted to prevent the spread of Covid-19. Similar measures were put in place as for family and friends, including prioritisation of access, remote phone or video communications, and the careful resumption of visits when circumstances allowed, with preventive measures in place. A concern raised in some countries (e.g. Albania) was lack of confidentiality of lawyer-client communications during the stricter lockdown periods. Access to legal services was also inevitably affected by additional shortages of lawyers due to Covid-19 illness and quarantine measures.

## **3. Impact on legal procedures**

The roll-out and impact of remote video courts varied across the region. In Portugal and the Netherlands, for example, the courts and judiciary moved hearings online entirely, and in Portugal specifically, this is now the norm rather than the exception. In Albania, on the other hand, there were very few remote video courts due to lack of technology in courts and prisons and the reluctance of judges to hear cases remotely. It can certainly be said that the introduction of remote hearings was a successful way to guard against delays in court cases and the build-up of backlogs. Where video conferencing was widely used, it was reported that justice sector officials were able to adapt their working methods with relative ease.

The impact of remote hearings on access to justice more broadly is also yet to be fully examined. In Ireland, as elsewhere, interviewees expressed concerns around a lack of engagement in video courts and a lack of privacy.

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41. Source: Ministarstvo pravosuđa i uprave Republike Hrvatske - Naslovna (gov.hr).

## 4. Impact on mental and physical health

### Mental health impact of Covid-19 and restrictions

Another significant consequence for prisoners is the impact of Covid-19 isolation and medical quarantine measures. The negative effect of isolation on detainees is well-documented in relation to solitary confinement and needs to be re-examined in the light of Covid-19 restrictions. In all cases, isolation needs to be tempered with measures to mitigate against the adverse effects, including ensuring that those isolated are able to continue to have social interactions and access to meaningful activities. They should also be monitored on a regular basis by prison staff and medical professionals.

Covid-19 isolation and quarantine measures were usually imposed as a matter of precaution or infection prevention upon arrival at the prison facility, particularly after attending court hearings, when Covid-19 was suspected or confirmed, or when close contact with an infected person was reported. It is noted that these periods of isolation can be particularly difficult for detainees even in normal circumstances and that the addition of a period of isolation can have serious further consequences for mental health. The risk of suicide and self-harm was raised as a specific issue of concern for those held in isolation or medical quarantine.

In addition to the particular mental health risks of isolation, Covid-19 was reported as a factor in increased mental health problems leading to concerns about risk of suicide and self-harm in all countries studied. Existing shortages of mental health expertise within prisons was also raised as a consistent concern. It has been noted that lack of communication with loved ones, lack of physical contact, spending a lot more time in cells and uncertainty about the future took an immense toll on people's mental health. Psychological services and NGO observers in different countries noticed a rise in mental distress, anxiety and depression. In Ireland, it was noted that in many instances, pandemic-related difficulties triggered mental health issues that were already present before the pandemic.

In Armenia, it was noted that women prisoners were particularly affected by mental health issues arising from the pandemic. The situation was equally concerning in Portugal. Civil society organisations reported that women prisoners experienced feelings of deep isolation in detention. It was noted that there were serious challenges in accessing appropriate medical care; there was reportedly 1 psychologist available for 400 women prisoners.

While there has been much focus on access to families and lawyers during the strict lockdown periods, attention should also be paid to ongoing access to psychologists and psychiatrists for high-risk groups and individuals. Where such professionals were available, some provision was made for continued communications. In the Netherlands, for example, psychologists were still able to visit children in conflict with the law and, in Ireland, as physical visits were not possible, the IPS introduced video conferencing for mental health-care professionals and chaplains as well as for families. Strengthening mental healthcare provision within prisons and finding avenues for continued access to mental health professionals should be viewed as a priority for future crisis preparedness.

### Physical health impact of Covid-19 and restrictions

The physical health impact of Covid-19 must also be considered, not only in relation to the health impact of the virus itself, but also the barriers to prisoners having access to fresh air and outside exercise due to the restrictions in place to combat the pandemic. The focus on Covid-19 prevention and response placed a heavy toll on already overstretched health services and had an inevitable impact on access to ongoing and emergency healthcare. Visits to community hospitals and specialised health services were also curtailed due to restrictions on movement in and out of prisons.

In the Netherlands, it was reported that some prisoners became reluctant to report any health issues for fear they would be suspected of having Covid-19 and placed in isolation. There were good initiatives in place to enable continued physical exercise. In Scotland, for example, all prison activities were conducted with smaller groups and reduced numbers of participants. During outside exercise, individuals were required to maintain a 2-metre distance and groups of more than two people were not permitted to gather.<sup>42</sup>

## 5. Impact on detainee assessments, rehabilitation and reintegration

Education, training, pre-release support programmes and other rehabilitation activities in prisons were suspended or curtailed due to Covid-19, as were

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42. EuroPris, "Scottish Prison Service (UK). Prevention Measures in European Prisons against COVID-19", 26 June 2020, available at [www.europris.org/scottish-prison-service-uk](http://www.europris.org/scottish-prison-service-uk), accessed 16 September 2022.

many social and cultural opportunities. Critically, access to addiction and other counselling services were also curtailed and, in some locations, remain extremely limited.

While the impact is yet to be seen in full, these restrictions, combined with other measures taken, may have a critical impact on detainees' rehabilitation and reintegration prospects. However, in many countries, positive steps were taken to mitigate against the lack of in-person services, including the adaptation of blended learning approaches in Ireland, with classes delivered through education materials developed for in-cell TVs, and the introduction, in Albania, of correspondence courses facilitated by NGOs.

In the Netherlands, educators were still able to conduct limited visits to children in conflict with the law during the strict lockdown period, while in some countries, including Ireland, access to NGOs is still extremely limited. It is noted with concern that while in-person visits for family members have largely been reinstated, albeit with limitations, NGOs and other essential service providers have not been able to regain access in some instances. In Romania, the authorities introduced educational, moral and religious broadcasts for radio and TV to compensate for the temporary limitations on socio-educational activities during the state of emergency.<sup>43</sup> Civil society organisations in all countries have, however, taken many innovative steps to flex and adapt their internal processes in order to continue their activities and create new programmes to support prisoners in light of the challenges presented by the pandemic and to respond to the new problems faced by prisoners. In Albania, for example, civil society organisations worked closely with staff in the juvenile detention facility to train staff in psycho-social support methodologies, giving them the tools and confidence to carry this work forward. In the Netherlands, it was reported that the requirement to move from larger to smaller group activities for children in detention as a Covid-19 preventive measure led to positive short-term results. It was also noted that, for children in detention in the Netherlands, the slowdown in illegal drug supply had a positive impact on social interactions and engagement in rehabilitation activities.

It is also important to pay attention to the impact of Covid-19 measures on the functioning of existing risk and needs assessments, which contribute to detainees' progress reports and chances of early release. For example, in Armenia, needs assessments continued to be undertaken during the pandemic

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43. [www.europris.org/wp-content/uploads/2020/04/Addressing-Corona-virus-in-European-prisons-NAP.pdf](http://www.europris.org/wp-content/uploads/2020/04/Addressing-Corona-virus-in-European-prisons-NAP.pdf), accessed 16 September 2022.

but aspects of the assessments that required the physical presence of the individual could not be carried out. In the Netherlands, concerns were also raised about the delays and limitations in conducting accurate assessments, particularly in cases of children in contact with the law, including those held under mandatory treatment orders. For some individuals, this may have led to delays in providing treatment.

## 6. Continuity of treatment/services

Another important aspect of the Covid-19 response that has the potential for significant impact on prisoners, and that has not received much attention to date, is the knock-on effect that Covid-19 restrictions might have on continuity of treatment and services, in terms of healthcare, support services and rehabilitation opportunities. This applies both to those committed to prison as well as those being discharged to the community. Good co-ordination between the different agencies is crucial in this regard. In some countries, probation and social service agencies working with offenders also adapted their services to offer online training courses and online supervision.

Covid-19 had an impact on the rehabilitation prospects of those released due to the added financial pressures on families. Moreover, those released from custody had reduced work and training prospects; this has already been raised as an issue of concern. Other areas deserve attention, including continued access to substance addiction/dependency programmes and continuity of healthcare treatment, including mental health provision.

Malta's experience highlights the benefit of effective co-ordination between entities providing post-release support to ensure access to second doses of the Covid-19 vaccine for people who enter or leave prison prior to receiving the vaccine. Although prisoners and prison staff are not explicitly mentioned in the national vaccination plan, the authorities have clarified that they are ensuring second doses of the vaccine for new admissions and for those detainees who may have had a first dose in the community. Close co-ordination between the relevant agencies was important to ensure that accurate vaccination information was recorded for each individual. Additionally, the authorities have stated that they have ensured that detainees who were released after having their first vaccination were included in the programme for second doses in the community.<sup>44</sup>

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44. Penal Reform International and Harm Reduction International (2021), "COVID-19 vaccinations for prison populations and staff: report on global scan", p. 26, available at [https://cdn.penalreform.org/wp-content/uploads/2021/12/HRI-PRI\\_CovidVaccinationReport\\_Dec2021.pdf](https://cdn.penalreform.org/wp-content/uploads/2021/12/HRI-PRI_CovidVaccinationReport_Dec2021.pdf), accessed 17 September 2022.

In Portugal, face-to-face activities provided by NGOs were suspended and the support provided to some individuals was replaced with correspondence. In some cases this negatively affected confidential relationships that had been established between prisoners and staff at these organisations, while in others it allowed for more intimate and personal contact. The practice may be continued after the pandemic.<sup>45</sup>

In Scotland, the SPS strengthened its co-operation with the Department for Work and Pensions. The department established a dedicated service for prison leavers to apply for benefits upon their release. The prison service and the Scottish Government also drafted and issued Sustainable Housing Outcomes on Release for Everyone (SHORE) and Covid-19 interim guidance to ensure that those released during the pandemic had accommodation in the context of measures brought in to stem the spread of the virus.<sup>46</sup>

## 7. Access to information

As has been noted, access to information for prisoners about Covid-19, and the restrictions imposed, was raised as an issue of concern across the board. However, the challenges presented by Covid-19 have also led to some great examples of innovative practice that can be harnessed, not only for future crisis response, but also for improving access to information to prisoners on a more regular basis.

In Ireland, the prison service introduced weekly newsletters and an in-cell TV channel providing information to prisoners, which was expanded to all prisons in 2021. This broadcast channel provided up-to-date information regarding services (e.g. healthcare, psychology, education, chaplaincy), educational topics, weekly mass, exercise videos, and so on. During 2020, this channel was also used to broadcast a Q&A session on vaccinations.

However, successful and innovative communication does not always require significant resources. Good Covid-19 communications were also apparent in

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45. Penal Reform International (2021), "The impact of the Covid-19 pandemic on the imposition and implementation of alternatives to prison and preparation of individuals for release in Portugal", p. 15, available at [https://pages.uc.pt/site/assets/files/510137/ippf\\_report\\_-\\_portugal\\_-\\_en.pdf](https://pages.uc.pt/site/assets/files/510137/ippf_report_-_portugal_-_en.pdf), accessed 24 September 2022.

46. EuroPris, "Prevention measures in European prisons against COVID-19. Updated on: 2 June 2020. Scottish Prison Service", available at [www.europris.org/wp-content/uploads/2020/06/Prevention-Measures-in-European-Prisons-against-COVID-SPS-Update-02-06-20-1.pdf](http://www.europris.org/wp-content/uploads/2020/06/Prevention-Measures-in-European-Prisons-against-COVID-SPS-Update-02-06-20-1.pdf) and "SHORE AND COVID-19 – Interim Guidance (26.03.20)", available at <https://communityjustice.scot/wp-content/uploads/2020/03/SHORE-AND-COVID-19-Interim-Guidance-26.03.20.pdf>, both accessed 17 September 2022.



countries that already had good communication channels in place, and in prison systems that had already incorporated dynamic security approaches into their prison management culture. For example, in Moldova staff are well trained in how to communicate with prisoners. Peer-to-peer education initiatives also proved to be highly effective in disseminating information about Covid-19 and how to prevent its spread. In Italy, prisoner committees also helped to spread important health information, including infection screening checklists and providing advice to stop exchanging items between prisoners.<sup>47</sup>

## **8. Access to complaints mechanisms and monitoring bodies**

Access to complaints mechanisms and to internal and external monitoring bodies is crucial for prisoners' well-being. Many detainees face significant barriers in accessing such procedures, and did so even prior to the Covid-19 crisis. The importance of these mechanisms is magnified during times of crisis, and access also becomes more challenging. In some countries, monitoring bodies were able to continue in-person visits (e.g. Portugal and Ireland), while others developed new approaches such as telephone hotlines to ensure that prisoners could still access their services. The Dutch prison authorities digitised their complaints system on the prison intranet and feedback on these measures has been positive.

In England and Wales, full inspections were suspended and replaced with a new system of short scrutiny visits whereby a group of similar establishments (such as immigration removal centres or female prisons) are visited and reported on together in order to give a snapshot of how they have responded to the pandemic and to share any positive practices found.<sup>48</sup>

In some countries, Covid-19 served to strengthen the work of prison monitors and led to innovative approaches in others. In response to restrictions introduced by the IPS, and the need to assess their impact on people living and working in prison, the inspectorate prepared a programme of Covid-19

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47. Penal Reform International (2020), "Coronavirus. Preventing harm and human rights violations in criminal justice systems", p. 8, available at <https://cdn.penalreform.org/wp-content/uploads/2020/07/Coronavirus-briefing-July-2020.pdf>, accessed 17 September 2022.

48. *ibid.*; HM Inspectorate of Prisons, "Short scrutiny visits", p. 19, available at [www.justiceinspectorates.gov.uk/hmiprisons/about-hmi-prisons/covid-19/short-scrutiny-visits](http://www.justiceinspectorates.gov.uk/hmiprisons/about-hmi-prisons/covid-19/short-scrutiny-visits), accessed 17 September 2022.

Thematic Inspections to be carried out in all Irish prisons in 2021. The objective of these visits was to provide a human rights-informed assessment of the treatment and care of prisoners. While Covid-19 was not the primary factor leading to the expansion of the work of the Office of the Inspector of Prisons (OIP), it appears to have, in fact, paved the way for a stronger role of the OIP in prison monitoring.

## **9. Sensitivity to the impact of Covid-19 on particular groups**

While the Covid-19 restrictions imposed by all six target countries had an overarching impact on all prisoners, some measures were particularly challenging for certain vulnerable prisoner groups. For these individuals, the limitations of the restrictive measures, including reduced contact with the outside world, isolation/quarantine measures and increased in-cell time were especially difficult.

The impact of restrictive measures has been particularly challenging for women and children in contact with the law. For many women, changes to the regime and visitation rights that removed in-person contact with children due to Covid-19 had a significant impact on their mental health and left them feeling isolated. In Portugal, NGOs reported that women prisoners felt alone and isolated and relied on pastoral support from volunteers through letter-writing initiatives. Children were not exempted from the suspension of in-person visits. Limits were placed on education or support programmes and there were severe restrictions on movement throughout the pandemic. In light of this, a number of authorities took specific measures to lessen the impacts of Covid-19 restrictive measures including prioritising in-person visits for children (as and when in-person visits resumed) and continuing access, albeit on a limited basis, to healthcare professionals (such as psychologists) and educators during the pandemic.

Pre-trial detainees form a sizeable population within the prison estates in the target countries and are often subjected to stricter regimes than sentenced prisoners. In some of the target countries, pre-trial detainees were afforded less attention and resources as they were deemed to be a transitory population. Mental health is of particular concern among this group of prisoners due to the limited regime provided, the lack of opportunities available and uncertainty over their legal status.

Older prisoners with potential underlying health issues and those with chronic health conditions were at particular risk during the pandemic. In a number of

jurisdictions, including England and Wales,<sup>49</sup> the authorities took immediate steps to “cocoon” these prisoners and move them away from the wider prison population into separate units within the prison estate. In Portugal, the authorities took the early decision to move older prisoners or those in poor health to separate units/wings within the prison estate. In Ireland, cocooning was compulsory for some at-risk groups of prisoners until the end of June 2020. While this seemed a pragmatic response, particularly in the early phases of the pandemic, many prisoners struggled with the isolation and restrictions to the prison regime. Similarly, in Spain, vulnerable prisoners and prisoners over 70 years of age were allowed to stay at home if assessed as not presenting a risk of reoffending. Those not eligible were placed in separated accommodation wings.<sup>50</sup>

The pandemic prompted the authorities to be particularly sensitive to and have a heightened awareness of particular groups of prisoners in situations of vulnerability. In future, the authorities should ensure that the needs of these particular groups are taken into account.

### **Impact of Covid-19 on prison reform plans and processes, technical assistance and co-operation activities in future: perspectives for long-term sustainability**

It is fair to say that the Covid-19 pandemic has presented serious challenges for prison systems globally and has brought into sharp focus the need for robust forward planning, as well as the ability to adapt as and when required. The research undertaken revealed a varied response on the part of prison systems within the six target countries, but it certainly became evident that those countries that had already undertaken reform initiatives and had good prison management were better placed to facilitate their Covid-19 response. In parallel, it has also highlighted those areas that are now the priority for reform.

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49. UK Parliament, “Prisons: challenges of an ageing inmate population and Covid-19”, 27 July 2020, available at <https://committees.parliament.uk/committee/102/justice-committee/news/114930/prisons-challenges-of-an-ageing-inmate-population-and-covid19>, accessed 17 September 2022.

50. CPT (2021), “Report to the Spanish Government on the visit to Spain carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 14 to 28 September 2020”, CPT/Inf (2021) 27, available at <https://rm.coe.int/1680a47a76>, accessed 17 September 2022.

In some instances, the pandemic acted as a catalyst and driver for change and accelerated reform initiatives that had perhaps been scheduled for a later date in operational plans. An example is the rapid expansion of technological initiatives. It is important, however, that reforms implemented during Covid-19 are not just a temporary remedial response but form the basis of a reform programme that looks beyond the pandemic. Such reforms can be the building blocks for the future. In a similar vein, the pandemic has also cast a spotlight on underlying weaknesses within prison systems and where more resources are needed to make them fit for purpose. The research undertaken also reveals areas of creativity, innovation and hidden strengths on the part of prison systems that might have been mired in bureaucracy but were able to act in an agile, responsive and co-ordinated manner. In a number of jurisdictions, a “whole-of-government” approach was adopted that saw joined-up action between key government agencies and departments, a streamlining of processes (often involving remote communications/tools) and a generally more efficient way of doing business. There is no reason why these practices and initiatives should not be embedded in prison systems.

The question of future preparedness has been a central feature of the research, which revealed cracks and fissures in terms of planning for emergencies such as a pandemic within some of the target countries. The importance of advance planning and developing contingency plans prior to any national emergency cannot be underestimated. The pandemic provides an opportunity for prison systems to think carefully about lessons learnt around contingency/emergency planning but also offers a window to incorporate innovative and creative approaches.

There is no doubt that the Covid-19 restrictions imposed by many jurisdictions during the height of the pandemic had a profound impact on prisoners, family members and wider civil society. The analysis below provides further details on these specific measures and the associated impacts. However, the authorities have endeavoured, to varying degrees and with varying levels of success, to take measures to mitigate against these harmful impacts. Such measures include an increase in phone calls, the introduction and/or expansion of video-conferencing facilities, the creation of Covid-compliant visiting facilities, and online/remote educational/rehabilitation programmes and activities. While far from perfect, the mitigation measures put in place during the pandemic afforded prisoners important human rights protections in terms of their contact with the outside world and other basic needs. It would not be too difficult to adapt these mitigation measures to a non-Covid-19

environment in a way that reduces the privations of imprisonment but also respects security needs.

Looking forward, the research highlighted the importance of available resources (financial, human capital, infrastructure) to ensure a long-term sustainable response to Covid-19 and, indeed, any other emergency situation. The absence of funding for essential needs (PPE, medical equipment, technical hardware) and reliance on international organisations for material support was evident in a number of target countries. If governments are looking to implement prison reform plans on a long-term, sustainable basis either within or beyond Covid-19, it is critical that adequate resources be in place to deliver these reform plans.

## Reform plans

In Ireland, there have been moves in recent years to decrease the prison population by reducing the use of short sentences and increasing the use of community punishments and sanctions and supervised, structured temporary release. Covid-19 served to demonstrate the importance of these reforms and even accelerated the process.

In Armenia, the Programme of the Government of the Republic of Armenia (2021-2026) includes a broad sweep of reform plans in the criminal justice/penitentiary sector.<sup>51</sup> Notably, the government intends to carry out reforms that will look to “a transition from traditional ideology of imprisonment to the ideology of resocialisation and restorative justice”.<sup>52</sup> In terms of prison conditions, the government is clearly mindful of human rights protections and has pledged to “consistently continue to ensure decent conditions for keeping persons deprived of liberty and working and living conditions for penitentiary officers”.<sup>53</sup> The Government of Armenia is also looking to future reforms in the use of technology, in particular with regard to the introduction of new toolkits for electronic monitoring, surveillance and operational management.

Reform plans are actively supported by international organisations, including the Council of Europe. In the Council of Europe Action Plan for Armenia 2019-2022, the Organisation has pledged to continue supporting the Armenian authorities in a number of strategic areas including “reforming the penitentiary

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51. Programme of the Government of the Republic of Armenia (2021-2026), p. 104, available at [www.gov.am/en/gov-program](http://www.gov.am/en/gov-program).

52. *ibid.*, p. 104.

53. *ibid.*, p. 105.

system in line with European standards, enhancing the healthcare system in prisons and developing a fully-fledged probation service".<sup>54</sup>

In particular, the Council of Europe has focused its reform efforts on the provision of healthcare within the penitentiary system. A national 30-month project, Enhancing Health Care and Human Rights Protection in Prisons in Armenia, commenced in November 2019 with the aim of further supporting the national authorities in reforming healthcare provision and human rights for prisoners in Armenia in line with European standards. The project, financed by the Action Plan for Armenia 2019-2022, focused on three specific areas: (i) enhancing the regulatory and operational framework for provision of healthcare in line with European standards; (ii) improvement of the material conditions and the provision of healthcare in prisons; and (iii) capacity building of the Penitentiary Medicine Centre (SNCO).<sup>55</sup>

In addition, the Armenian authorities are planning to introduce telemedicine within penitentiary institutions. The project has just started under the auspices of the Council of Europe and in January 2021, a workshop titled "International practices in telemedicine in penitentiary institutions" was organised with representatives of the Ministry of Justice, the Ministry of Health and the SNCO in attendance. At the meeting, delegates became acquainted with general European standards, best practices on applying telemedicine in different countries,<sup>56</sup> and the challenges of introducing e-health systems in penitentiaries within the framework of the Council of Europe project on enhancing healthcare in Armenian prisons.

The Council of Europe is also supporting the Armenian authorities, namely the Ministry of Justice and the State Probation Service, with scaling-up of the latter as part of the Action Plan for Armenia 2019-2022.<sup>57</sup> The programme Support

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54. See Council of Europe (2018), "Council of Europe Action Plan for Armenia 2019-2022", p. 11, available at <https://rm.coe.int/action-plan-armenia-2019-2022-en-web-version/168092014b>, accessed 17 September 2022.

55. See Council of Europe, "National projects. Enhancing health care and human rights protection in prisons in Armenia", available at [www.coe.int/en/web/yerevan/enhancing-health-care-and-human-rights-protection-in-prisons-in-armenia](http://www.coe.int/en/web/yerevan/enhancing-health-care-and-human-rights-protection-in-prisons-in-armenia), accessed 17 September 2022.

56. See Council of Europe, "Introducing telemedicine in penitentiary system in Armenia", 29 January 2021, available at [Introducing telemedicine in penitentiary system in Armenia - News \(coe.int\)](https://www.coe.int/en/web/yerevan/introducing-telemedicine-in-penitentiary-system-in-armenia).

57. Support of the Scaling-Up of the Probation Service in Armenia is part of the Council of Europe Action Plan for Armenia 2019-2022. See [www.coe.int/en/web/cooperation-in-police-and-deprivation-of-liberty/support-the-scaling-up-of-the-probation-service-in-armenia](https://www.coe.int/en/web/cooperation-in-police-and-deprivation-of-liberty/support-the-scaling-up-of-the-probation-service-in-armenia).

of the Scaling-Up of the Probation Service in Armenia is being implemented in conjunction with the Ministry of Justice and the State Probation Service. It seeks to assist the national authorities in endorsing the concept of probation in practice by providing the necessary legislative, institutional and operational framework to support the use of probation services in the country.

It remains to be seen how Covid-19 will continue to impact or accelerate the pace of these initiatives and other prison reform plans and the long-term sustainability of the penitentiary system in Armenia. Prison reform is an ongoing endeavour in Armenia and the Ministry of Justice has focused its attention on wider prison reform by seeking to make improvements to the prison infrastructure. To this end, the Ministry of Justice submitted a request for funds to undertake improvements to the penitentiary infrastructure under the action plan Optimising Penitentiary Establishments, Providing Facilities within the framework of the 2021-2023 State Mid-Term Expenditure Programme of the Republic of Armenia.<sup>58</sup> Construction works and refurbishment were carried out at a number of establishments in 2019-2020. In conclusion, the general direction of travel of prison reform in Armenia seems to be promising. It remains to be seen whether and to what extent these plans will be implemented.

There has been major criminal justice reform in Albania since 2014, supported by the Council of Europe and others. This has included focus on enhancing the capacity of the prison staff, including managerial and healthcare staff, to apply human rights standards in their daily work, and including assessments of the competencies of prison staff, focusing on recruitment and training. For prisoners, the focus is on the level of healthcare provided, prisoners' individual sentence planning and regime (based on risks and needs), and the management of safeguards against ill-treatment.<sup>59</sup>

Unfortunately, Covid-19 hit when the implementation of many reforms in Albania was still at an early stage, and it is felt the reforms still need additional resources and dedicated staff training in order to be properly implemented across the board. Reform priorities identified that have taken on additional relevance due to the pandemic include: enhanced professionalism of prison

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58. See Council of Europe (2021), "Response of the Armenian Government to report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Armenia from 2 to 12 December 2019", CPT/Inf (2021) 11, available at <https://rm.coe.int/1680a29ba3>, accessed 18 September 2022.

59. Council of Europe, "Enhancing the Protection of Human Rights of Prisoners in Albania", available at [www.coe.int/en/web/tirana/enhancing-the-protection-of-human-rights-of-prisoners-in-albania](http://www.coe.int/en/web/tirana/enhancing-the-protection-of-human-rights-of-prisoners-in-albania), accessed 17 September 2022.

staff to ensure better human rights protection for prisoners; establishment of individual sentence planning and regimes for different categories of prisoners based on a needs and risk assessment; improved provision of healthcare, including mental healthcare; the application of medical ethics in prison and the establishment of an efficient complaints system; as well as strengthened government inspection and independent monitoring.

In Georgia, prior to the pandemic, the prison authorities were pursuing a number of significant reforms guided by the Strategy and Action Plan on the Development of Penitentiary and Crime Prevention Systems (2019-2020). They were being aided by international organisations including the Council of Europe and the EU Technical Support project (EU4Justice). The pandemic has affected the implementation or follow-up to many of these initiatives. It is important that the Ministry of Justice and the Special Penitentiary Service do not lose sight of these reform priorities, but rather make necessary adjustments to the plan, taking into consideration Covid-related barriers. Efforts should continue to improve penitentiary infrastructure and living conditions and to transition to small-scale facilities (including building a separate facility for remand juvenile detainees) with additional space available for open air exercise and out-of-cell rehabilitation activities.

In early March 2020, as the pandemic was taking hold, a new case management system involving revised risk and needs assessment and sentence planning approaches and methodology was officially approved in Georgia. However, implementation has encountered challenges in the face of mounting restrictions and Covid-related adjustments. The work will have to respond to the changed circumstances but should continue to underpin the development of rehabilitation programmes, work opportunities and training, and also support parole procedures and other early release schemes. The pandemic has highlighted many significant systemic shortcomings and bottlenecks that should prompt more urgent reforms, particularly to support parole procedures and, most importantly, selection criteria and justification of decisions taken.

The mental health of detainees and the prevalence of various disorders continues to present challenges to prison administrations in Georgia. Work needs to continue to support delivery of mental health services with co-operation and support from international organisations. Efforts should continue to improve the provision of healthcare, including mental health and dependency treatment services. In addition, further work is required to make the prison environment more conducive to maintaining good health with less restrictive prison regimes, more out-of-cell opportunities and



provision of constructive activities. Finally, the pandemic highlighted acute staffing problems in Georgia and the need to improve conditions for staff, including fair pay, improved social benefits, better working conditions and adequate staffing, including medical staff.

The study examined the impact of Covid-19 in both prisons and the wider criminal justice system (probation, community sentences, alternatives to imprisonment, etc.) and the attendant responses by the authorities. The lessons learnt from managing Covid-19 in prison can also be applied within the community, and vice versa.

The Covid-19 response has undoubtedly had a negative impact on prison reform initiatives in Council of Europe member states and globally. However, it can also be seen that ongoing prison reform in some countries supported and enabled a better response to Covid-19 and has highlighted the priority areas for technical assistance and co-operation activities. These priority areas for reform will not only ensure sustainable crisis preparedness, but also help improve day-to-day prison management and human rights compliance.

In countries undergoing penal reform processes, specific reform initiatives were stalled due to Covid-19. It is important that these reforms be put back on track as soon as possible and that yet other reform initiatives are not delayed. However, the Covid-19 experience has also further demonstrated that planned reforms can never be fully implemented without investment in infrastructure, service and resources, prison staffing and training, and a commitment to monitoring and evaluating the progress of existing reform initiatives.

Any prison reform plans, be they a response to Covid-19 or separate endeavours, should comply with international human rights principles. In this respect, international organisations such as the Council of Europe, the United Nations and the EU can provide important guidance on international standards and their implementation in national prison systems.

## **Technical assistance**

Technical assistance priorities within prisons supported or provided by the Council of Europe and other international organisations have inevitably shifted as a result of Covid-19 and consideration must be given to how ongoing programmes should continue to be adapted to respond to the new reality, and what the priorities should be for future assistance programmes. The priorities for such assistance identified during this research are summarised below. In some cases, these reflect ongoing assistance activities that need to

be adapted through the lens of Covid-19. In other cases, priorities may change and represent a significant adjustment to assistance programmes planned in pre-Covid times.

## Supporting initiatives to reduce prison numbers

The promotion of non-custodial measures should form the cornerstone of all Covid-19 support measures, as lower prisoner numbers will facilitate all other Covid-19 prevention measures. For international organisations, this can mean broadening the scope of technical assistance programmes to include police, lawyers, prosecutors, judges and prison officials, to ensure that the range of non-custodial measures available in each country (e.g. diversion, pre-trial, sentencing and post-trial alternatives), and the role of different stakeholders within each process, are fully understood. Ongoing technical assistance in this area involves not only legal opinions to understand what is available, but also opportunities to change, taking into account obstacles to implementation, including those that specifically relate to Covid-19.

Technical assistance in this area should also extend to considering the impact of the increased use of non-custodial measures on probation and social service agencies, including how such agencies can be better supported to manage larger numbers of people serving non-custodial sentences and the ongoing challenges of managing alternatives to detention during a pandemic. Training for all decision makers and practitioners on managing alternatives to detention in times of crisis will be a key element of this technical support initiative.

## Improving prison healthcare

The Council of Europe and others have long identified the improvement of prison healthcare as a key priority for prison reform across the region. However, the arrival of Covid-19 highlighted the dangerously slow pace of reform in this area. Technical assistance in this field must now be accelerated to ensure an effective ongoing response to Covid-19. Providing adequate levels of frontline healthcare staffing, staff training, and materials and equipment remains a priority. More attention should now be paid to the possibility of remote consultations and/or assistance in developing ways to ensure that prison healthcare can continue to be provided safely and efficiently during the pandemic. This may require further adaptation of medical facilities and an in-depth look into how continuity of healthcare is organised in different locations.

## Mental healthcare

Covid-19 has also cast a spotlight on the serious lack of good mental healthcare available in prison facilities across Council of Europe member states and the urgent need for further enhanced technical assistance in this area, not only in terms of the quantity of mental healthcare available, but also the quality of the care that already exists. Technical assistance is urgently needed to help the authorities recruit sufficient mental healthcare expertise into prison services, but also to ensure that those who work in the prison system have adequate knowledge and expertise with regard to the impact of imprisonment on prisoners' mental health and, specifically, how Covid-19 has affected prisoners. However, mental healthcare provision in prisons must go beyond the provision of trained mental healthcare staff. In recognition of the shortage of mental healthcare expertise in many countries more broadly, regular prison staff need enhanced training in this area, so that they can more effectively identify and respond to mental healthcare needs of prisoners on a day-to-day basis. This should include support to better understand and address the impact of Covid-19 on prisoners' mental health, self-harm and suicide risk, and should also include technical support to support the mental health well-being of prison staff.

In Albania, the EU and the Council of Europe are already committed to supporting the reform of mental healthcare in the Albanian prison system under the joint project "Enhancing the Protection of Human Rights of Prisoners in Albania", which provides technical instruments, methodologies and training related to mental healthcare provision. Specific support is required to improve material conditions and improved care and human rights protection for forensic psychiatric patients in Zaharia Prison, for instance. This ongoing project can now be adapted to take into consideration the mental health impact of Covid-19 more broadly.

In Georgia, the Council of Europe recently completed a project to improve healthcare services in the penitentiary system with a special focus on mental health, in response to the latest CPT report on Georgia that found there were insufficient numbers of psychiatrists and clinical psychologists and no specific programmes available for those with mental health issues. The project seeks to improve the regulatory framework for managing persons with mental health problems, develop protocols, ensure quality monitoring and supervision control mechanisms, and increase awareness of healthcare services available to prisoners.

## Dynamic security

The dynamic security approach to prison management is still a new concept for prison systems in some Council of Europe member states and is under-developed in many others. Technical assistance in this area will support future Covid-19 responses and also facilitate the implementation of other reform initiatives, including in relation to staff awareness of mental health concerns. Assistance will be required to incorporate dynamic security in staff training manuals, in the roll-out of such training and, crucially, in monitoring how dynamic security is working in practice in different countries.

The Council of Europe is already promoting the use of dynamic security in various projects it is implementing in Council of Europe Co-operation in Police and Deprivation of Liberty Unit (CPDLU) beneficiary countries. In Azerbaijan, the Council of Europe is implementing a project on enhancing human rights protection for sentenced prisoners, which includes introducing dynamic security practices into Azerbaijani prisons. Coaching for prison managers in high security and general security prisons highlights the advantages of using dynamic security, including how it can actually enhance security as well as model positive relationships between staff and prisoners. In Moldova, the Council of Europe piloted an initiative for the reorganisation of staff roles with a focus on dynamic security and social reintegration. In a project for Western Balkans beneficiaries (Albania, Bosnia and Herzegovina, Serbia, Montenegro, North Macedonia) and Turkey that addresses radicalisation in prisons, the Council of Europe promoted dynamic security to better facilitate improved screening and risk and needs assessments for prisoners convicted or suspected of violent extremism.

## Risk and needs assessment tools

Where the development and improvement of risk and assessment tools are already included in technical assistance programmes, implementation can be adapted to take into account the specific risks and needs associated with Covid-19, including specific vulnerabilities. Where work on risk and needs assessments has not progressed, consideration should be given to including this key element of prison management in technical assistance programmes through the lens of Covid-19. These tools are crucial for the appropriate allocation, treatment and rehabilitation of prisoners and have become even more important during Covid-19, not only in terms of physical healthcare needs and Covid-specific risks, but also in relation to mental health concerns and addressing reintegration needs.

## Prison infrastructure

Improvement of prison infrastructure has been an ongoing technical assistance priority in many countries, and it is clear that this must remain a top-level imperative in response to Covid-19. Alongside the reduction of prison overcrowding, improvement of prison conditions will support prison management to respond to Covid-19, and will also facilitate other reform initiatives. This requires significant and ongoing financial resources and technical expertise. Changes to infrastructure during the Covid-19 pandemic has also involved providing assistance for the adaptation of existing facilities, such as meeting spaces, and improved medical facilities to ensure that they comply with Covid-safe guidelines.

## Technology and supporting in-person meetings

This is an emerging area, accelerated by the onset of Covid-19, where technical support is essential. Providing online contact with families and lawyers, facilitating remote court hearings and online medical consultations, and providing access to training and education support relies heavily on technological solutions. Further support is needed, not only to ensure availability of up-to-date technological equipment, but also to fully understand the implications of the shift to online communications, including to tackle issues of confidentiality and to mitigate against any negative impacts. Support in this area should be matched with efforts to ensure that in-person meetings continue as a priority and that online communications are complementary or provided as an alternative only where in-person meetings are not possible.

## Adaptation of requests/complaints procedures

International organisations should consider working with prison authorities to provide technical assistance on how internal prison complaints procedures can be adapted in response to Covid-19. This would help ensure that all prisoners are able to make requests and complaints safely and that these requests and complaints continue to be dealt with satisfactorily. This could require specific assistance with access to online complaints systems, addressing confidentiality requirements and ensuring that inmates are able to file complaints.

## Rehabilitation

Another area that has been previously identified as a priority for reform in some Council of Europe member states is prisoner rehabilitation and reintegration.

This assistance must continue but needs to be adapted to reflect the new challenges of Covid-19 in prisoner rehabilitation efforts, including how education, training and support initiatives can take place within the constraints of physical distancing. In some cases, this might require technical support to provide these activities remotely, but it can also include the adaptation of existing training facilities to enable in-person training to continue. The focus on ongoing support for prisoner rehabilitation should also take into account the new challenges faced by those released from prison during the pandemic and emerging new pre-release and post-release support needs.

In Albania, the Council of Europe and the EU have supported the authorities in setting up a new national system for the rehabilitation and reintegration of prisoners. In addition, the Council of Europe has provided academic support to enhance the in-house capacities of the Training Center for prison staff. This initiative can now take account of lessons learnt on how Covid-19 has impacted the rehabilitation prospects of prisoners. A meeting on 9 December 2021 confirmed the achievements of the EU/Council of Europe project to date and reconfirmed the need for continuation of the current reforms.<sup>60</sup>

## Staff terms and conditions

Ongoing technical support continues to be required in the area of staff recruitment, retention and training, as well as in how prison authorities can improve staff terms and conditions. Covid-19 exposed underlying weaknesses in prison staffing and highlighted the problems of understaffing and challenges with staff recruitment. It will be challenging to implement an effective Covid-19 response and meaningful reform without significant investment and attention to staff conditions and well-being.

## IPC materials and training

The provision of IPC materials to prisons and training for staff on hygiene and sanitation and other Covid-19 prevention measures emerged as a priority at the outset of the pandemic for many international organisations. Ongoing Covid-19 technical support in this area may continue to be required.

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60. Albanian authorities confirm the partnership with the Council of Europe on advancing the penitentiary reforms in the country - HF II Albania - Enhancing the protection of Human Rights for prisoners (coe.int).

## Co-operation activities

The added value that international stakeholders can provide to national authorities in managing the pandemic cannot be underestimated. In Europe, regional organisations including the Council of Europe, the EU and EuroPris played a critical role, particularly in the early weeks and months of the pandemic, in sharing key guidance, good practice and the dissemination of critical information to correctional authorities across Europe.

### Crisis planning and preparedness

At an operational level, international stakeholders can play a central role in disseminating good practice and lessons learnt on the impact of Covid-19 measures in prisons within and between countries through webinars, newsletters, guidance documents and workshops for different stakeholders. They can also play a critical role in updating and disseminating international guidance on development of prison Covid-19 measures on a regular basis, including IPC measures and other Covid-19 practices. Moreover, inter-governmental organisations (IGOs) can support national authorities with crisis planning and preparedness plans across member states while taking into account country-specific issues and challenges. In light of the ongoing threats and challenges raised by Covid-19, there is potential value in creating an inter-country network to share good practice, on an informal basis, among correctional services; any such network should complement existing networks and communities.

### Working with monitoring bodies and how prison authorities can better co-operate on strengthening the capacities of internal prison inspection systems

Monitoring bodies (regional or national) can play an important role in ensuring a human rights culture exists within institutions. The research findings highlighted the critical role that monitoring bodies have played during the Covid-19 pandemic and the innovative methods and techniques deployed to ensure ongoing monitoring of places of detention. The Nelson Mandela Rules note quite clearly that internal and external forms of inspection should have the same objective – that is, “to ensure that prisons are managed in accordance with existing laws, regulations, policies and procedures, with a view to bringing about the objectives of penal and corrections services, and that the

rights of prisoners are protected".<sup>61</sup> On a practical level, monitoring bodies can provide important advice and assistance to prison authorities as to how to better improve their internal practices and rectify any problems. But such improvements cannot happen without the engagement, co-operation and buy-in of the prison authorities. Without the support of the prison authorities, sustainable change cannot happen. In the first instance, external monitoring bodies may decide to co-operate with and support national authorities in strengthening the capacities of internal prison inspection.

### Co-operation: gender and vulnerable groups

As mentioned in the country analyses below, Covid-19 and the accompanying restrictive measures have been particularly challenging for vulnerable groups, particularly women, juveniles and other vulnerable prisoners. The research findings identified issues of concern around mental health, isolation and contact with the outside world. Women face heightened risks in detention and have specific gender needs that are rarely met in places of detention (e.g. special healthcare needs) or needs exacerbated dramatically by the mere fact of detention. The UN Bangkok Rules recognise the specific needs of women in the criminal justice system and introduce safeguards and protections accordingly. Similarly, other vulnerable prisoners (e.g. foreign nationals, older prisoners, lesbian, gay, bisexual, trans and intersex (LGBTI) prisoners, prisoners with disabilities) may be at greater risk of human rights violations in detention. IGOs can offer a space for collaboration and discussion and act as a focal point to help strengthen the safeguards required by any Covid-19 measures and to bring attention to the impacts on vulnerable groups.

### Broader geographical scope of co-operation activities

The Council of Europe has undertaken co-operation activities in a number of member states, some highlighted in this study. These activities have introduced good practice, and shared experience and lessons learnt from Covid-19. In undertaking such activities, IGOs can identify priority areas in respect of prison and wider criminal justice reform and take action accordingly. Looking forward, IGOs such as the Council of Europe may wish to widen their scope of co-operation activities to other member states, which may benefit from lessons learnt from current beneficiary countries.

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61. See Nelson Mandela Rules, rule 83, available at [www.unodc.org/documents/justice-and-prison-reform/Nelson\\_Mandela\\_Rules-E-ebook.pdf](http://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf), accessed 18 September 2022.



## Longer-term projects and sustainability

Any co-operation activity undertaken by IGOs should have sustainability at its heart and should look to embed lasting improvements within prison systems. While some co-operation activities are urgent and short-term such as the provision of PPE, for example in Armenia, other ongoing activities will require continual monitoring and scrutiny in light of the pandemic. There is a risk that reform measures may be stalled or delayed by the constantly evolving and unpredictable nature of the pandemic. The study has highlighted reform measures in several Council of Europe beneficiary states and, as such, will require regular and ongoing monitoring to ensure that they remain sustainable through the pandemic and beyond.

## More involvement with and engagement of civil society

The research findings were clear that engagement and communication with civil society actors were a critical part of good Covid-19 responses in prisons. International organisations can continue to facilitate this level of engagement at both national and international level through co-ordination mechanisms and other communication channels. In countries where prison systems do not have a good record of co-operation with civil society, international actors can play a key role in fostering such relationships for the future.

# Conclusions and recommendations

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**W**hile it is somewhat early to fully assess the impact of Covid-19 and associated measures in prisons and to understand how these will affect prison management, reform initiatives and individual experiences in the longer term, it is important that we now move beyond the short-term responses and look at what Covid-19 means for prison management in the future. As Covid-19 becomes the “new normal” for communities around the world, it is important to pre-empt possible backtracking in the progress made in criminal justice reform across Council of Europe member states and elsewhere and ensure that human rights protection and promotion are at the heart of this “new normal” in prisons.

Detailed recommendations for prison authorities address each of the three thematic areas under this research. In addition, the authors provide recommendations directed at international organisations that play an important and integral role in supporting prison systems in terms of capacity building, training, education and wider support.

## **Healthcare and preventive measures undertaken as a direct response to Covid-19**

Healthcare recommendations to:

- ▶ ensure robust mental healthcare provision and support services are made available for both prison staff and prisoners, such as the provision of access to self-help services;
- ▶ undertake evidence-based studies on the mental health impact of Covid-19 on prisoners and prison staff to assist prison authorities with future planning;
- ▶ take all possible steps to improve prison conditions as poor infrastructure and lack of services hampers any Covid-19 response, including the healthcare response;
- ▶ ensure that emergency contingency plans are in place to ensure sufficient staff are available for similar emergency situations so they are able to

respond in a swift and timely way. The authorities should ensure that plans are in place (such as infection control plans) well in advance of any national emergency;

- ▶ provide bespoke mental healthcare training to prison staff;
- ▶ ensure that Covid-19 testing, treatment and care for prisoners is equal to that available in the community and is available to all without discrimination. To this end, prison administrations should develop close links with community healthcare providers. Ideally, the health response should be integrated into the Covid-19 health response in the community;
- ▶ ensure that any necessary ongoing and/or urgent healthcare continues to be provided to prisoners, with safeguards in place to ensure the safety of both patient and healthcare providers against the possibility of Covid-19 infection;
- ▶ ensure that any human rights protections are not rolled back in the name of public health; all healthcare measures (such as quarantine, separation or isolation) should fully comply with international and regional human rights standards, including consideration of proportionality, legality and necessity.

Preventive measures to:

- ▶ ensure “joined-up” co-ordination and communication between different bodies and relevant agencies to allow for a fast, streamlined and agile response to crises;
- ▶ centralise decision-making processes with a degree of local flexibility in order to offer faster, consistent approaches with built-in checks and balances;
- ▶ ensure that any Covid-19 restrictions are not “open-ended”, and comply with key human rights principles (in terms of legality, proportionality and time limits on application). Consideration should be given to including “sunset clauses” in legislation/guidance that negatively affects prisoners (e.g. suspension of family visits);
- ▶ ensure that the requisite physical infrastructure is in place to support Covid-19 responses, for example by reducing overcrowding, creating social distancing measures and providing areas for quarantine/isolation;
- ▶ wherever possible, adopt a dynamic security approach within establishments; such approaches can be extremely important in supporting a meaningful Covid-19 response;

- ▶ ensure a reasonable and safe staff-to-prisoner ratio within the entirety of the prison estate;
- ▶ ensure that risk and needs assessments are routinely undertaken in a comprehensive manner. In particular, prison authorities should take into account the potential impact on individuals of health and other future potential crises;
- ▶ ensure provision of regular, accurate and timely information to prisoners about Covid-19; this is particularly important in light of the real risks of spreading disinformation/ misinformation among the prison population. Further, prison authorities should provide reasons/justifications for the imposition of Covid-19 measures to assuage the concerns of prisoners;
- ▶ make information on Covid-19 easily accessible to prisoners on a consistent basis across the prison estate;
- ▶ build in budget flexibility to allow for a speedy reallocation of funds to cover emergency needs such as extra healthcare staff and associated resources;
- ▶ ensure that adequate technological resources and infrastructure are in place to support family visits and legal consultations, including computers, tablets, web-based technology tools (Zoom, Webex), internet and phone lines. In any future pandemic requiring a similar response, such tools should be rolled out urgently to minimise, as much as possible, disruption to prisoners' contact with the outside world;
- ▶ ease restrictions, as much as possible, in line with IPC protocols for those prisoners who are vaccinated;
- ▶ consider the impact of Covid-19 restrictions on vulnerable groups and individuals (e.g. foreign nationals, high-risk groups, older prisoners, the clinically vulnerable) and consider allocation to separate accommodation to protect those at risk of severe illness from Covid-19. Prison authorities should isolate them in separate accommodation following consultation with appropriate healthcare staff, infection control experts and public health specialists;
- ▶ continue to take measures to decrease prison populations, with temporary release measures being expanded alongside the use of community sanctions;
- ▶ ensure that prison staff receive specific, ongoing and appropriate training on Covid-19 preventive and protective measures. Security staff and senior managers should be given training on human resource

management and emergency response. Staff training plans should be included in contingency plans for dealing with emergencies such as the Covid-19 pandemic.

### **Changes in operational procedures in response to Covid-19 – Challenges and adjustments in methods of working and observations on managing delivery of prisoner regimes and provision of treatment**

- ▶ tailor protocols and procedures related to the Covid-19 response to take into account the specific needs of particular groups of prisoners, including women, children, older persons, and those with physical and mental healthcare needs;
- ▶ ensure that rigorous risk and needs assessments procedures are in place and regularly updated. Future release programmes should be well supported with comprehensive risk assessments, including in relation to perpetrators and victims of domestic violence;
- ▶ ensure better planning and communication around easing restrictions, particularly in relation to their timing and the processes to be followed;
- ▶ provide additional support for those being released during a pandemic, especially when community infections and restrictions are at their peak. Support should include, *inter alia* linkages to community healthcare services, employment/training opportunities and housing;
- ▶ find ways to facilitate access for civil society organisations providing services in prison (e.g. addiction counselling, education) either through in-person visits or through digital technology. Efforts should be made to strengthen communication channels between civil society organisations and prison management and to involve them in decision making as key stakeholders. Civil society organisations should be encouraged to offer practical solutions, workarounds and flexible approaches to respond to Covid-19 challenges;
- ▶ ensure that any Covid-19 prison regime offers full compliance with human rights principles and standards (e.g. CPT guidance) and that overly restrictive prison regimes do not become the default position. Prisoners should, as much as possible, be able to continue with meaningful activities outside cells. Measures should be included in contingency plans to mitigate against lack of activities, work opportunities, family visits and social interaction;

- ▶ invest in prison staff, both in terms of adequate staffing levels (including healthcare staff) and improved working terms and conditions for staff. Prison staff should be provided with mental health support, overtime and fair pay for work undertaken during the pandemic;
- ▶ use “remote justice” tools (e.g. remote court video appearances) where appropriate, but not at the expense of in-court hearings that should be used in high-profile cases. Legal safeguards and natural justice procedures remain paramount and should not be compromised in any circumstances. Access to legal counsel should be available to all people deprived of liberty (including pre-trial detainees) and, where applicable, legal aid should be available to those who are eligible;
- ▶ put in place mitigation measures (phone calls, video conferencing) swiftly and consistently across prison estates for legal, professional and domestic visits;
- ▶ strengthen the level and frequency of independent monitoring, and make available adequate resources to facilitate these activities. In addition, National Preventive Mechanisms (NPMs) and regional prison monitors/inspectors should adopt innovative methods to fulfil their monitoring mandate, such as remote monitoring. In lieu of collecting first-hand information, monitors should make themselves available for direct contact, through telephone hotlines, e-mail, mail and even social media.

### **The impact Covid-19 might have on prison reform plans and processes, technical assistance and co-operation activities in future – Perspectives for long-term sustainability**

- ▶ monitor and evaluate the way in which Covid-19 response measures were implemented in practice. In particular, the authorities should put in place processes to obtain feedback and/or consultation with prisoners and their families on their “lived experience” and the impact of Covid-19 measures;
- ▶ consider disseminating good practice from other countries to assist preparation for future crises;
- ▶ increase resources for implementation and co-ordination around alternatives to detention to reduce prisoner numbers;
- ▶ in terms of wider criminal justice reform, consider expanding the use of alternatives to custody, especially where short sentences (less than 12 months) are considered. In addition, the authorities should give

consideration to the use of measures that are more cost-effective, such as electronic monitoring, and undertake a cost-benefit analysis of such interventions;

- ▶ encourage justice officials to make better use of existing non-custodial measures;
- ▶ promote good practice initiatives and innovative solutions beyond the Covid-19 pandemic and embed them as good practice. Such measures include innovation in speeding up trials and family video conferencing;
- ▶ give consideration as to how to engage detainees in contributing to prevention or responses to a similar crisis situation in support of local communities while also providing rehabilitation/reintegration opportunities for detainees;
- ▶ provide deeper investment in probation services as an alternative to investing in prison reconstruction and renovations;
- ▶ ensure that prison infrastructure and material conditions of detention comply with international human rights standards/guidance; in particular, pre-trial detention facilities should be improved to meet international and European standards;
- ▶ in order to assist with future prison reform plans, create reliable data analysis/collection and reporting tools, particularly to capture key information and statistics on Covid-19. Future planning should be based on robust evidence-based reports, studies and guidance;
- ▶ as good practice, take into account and implement NPM recommendations, particularly with reference to prison reforms, future plans and processes.

### **Recommendations to international stakeholders:**

- ▶ continue to play a central role in disseminating good practice guidance on Covid-19 measures in prisons both within and between countries through webinars, newsletters, guidance documents and workshops for different stakeholders, and also reflect the latest developments in IPC measures and other Covid-19 practices;
- ▶ support national prison authorities in assessing the impact and effectiveness of measures taken to combat Covid-19 in prisons, including lessons learnt from Covid-19 prisoner release schemes and other efforts to reduce prisoner populations; provide additional support to justice

systems in strengthening the use of non-custodial measures and early release mechanisms based on these experiences;

- ▶ continue to support ongoing reform efforts in beneficiary countries and assist with identifying priority areas; as a priority this should include providing support to prison systems in terms of strengthening mental healthcare services and providing training for prison staff on delivering psycho-social support during crises. International organisations could also support training and other programmes around the psycho-social needs of prison staff;
- ▶ support national authorities in devising emergency strategies and contingency plans to better manage future emergencies, including pandemics;
- ▶ support national authorities to research the impact of Covid-19 on the rehabilitation prospects of those released from prison during the pandemic, including taking account of the possible impact on probation and social services;
- ▶ provide technical hardware/communications equipment to communities/families and prisoners to ensure ongoing contact with prisoners;
- ▶ encourage beneficiary countries to adhere to minimum IPC measures and standards (e.g. use of PPE, daily cleaning protocols, temperature checks) as part of the Covid-19 response.





# Country analyses

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## Albania

### Summary

In Albania, the Covid-19 restrictions in place appear to have successfully curtailed the spread of the virus. However, the pandemic also highlighted existing resource needs within the system, most notably the shortage of medical staff and equipment, including access to mental healthcare, and problems with prison staffing resources more generally. The prevention response plan and legal framework was comprehensive, but concerns were raised that the plan was not matched by adequate human and financial resources. It was also noted that there were no adequate emergency contingency plans in place before the pandemic.

Covid-19 came at a critical juncture for the Albanian justice system. A major criminal justice reform process began in 2014, supported by the Council of Europe and others, and can be said to have provided the building blocks for a good Covid-19 response. At the same time, Covid-19 has inevitably affected and slowed down the roll-out of some of these reforms, including in relation to juvenile justice and the implementation of the national strategy on justice for children. Staff training in relation to prison reform was also delayed due to the pandemic.

Another issue raised that may have affected the Covid-19 response is a lack of systematic data collection, analysis and reporting within the prison system more generally, with not enough focus on the importance and use of data. However, as in other countries, the experience of Covid-19 has provided important lessons on data use, management and transparency of information.

### The prison system

Albania has 24 detention facilities, 17 of which are high and medium security, with special detention sections (Tirana, Fushë-Krujë, Rrogozhinë, Peqin, Shkodër, Lezhë, Korçë); detention centres (Tirana, Elbasan, Lushnjë, Berat, Vlorë); 1 special institution for persons receiving compulsory treatment and for persons over 65 years of age (Zahariya, near Krujë); 1 juvenile rehabilitation centre (Kavajë); 1 women's prison; and a prison hospital (Tirana).

Prisons are under the jurisdiction of the General Directorate of Prisons, Ministry of Justice, with the Ministry of Health and Social Protection having responsibility for prison healthcare.

With 5 414 prisoners in the country in September 2021, the Albanian prison system is currently operating just under its capacity of 5 788 (95.5% capacity). The prison population comprised 2 169 convicted people (2 131 men, 34 women and 4 juveniles) and 2 915 pre-trial detainees (2 869 men, 40 women and 16 juveniles), with pre-trial detainees making up 54% of the overall prison population. In addition, there were 320 people held under compulsory treatment. There has been relatively little change in the prison population trend over the past 8 years, with the population averaging around 5 500 prisoners annually between 2014 and 2019.

However, an increase in the average length of pre-trial detention has been noted in recent years. This is directly linked to a backlog in court cases associated with reduced capacity in the court system, largely due to the resignation or suspension of judges and magistrates as a result of the introduction of new vetting procedures. A shortage of legal aid lawyers is a problem throughout the country.

According to the law on prison police, prison staff can be uniformed or civilian. Uniformed personnel have the responsibility for security and escorting detainees while civilian staff have the responsibility to train and rehabilitate prisoners. At the time of reporting there were 4 029 prison staff, of which 3 218 were uniformed staff and 811 civilian staff. In addition, there were 254 healthcare staff: 53 doctors, 22 pharmacists, 20 dentists and 159 nurses.

The Council of Europe has previously recognised that the existing legal framework for prisons in Albania is good and that there is a commitment from the Ministry of Justice for prison reform, including increased transparency and open consultation, and support for a motivated, adaptable prison staff.<sup>62</sup> At the same time, the Council of Europe has also noted that the prison system suffers from underfunding, including in relation to the provision of rehabilitation programmes and a failure to address poor staff salaries. The justice sector reform process that began in 2014 was instrumental in the successful Covid-19 response (including, for example, a significant reduction in the numbers of

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62. See "Action Plan on the Development of the Prison System in Albania 2019-2022", available at <https://rm.coe.int/actionplan-prison-system/native/1680968ab1>, accessed 18 September 2022.

children in prison), but implementation of reforms has slowed as a direct result of the pandemic, largely due to resourcing issues.

## **Infrastructure and conditions of detention**

A factor impeding the Covid-19 response in some facilities was the infrastructure. Some prison facilities are old buildings dating from the communist era. In these buildings, existing infrastructure is poor and not equipped for the basic needs of prisoners, even during normal times, related primarily to underinvestment. Access to hot water is limited in some facilities.

Pre-trial detention facilities were already more populated than facilities for convicted persons, particularly in Tirana. Conditions in pre-trial facilities are already problematic and this was exacerbated during the pandemic. This is partly due to an existing backlog in the court system. Physical distancing was difficult to implement due to the lack of space per person. Because they are seen as a transitory community, there is less attention paid to pre-trial detainees – and fewer resources are available – and mental health is a particular concern in these facilities.

The closure of the Zahariya psychiatric detention facility near Kruja, which has been the subject of intense criticism from international and local human rights organisations, was delayed due to the earthquake and Covid-19. Particular concerns were raised about the situation in this facility during the pandemic, including in relation to the conditions of detention, access to information and physical access to the facility. Recent announcements suggest the facility will be closed soon.

## **Covid-19 response**

The Albanian justice system response to Covid-19 was swift, with numerous orders and regulations being issued within a short time period. It has been noted that a speedy response was possible due to existing effective co-ordination and communication mechanisms between the different agencies and ministries (Ministry of Health, Ministry of Justice and Ministry of Social Affairs) and between the Ministry of Justice and the prison department. Effective co-ordination was successful in controlling the spread of the virus within the prison system.

In the early days of the pandemic, a special task force was set up with the responsibility of monitoring the implementation of the emergency framework, collecting and responding to detainees' complaints, and reviewing and

adapting emergency interventions based on communications from the prison administration. A checklist of issues to be addressed in relation to Covid-19 was also developed. In addition, specific health staff were designated in each facility to oversee the Covid-19 response.

Co-ordination of the response was centralised, though local input was taken into consideration. There was also some flexibility for individual institutions to adapt the response and ease restrictions at the local level in terms of measures taken or the time frame of restrictions. Prison directors were also able to decide on requirements for prison visitors (vaccination status or proof of negative test).

It has, however, been noted that internal institutional communications could have been improved (including communications between individual institutions and the prison hospital).

## Measures to reduce prisoner numbers

A total of 392 convicted detainees were temporarily released in response to Covid-19 (390 men and 2 women – approximately 7% of the prison population). The 3-month temporary release scheme (later extended to 6 months for 278 of the detainees) applied to those who were assessed not to pose a threat to the public and who were serving less than 3 years in prison, or those serving less than 5 years in prison who were 60 years of age or over, or suffering from a chronic life-threatening disease or a serious mental health condition.

Albania's NPM noted that the process of assessing detainees for temporary release was well managed and this increased the capacity of prisons to respond to Covid-19 effectively across the prison estate. However, commentators have also stated that while Albania has the laws and policies in place for non-custodial measures, poor co-ordination and lack of funding has meant implementation has not progressed. This is an area for future investment and reform.

By September 2020, all but 2 of those released had reportedly been returned to detention (they were reported to have absconded); 23 out of the 392 had been returned to prison early for violating the terms of their conditional home release.<sup>63</sup> Some who were eligible for release were not released due to procedural problems (lack of paperwork/ID) and there were appeals in some cases.

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63. OSCE (2020), "Human rights-based monitoring assessment of places of detention through the Covid-19 pandemic. The case of Albania"; Organization for Security and Co-operation in Europe, available at [www.osce.org/files/f/documents/3/a/470814.pdf](http://www.osce.org/files/f/documents/3/a/470814.pdf), accessed 18 September 2022.

There were no specific formal measures in place to curb new admissions to prison during the Covid-19 pandemic, although judges and prosecutors were encouraged to make more use of non-custodial measures.

While less people were sent to prison or compulsory treatment than the previous year (from 6 085 during 2019 to 5 475 during 2020), the number of cases where alternatives to prison sentences were provided also dropped during 2020 (from 4 677 in 2019 to 4 086 in 2020). These figures reflect a drop in crime rate/arrests and a suspension of court hearings/slowdown of the judicial system rather than any attempt to actively reduce numbers of new detainees. There was a reported 8% decrease in the crime rate during 2020.

There has been a slight increase in the overall prison population in the past year, with the prison population standing at 5 063 in January 2020 and 5 414 by September 2021.

## **Court hearings**

Online court hearings were rare because courts lacked the facilities and judges were reluctant to use such measures. Both the prison authorities and detainees themselves have noted that the quarantine required following a court hearing was one of the most challenging aspects of Covid-19 restrictions. In some cases, detainees were required to attend two court hearings per month followed by lengthy quarantine periods. The impact of this on detainees' mental health was considerable. Travel to court hearings in Tirana from other areas of the country also presented additional challenges due to Covid-19.

There was a reported increase in numbers of pre-trial detainees during the state of emergency due to arrests of those breaking lockdown rules and the slowdown of the justice system and suspension of court hearings. It was also noted that where people had their hearings or appeals delayed, they did not get any information about what was likely to happen next and associated time frames. Lack of access to legal aid and access to legal services is a problem throughout the country.

## **Covid-19 prevention measures**

Special medical protocols and action plans were developed and approved by the Ministry of Justice.

PPE equipment and sanitary supplies are provided by the prison department and the distribution and use of PPE and additional sanitary measures

in prisons is reported to be widespread. Prison health staff conducted daily monitoring of all detainees to check for signs of Covid-19 in co-operation with the Ministry of Health.

Covid-19 testing is available for those with symptoms and those who have had contact with a person who has tested positive. Persons who tested positive for Covid-19 are moved to local quarantine facilities or transferred to the Covid-19 ward of the prison hospital (two sections of the hospital are designated as quarantine facilities). There have been no reported refusals to take tests among detainees.

Movement restrictions were introduced within and between facilities to prevent the spread of the virus. This included the suspension of external medical appointments, with the exception of medical emergencies. This was particularly problematic given the shortage of medical care facilities and staff within facilities. Access to ongoing healthcare, including mental healthcare, was reported as an issue of particular concern. Group activities, including those organised by community partners, were restricted and cultural and sports activities were suspended.

Family visits and access to legal counsel were suspended although families were still able to send in packages of food and other permitted items, but restrictions have since been lifted. Restrictions on family visits were not relaxed until June 2021, so were in place for more than a year, including for children in conflict with the law. Special measures were in place to ensure that children in prison could have contact with families and lawyers at an earlier stage. Concerns have been raised over the necessity of suspending visits for so long and even now there are limitations on visits largely due to the need to ensure physical distancing – the lack of space meant reducing the number of visits. There is currently a limit of one family visit per month for adults and four visits per month for children. Group activities for children in prison were also resumed earlier than for adults. Large group activities remain limited.

One NGO made significant efforts to remain in contact with detainees during the strict lockdown period, including through phone calls, letters and the provision of correspondence courses. These measures were well received by detainees.

Visitors also have to respect the 1.5-metre physical distance rule while mixing with prisoners and comply with other Covid-19 prevention measures during visits. They are required to submit a vaccination certificate or provide a

negative Covid-19 test. Skype communications continue to be on offer. Social and cultural activities have been reintroduced. People were able to meet their lawyers virtually and in-person visits have now resumed. Legal aid providers have reported that the prison authorities have been co-operative in facilitating lawyer-client meetings throughout the pandemic but that some of the restrictive measures were found to compromise lawyer-client confidentiality during the first months of the pandemic.

Concerns have also been raised that not enough was done to mitigate against the impact of restrictive measures, especially in relation to the lack of human contact and monitoring levels of stress/anxiety. There appears to be no time frame provided on when more family visits will be permitted and the NPM has called for increased family visits as soon as possible, especially as other activities are still limited. Before Covid-19, families were able to visit several times a month.

The possibility of Skype calls was introduced as a new initiative and the number of telephone calls allowed was increased to mitigate against the lack of family visits. Technology was, however, lacking in some facilities and the offer of remote communications was problematic for those detainees from poorer families, and those families living in remote areas, who do not have mobile phones or internet access. Access to Skype and phone calls was also limited and calls were short, mainly due to the lack of physical space within detention facilities for detainees to make calls.

Concerns have also been raised that pre-Covid, the number of people detainees could speak to on the telephone was unlimited, but now detainees need to nominate three people that they are allowed to call.

Prison staff and prison healthcare staff received specialist training on Covid-19 responses, with the support of NGOs and international donors.

## **Covid-19 cases**

The number of reported Covid-19 cases, hospitalisations and deaths among prisoners and staff is low. As of September 2021, there had been 220 recorded cases of Covid-19 among prison staff (including 34 women), representing 5% of staff and 104 cases among prisoners (including 1 woman), representing less than 2% of prisoners. Of these, 4 staff members and 2 prisoners were hospitalised, while 5 prison staff and 1 prisoner (all male) are reported to have died from Covid-19. The Covid-19 rate among prisoners is significantly lower



than in the general population, which is currently around 6% (180 000 cases<sup>64</sup> out of a population of 2 837 743).<sup>65</sup>

## Vaccinations

Prison staff were included as a priority group for vaccination. As of September 2021, 46% of the prison population was unvaccinated, including 24 women, with a reported 23% of all prisoners having refused vaccination. A quarter of prison staff remained unvaccinated, with 10% reported to have refused vaccination (it is only mandatory for prison health staff to be vaccinated). The percentage of those vaccinated is high compared to the general population, where a reported 70% remain unvaccinated. Observers have reported that any vaccine refusal or hesitancy among prisoners is largely linked to prisoners' belief that they are less at risk of Covid-19 in prison due to the preventive measures in place. There is also less incentive for prisoners to get vaccinated as they have no travel or social plans. Vaccine incentives were also provided to prisoners, and this is given as one of the reasons that vaccination rate is higher in prison than in the community.

## Staffing

There have been no significant changes in staff turnover since the onset of the pandemic, though there were additional challenges in recruiting staff. The impact on the physical, emotional and psychological health of prison staff has been raised as a significant concern.

Even pre-pandemic, the prison service had difficulties in recruiting staff. There is a high staff turnover because of the lack of career progression. There is an urgent need to build capacity of existing staff, including in relation to working with particular groups of prisoners and developing a dynamic security culture for staff engaging with detainees. There is a sense that staff job satisfaction is low. Staff are also regularly transferred to work in facilities far from home, which also contributes to high staff turnover.

An additional 86 medical staff were appointed to the prison service during 2020 and 2021 to help with the Covid-19 response and they have been offered

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64. WHO, *Albania*, available at <https://covid19.who.int/region/euro/country/al>, accessed 18 September 2022.

65. The World Bank, *Population, total – Albania*, available at <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=AL>, accessed 18 September 2022.

a 40% pay increase through 2022. The authorities reported that psychological support for staff was available but was unstructured. It has been noted that while prison health services still require additional resources, there have been significant improvements in recent years. The working conditions of health service workers have improved.

## **Transparency/communication**

Lack of transparency and poor communications have been raised as particular areas of concern. It is felt that communication and provision of information to prisoners about Covid-19 was lacking and that this was a significant factor in the levels of stress and anxiety among prisoners within detention facilities. It was also noted that the authorities could have improved their external communications about the Covid-19 situation within the prison system.

## **Prison monitoring**

In-person prison monitoring was suspended from 11 March to mid-June 2020, but the NPM was able to conduct online monitoring during this period. In-person visits have now resumed. The NPM has reported that the authorities co-operated well with the monitoring body and this continued to be the case throughout the pandemic. The Albanian Helsinki Committee, an NGO, has also been able to continue its prison monitoring activities during the pandemic. The NPM has reported that the authorities have acted on many of its recommendations in relation to Covid-19.

## **Impact of the Covid-19 response**

The biggest reported challenge for prisoners was the lack of contact with their families and access to healthcare. For the authorities, the biggest challenge reported was the requirement to quarantine detainees when they had a court hearing (online court hearings were not widely used). This was also raised as a major issue of concern by detainees themselves.

Particular concern was raised about the impact of Covid-19 on people in prison with existing mental healthcare needs. Their difficulties were exacerbated by the limited access to mental healthcare professionals during the pandemic, including lack of periodic monitoring of their health status and limited counselling available for individuals. Observers have also expressed alarm at the impact of family visiting restrictions on those with existing mental healthcare needs and have recommended less restrictions in these cases.

The authorities have reported that detainees demonstrated understanding and trust and were co-operative with the restrictive measures introduced to prevent the spread of Covid-19. They have also acknowledged the need to raise awareness of Covid-19 among staff and prisoners and that the success of these measures cannot be achieved without the involvement of everyone.

At the same time, the number of prisoner requests/complaints rose from 2 715 in 2019 to 3 581 in 2020 (a 32% increase), with 20% of the requests/complaints in 2020 related to Covid-19. So far in 2021, 15% of the requests/complaints recorded have also been related to Covid-19. The most common prisoner complaints related to access to healthcare, poor quality of health-care, limits on family visits and access to services. There were also numerous grievances about the functioning of the complaints systems itself. However, respondents also pointed out that prisoner complaints systems have improved significantly in recent years and are currently functioning much better than they had done previously.

In their response to the questionnaires, the prison authorities specified that future needs and priorities during similar crisis situations will be included in the development of protocols for managing emergency situations, including specific training plans for staff to respond to such situations; contingencies for employing additional human resources, including in the health sector, and continuous psycho-emotional support for staff; tracking systems; and additional infrastructure to better respond to the situation. Identified areas where support is most needed are infrastructure development, increased staff capacity, motivation training and psycho-emotional support programmes for staff.

Concerns have also been raised about the situation of people released from prison during Covid-19 and their rehabilitation prospects, particularly juvenile detainees. This is linked to the suspension of rehabilitative activities, but also to the fact that Covid-19 affected the socio-economic situation of families outside prison, with the result that prospects for employment and training were limited. It has been noted that the broader impact of Covid-19 may mean a greater likelihood of reoffending behaviour, including among children released from prison.

## **Health and mental healthcare provision**

There was no reported increase in cases of self-harm or (attempted) suicide since the beginning of the pandemic, but NGOs have reported significantly

higher levels of depression among prisoners. There has also been a reported increase in new admissions of pre-trial detainees diagnosed with a mental health problem. However, mental healthcare needs are not systematically identified or recorded in the Albanian prison system, so it is not possible to get an accurate picture of any increase in mental health concerns. This is an important area for future reform.

The prison department has noted that additional specific measures, including increased psychological and psycho-social support, have been put in place for prisoners, especially in facilities that accommodate specific categories such as women, those with chronic health problems, older persons and those with mental health problems. But concerns around the lack of mental health provision remains high, specifically the lack of psycho-social support and counselling during the pandemic.

While the Ministry of Justice has an existing agreement with the Ministry of Health and educational establishments to employ more mental health staff, there is a reluctance among trained mental health professionals to work in the prison system. Covid-19 undoubtedly exacerbated existing problems related to mental healthcare in prisons.

It was noted that the 2019 earthquake also had an impact on the mental health of some prisoners. Identification of mental health problems and record keeping about mental healthcare needs within prisoner medical files has also been noted as an area for improvement. While social care staff are in place to identify and assist with mental healthcare needs, it is reported that they are not well trained and lack the knowledge, skills and competence to work effectively. There are no accountability mechanisms in place to monitor their work.

Under-resourcing in prison healthcare provision (staff, facilities, and equipment and medication) is a major issue of concern. Even before Covid-19, there were many existing health problems in prison, and this was compounded when existing resources were allocated to the Covid-19 response. One estimate suggests that there are up to 200 prisoners with terminal illnesses. The system needs contingency plans for staffing for similar emergency situations. It has been noted that prison health staff are generally paid less than those who work in hospitals.

Particular concern was raised over the transfer of female detainees from a special care facility to Tirana Prison in order to make space for Covid-19 quarantine cases.

## **Armenia**

### **Summary**

It has been noted that the authorities acted speedily in the first stages of the pandemic – issuing penitentiary-related emergency legislation, introducing video calls, imposing a ban on visits – and managed to contain the spread of the virus in the penitentiary system. However, commentators have also noted that the situation deteriorated, and that the authorities quickly lost control of the situation. In particular, the response has been hampered by a weak prison healthcare system, demotivated and disincentivised prison staff, a poor vaccination roll-out programme, and the spread of misinformation/disinformation about Covid-19 (including the vaccine) across the prison estate. The Armenian penitentiary authorities received substantial emergency/humanitarian assistance from external stakeholders, namely the Council of Europe, the Open Society Foundations (OSF) and other bodies in the early stages of the pandemic. The imminent restructuring of the prison estate including prison closures provided an added “stress factor” on top of the Covid-19 pandemic and should be factored into any future response plans. It is also fair to say the geo-political events in Armenia in late 2020 (i.e. the Nagorno-Karabakh war) focused energies (including that of the government as well as detainees) away from criminal justice priorities to more central issues affecting the well-being and security of the nation.

### **The prison system**

At present, the Ministry of Justice is responsible for the Penitentiary Service in Armenia, which is a separate subdivision of the Ministry of Justice. The Criminal Executive Department, the central body of the penitentiary system, is responsible for the management of penitentiary institutions. In 2019, the prison administration had a budget of €16 160 449.

### **Key prison statistics**

According to Council of Europe annual penal statistics for 2020 (SPACE I),<sup>66</sup> Armenia has one of the lowest rates of imprisonment per 100 000 inhabitants, at 74.8 compared to a median Council of Europe rate of 103.2 per 100 000.

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66. Aebi, M. F. and Tiago, M. M. (2021), “SPACE I - 2020 – Council of Europe Annual Penal Statistics: Prison populations”, Council of Europe, Strasbourg, available at [https://wp.unil.ch/space/files/2021/04/210330\\_FinalReport\\_SPACE\\_I\\_2020.pdf](https://wp.unil.ch/space/files/2021/04/210330_FinalReport_SPACE_I_2020.pdf), accessed 18 September 2022.

Compared to other Council of Europe member states, Armenia has experienced a decrease in the level of incarceration since 2018: in 2018, 2 536 people were held in the penitentiary system; in 2019, this had gone down to 2 266; and by 31 January 2021 this had decreased further to 2 221. The reduction may be due, in part, to a large-scale amnesty in November 2018 that affected some 6 500 detainees and saw the release of 660 individuals. Armenia has among the lowest prison population densities per 100 places, at 41.5%: less than half the European average of 86.6%. Penitentiary establishments have capacity for 5 436 persons (1 235 detainees and 4 111 sentenced).

Prior to the pandemic, as of 1 January 2020, there were 2 221 prisoners (1 017 pre-trial detainees/1 204 sentenced); as of 1 October 2021, the prison population stands at 2 113 (1 178 pre-trial detainees, including 29 women and 6 male juveniles, and 935 sentenced prisoners, including 27 women). According to SPACE I, Armenia has very low prison populations of women and foreign nationals; no data were available on older persons.

## Institutional framework

There are 12 penitentiary institutions in Armenia. On a recent visit to the country (2019), the CPT noted that none of the prisons visited were overcrowded, “which is indeed a very positive and welcome development”.<sup>67</sup> Abovyan Penitentiary houses women offenders and minors and Vardashen Penitentiary houses the majority of foreign nationals. Most penitentiaries hold pre-trial and sentenced detainees except Kosh (now closed) and Sevan penitentiaries.

There are five types of institutions in Armenia: open, semi-open, semi-closed, closed and medical institutions.<sup>68</sup>

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67. See Council of Europe (2021), Report to the Armenian Government on the visit to Armenia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 2 to 12 December 2019, para 26, available at <https://rm.coe.int/1680a29ba1>, accessed 10 October 2022.

68. Closed institutions: individuals kept in isolated cells designated for up to four people; however, in some cases, based on a justifiable decision of the head of the institution, detainees can be held alone in the cell. Semi-closed corrective institutions: the individual is kept in isolated cells designated for up to six people and can move around for three specified hours during the day in an area of the corrective institution designated for the purpose. Semi-open corrective institutions: the individual is kept in a housing type of accommodation designated for up to six people and can move around during the day hours in the areas of the corrective institution designated for the purpose. Open corrective institutions: the individual is kept in a housing type of accommodation designated for up to 10 people and can move around during the night hours in the areas of the corrective institution designated for the purpose.

## Prison closures and restructuring

There are plans to close a number of older penitentiaries (i.e. Nubarashen and Yerevan-Kentron) as well as the Central Prison Hospital by the end of 2022. According to recent reports, Kosh and Hrazdan have been closed.<sup>69</sup> In 2021-2023 these institutions will be replaced by new prisons (or units) built from scratch and in line with international human rights standards.<sup>70</sup> In the interim period 2019-2020, construction works and refurbishment have been carried out at a number of establishments, namely Nubarashen, Sevan, Vardashen, the Hospital of Convicts, Vanadzor, Artik, Goris, Yerevan-Kentron, Abovyan, Hrazdan, Armavir and Kosh.

One interviewee noted that the transfer of detainees to a new regime in Armavir Prison (from a semi-open to closed regime) will have a huge impact on those affected. While a section of Armavir will be restructured to accommodate a semi-open regime, it will still represent a huge change in the lives of the inmates.

According to one criminal justice expert, such imminent changes to the prison estate present additional challenges and are an extra “stress factor”, which the authorities need to take into account in managing the Covid-19 response within the penitentiary estate.

Prison conditions are reported to be extremely poor in Armenia and, according to the US State Department, are “marked by poor sanitation, inadequate medical care ... and in some cases they were harsh and potentially life threatening”<sup>71</sup>

As of 1 October 2021, there were 1 853 prison staff in post out of a total 1 973 staff positions. Under the Law on Penitentiary Service, prison staff are deemed to be “public servant[s]”<sup>72</sup>

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During the day hours, the detainee can move around inside the institution and also outside, if authorised by the head of the corrective institution. Medical corrective institutions: the individual is kept in the conditions defined for a semi-open institution with the exception of those requirements that are specified for the medical corrective institution. Separated units can be established in medical corrective institutions (i.e. a room or a cell) for ensuring different isolation levels for detainees.

69. See Armenian Government update, available at [www.facebook.com/armgovernment/posts/4624837477539280](https://www.facebook.com/armgovernment/posts/4624837477539280), accessed 18 September 2022.

70. See p.42 above.

71. U.S. Department of State (2020), “Armenia 2020 human rights report”, available at [www.state.gov/reports/2020-country-reports-on-human-rights-practices/armenia](https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/armenia), accessed 18 September 2022.

72. “Republic of Armenia, Law on Penitentiary Service”, adopted on 8 July 2005, available at [www.ilo.org/dyn/natlex/docs/ELECTRONIC/92618/107972/F-1473502616/ARM-2005-L-92618ENG.pdf](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/92618/107972/F-1473502616/ARM-2005-L-92618ENG.pdf), accessed 18 September 2022; the staff includes 43 managerial staff, 633 security staff, 739 protection staff, 438 staff performing other functions; 177 staff are female and 1 676 male.

## Healthcare

The SNCO is part of the Ministry of Justice but is wholly independent from the Penitentiary Service, with its own budget, structure and staff. Its operation is governed by Government Decree No 204-N of 1 March 2018. It is a relatively new institution and commenced work in September 2019. Its focus is on health protection and the provision of proper medical assistance and services to detained persons held in penitentiary institutions. Prior to the creation of the SNCO, prison healthcare was poorly regulated and not subject to robust medical ethics. There are currently 188 staff members working at the SNCO.

All healthcare units in prisons are licensed by the Ministry of Health for primary healthcare provision, psychiatric care and dental care; there is no oversight of healthcare facilities by the Ministry of Health or monitoring of the quality of care provided by the units.<sup>73</sup> Medical care is available on a 24-hour basis in all penitentiary establishments and free medical care referrals are guaranteed by the state. In June 2021, the Council of Europe and national criminal justice stakeholders held discussions about the introduction of telemedicine and an IT system for keeping medical records in the penitentiary system.<sup>74</sup>

The penitentiary healthcare system has been roundly criticised by international bodies including the CPT, the US Department of State and domestic human rights organisations.<sup>75</sup> There were reported improvements in medical treatment during 2020, including more rapid access to treatment.<sup>76</sup> At the national level, the Human Rights Defender of the Republic of Armenia (in its capacity as the NPM) has called for the independence of medical personnel,

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73. CPT (2021), "Report to the Armenian Government on the visit to Armenia carried out by the European Committee for the Prevention of Torture and Degrading Treatment or Punishment (CPT) from 2 to 12 December 2019", CPT/Inf (2021) 10, available at <https://rm.coe.int/1680a29ba1>, accessed 19 September 2022.
  74. Council of Europe (2021), "Introduction of Telemedicine and IT system for keeping medical records in Armenian penitentiary system", available at [www.coe.int/en/web/cooperation-in-police-and-deprivation-of-liberty/other-activities/-/asset\\_publisher/n7yXtgO1ghNR/content/introduction-of-telemedicine-and-it-system-for-keeping-medical-records-in-armenian-penitentiary-system?\\_101\\_INSTANCE\\_n7yXtgO1ghNR\\_viewMode=view/](http://www.coe.int/en/web/cooperation-in-police-and-deprivation-of-liberty/other-activities/-/asset_publisher/n7yXtgO1ghNR/content/introduction-of-telemedicine-and-it-system-for-keeping-medical-records-in-armenian-penitentiary-system?_101_INSTANCE_n7yXtgO1ghNR_viewMode=view/).
  75. See also, "Annual Report on 2019 activity of the Group of Public Monitors implementing supervision over the RA criminal-executive institutions and bodies", available at [http://pmg.am/images/PMG\\_Report\\_Eng\\_2019.pdf](http://pmg.am/images/PMG_Report_Eng_2019.pdf), accessed 19 September 2022.
  76. US Department of State (2020), "Armenia 2020 human rights report", available at [www.state.gov/reports/2020-country-reports-on-human-rights-practices/armenia](http://www.state.gov/reports/2020-country-reports-on-human-rights-practices/armenia), accessed 19 September 2022.



improved working conditions and social guarantees for medical personnel, flexible training mechanisms, continuous professional development and steps to be taken to connect the SNCO to the e-healthcare system.<sup>77</sup>

## Covid-19 response

At the start of the pandemic, the penitentiary authorities implemented a suite of IPC measures in the prison estate. In addition, the authorities adopted strategies to reduce the prison population (e.g. transfers, conditional early release and amnesty) and restrict contact with the outside world. Armenia declared a state of emergency on 16 March 2020.

The directors of penitentiary institutions acted quickly to comply with the wider government legislation and guidance governing the emergency situation in Armenia.<sup>78</sup> Moreover, senior leadership in the Penitentiary Service issued 15 targeted instructions to the heads of penitentiary institutions and departments of the Penitentiary Service. These instructions included guidelines on necessary preventive measures to manage the pandemic within the penitentiary estate.

## Covid-19 cases

The number of reported Covid-19 cases/hospitalisations/deaths among the prison population has remained relatively low. The Armenian authorities have provided data for the period 1 January 2020 to 1 December 2021. In 2020, there were 39 reported Covid-19 cases among the male prisoner population; there were no Covid-19 related deaths. Some 313 Covid-19 tests were undertaken in 2020. In 2021, there were 124 cases in total among the prison population (123 men and 1 woman), all of whom were hospitalised. There were 2 Covid-19 related deaths (both men) and 507 Covid-19 tests were carried out. During 2020/2021, 311 Covid-19 cases and 30 hospitalisations were reported among the male prison staff, and 54 Covid-19 cases and 5 hospitalisations among the female prison staff. There were no Covid-19 related deaths of prison staff in 2020/2021. To date, there have been 893 Covid-19 tests administered among the staff.

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77. Human Rights Defender of the Republic of Armenia (2021), "2020 Annual Report", available at <https://ombuds.am/images/files/bec457b51025c26ae7716dc50241ced8.pdf>, accessed 19 September 2022.

78. Governmental Decision 298-N dated 16 March 2020, "On declaring a State of Emergency in the Republic of Armenia", paragraph 11 of Annex, available at [www.arlis.am/DocumentView.aspx?docid=140212](http://www.arlis.am/DocumentView.aspx?docid=140212), accessed 19 September 2022.

The authorities were not able to provide data on the types of tests available for staff, detainees and visitors. The first confirmed case among prison staff was registered on 16 April 2020 and the most recent case was registered on 30 September 2021. The first confirmed case among detainees was June 2020 and the most recent case was identified in September 2021. In September/October 2020, Covid-19 spread within the prison population; detainees were taken to the prison hospital where they were isolated and, after 14 days, given a health check and additional support or where necessary, kept in hospital.

The penitentiary authorities implemented an early detection system at the start of the pandemic. Under Armenian legislation, new arrivals to penitentiaries are placed in a quarantine unit for 7 days.<sup>79</sup> However, prison monitors report that prisoners who are supposed to remain in quarantine for up to 7 days often do so for only 5 days. Ministry of Justice officials confirmed that the current quarantine period (as of November 2021) is 14 days. According to prison monitors, the 14-day quarantine is not being followed and new arrivals to penitentiaries remain in quarantine for just 7 days. Detainees/prisoners who have a high temperature undergo a rapid flow test/PCR test and if they test positive for Covid-19, are immediately transferred to the prison hospital where they receive treatment. Upon arrival at the prison hospital, those in the early stages of Covid-19 infection are separated from those who are recovering. Based on the decision of the prison hospital doctor, prisoners who test positive for Covid-19 can be transferred to civilian hospitals as well.

Covid-19 testing is provided free. The authorities do not report any barriers to testing. Covid-19 testing is mandatory for prison staff every 14 days with a number of exceptions (fully or semi-vaccinated individuals, pregnant women and those with health issues that contraindicate vaccination). It is a requirement to report test results.<sup>80</sup> The PCR testing regime for prison staff was formally initiated by government decree in October 2021. An investigation may be conducted for failure to comply with reporting regulations. At the time of drafting this report, the Labour Code and Law on Public Service is being amended so that an employee, public servant or public official who

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79. Article 65 RA Penitentiary Code.

80. Order No. 17-N, "On Approval of the Sanitary Rules N3. 1.2-001-20 for the Prevention of the Spread of Coronavirus Disease (COVID-19) in the Republic of Armenia"; a subsequent amendment was made to this legislation on 20 August 2021 by Order N 65-N, which added clause N 4.1 on the PCR testing regime for prison staff. Clause N 4.1 entered into force on 1 October 2021.

fails to comply with reporting regulations pending receipt of a PCR test can be suspended from employment or have their salary withheld.<sup>81</sup>

## Release measures

In 2020, 1 292 detainees were released from penitentiary institutions in Armenia. This figure includes 810 pre-trial detainees and 482 convicted detainees. During the first 9 months of 2021, there were 716 releases, of which 397 were pre-trial detainees and 319 sentenced detainees. Detainees were released through a series of mechanisms, including amnesties, conditional early release, ill health, pardons and completion of sentence. Domestic legislation<sup>82</sup> provides for a list of serious illnesses that allow detainees to qualify for early release. Several interviewees reported that a number of prisoners were released from detention (pre-trial detention and released on parole) in order to fight in the Nagorno-Karabakh war. According to media reports, some 1 038 prisoners (pre-trial and sentenced) applied to be released in order to fight in the war and some 3.7% were granted conditional release, including 12 pre-trial detainees and 26 sentenced prisoners.<sup>83</sup> It is not known whether those prisoners who were released did fight in the war as the Ministry of Justice does not retain this data.

At the time of writing, a new Armenian Criminal Procedure Code has been adopted and will enter into force on 1 July 2022. The new code “envisages new measures of restraint” and includes a range of alternatives to imprisonment including (i) house arrest; (ii) administrative supervision; (iii) bail; (iv) suspension of term in office; (v) ban on absence; (vi) guarantee; and (vii) disciplinary supervision and military supervision.<sup>84</sup> According to a probation expert, the use of electronic surveillance such as e-monitoring/tags will only be in place once amendments and changes have been made to the relevant legislation, namely the Republic of Armenia Criminal-Executive (Penitentiary) Code and Law on Probation. These changes may be made in 2022.

At present, the Criminal Procedure Code does not offer many options by way of alternatives to imprisonment. According to an IGO official, very few judges

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81. See e-draft, Labour Code and the Law on Public Service, available at [www.e-draft.am/projects/3620/about](http://www.e-draft.am/projects/3620/about), accessed 19 September 2022.

82. Government Decree 825-N, “On Approving the Procedure of Organisation of Medical-Sanitary and Medical-Preventive Assistance to Detainees and Convicts, On Using Medical Institutions and Health Care Bodies and Engaging their Medical Staff Thereof”, May 2006.

83. Hetq, “Armenian courts released 38 detainees to fight in 2020 Artsakh war; Government doesn’t know whether they fought or their whereabouts”, 8 March 2021, available here: <https://hetq.am/en/article/128269>, accessed 19 September 2022.

84. Part 2, Article 115, new Criminal Procedure Code.

and prosecutors are equipped to work as advised by the new code and very few have undergone relevant training.

The authorities were unable to provide statistical data with respect to measures taken to curb new admissions due to the Covid-19 pandemic. That said, the authorities have indicated that the expanded range of alternatives to imprisonment in the new Criminal Procedure Code should “make it possible to forestall new admissions”.<sup>85</sup>

In relation to pre-trial detention, prison monitors cited a recent study that suggested that prosecutors had more readily used alternatives to imprisonment in the cases of detainees with health problems.

Interviewees also commented that some members of the judiciary had applied and interpreted domestic legislation in line with CPT standards. While such an approach was very commendable, it was not being done on a systemic basis.

Individuals released on probation received a small financial support package from international civil society groups to help cover essentials, including food and housing. This support programme was delivered through the Law Institute of the Ministry of Justice during a 3-month period (October to December 2020). According to a probation expert, 86 offenders on probation received 94 care packages under this scheme; additional support packages were also provided to those probation beneficiaries with children to help meet their needs. During the pandemic, the Probation Service adapted their operations and moved many of their services online (including language and IT training courses and supervision of probation offenders). However, some probation services could not be moved online and were suspended, such as those offering practical training/rehabilitation programmes that required in-person attendance (e.g. attendance at a hairdressing course). The Probation Service move to online operations also allowed for smoother and quicker work processes within the organisation. The service has however struggled with resource issues in terms of staffing and, to meet this shortfall, some 60 new members will be joining the organisation in January 2022.

Risk and needs assessments continued to be undertaken during the pandemic. However, certain elements of the rehabilitation programmes could not be carried out, namely those that required the physical presence of the probation beneficiary. Interviewees suggested that more pre-prepared online rehabilitation programmes and a wider choice of programmes would assist

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85. Reply to questionnaire dated 6 October 2021.

the work of the Probation Service. At the time of writing, the Probation Service is fully functioning but is still limited in delivering in-person rehabilitation programmes, ordinarily via an independent contractor, given the current visiting ban in prisons.

## Vaccinations and awareness raising

The Penitentiary Service and the Ministry of Health implemented a mass vaccination programme among the prison population and penitentiary officers. As of October 2021, 2 012 employees (including penitentiary staff and contract-based civil servants) and 124 detainees (including pre-trial and sentenced individuals) have been vaccinated. The Ministry of Justice confirmed that, as of November 2021, approximately 25% of the prison population has been vaccinated; prisoners were not prioritised within the national vaccination roll-out programme.

The low vaccination rate in prisons reflects a low vaccination rate in the wider population. According to WHO, 14.74% of the population has been fully vaccinated in Armenia.<sup>86</sup> There was some speculation that the low vaccination rate may be down to the fact that prisoners expressed a preference for, and were awaiting the arrival of, certain types of vaccines such as Pfizer and Moderna but this is anecdotal only. Other interviewees suggested that vaccine hesitancy among the prison population reflected a general mistrust of vaccines on the part of the wider population.

The Ministry of Health recommended the use of AstraZeneca, Sputnik-V and Sinovac-CoronaVac; these vaccines are provided for free. The authorities have also undertaken awareness-raising campaigns among detainees and prison staff on Covid-19 symptoms and necessary sanitary and hygiene measures. The OSF helped to design, print and disseminate leaflets on Covid-19 and Covid-19 protection measures in penitentiaries in conjunction with the SNCO. However, interviewees could not confirm that information had been provided to detainees about the vaccine itself. Further, important Covid-related guidance from international human rights bodies has been disseminated to the Central Body of the Penitentiary Service and to penitentiary institutions themselves.<sup>87</sup>

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86. See WHO, WHO Coronavirus (COVID-19) Dashboard, available at <https://covid19.who.int/table>, accessed 19 September 2022.

87. See CPT (2020), "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>, accessed 19 September 2022.

In addition, guidelines and information booklets on prevention and prevention measures were translated into several languages by the ICRC in Armenia and posted in places accessible to detainees within penitentiary establishments.

Interviewees noted that it is not mandatory for prison staff to be vaccinated but de facto, many chose to be vaccinated for fear of losing their jobs. If prison staff are not vaccinated, they are required to present a negative PCR test every 14 days; employees have to pay for the tests themselves and at €30, this is expensive. Accordingly, many prison staff have taken the pragmatic option to be vaccinated.

The authorities were not able to provide any data about the vaccine refusal rate in prisons as compared to the wider population. However, they did confirm that there were no sanctions for those detainees who refused to be vaccinated. No incentives or benefits have been offered to prisoners or prison staff to encourage them to take up vaccination.

## Contact with the outside world

Family visits and the delivery of parcels were temporarily suspended.<sup>88</sup> The visits ban was subsequently lifted in February 2021.<sup>89</sup> In light of the ban on short-term visits, detainees were entitled to video calls at their request, including one additional video call. OSF-Armenia donated computers to two penitentiaries (Armarvir and Noubarashen) to improve detainees' access to video calls.

In November 2021, the authorities reinstated the visiting ban and adopted a decree banning visits (long and short-term visits) across the penitentiary estate save for independent prison monitors, lawyers and members of parliament. In lieu of visits, detainees may use Skype to call family members but there is lack of clarity on the logistics, including the duration of such calls (Armenian legislation prescribes 15 minutes for phone calls). Provision of digital access for family members is an ongoing issue. The visit ban is penitentiary wide regardless of whether family members have had negative PCR tests. In an interview, one independent prison monitor expressed concern that this decree did not include a "sunset clause" and was open-ended in its duration. Moreover, the same interviewee had concerns as to whether detainees had been advised of the necessity of such regulations.

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88. Decree N 298-N "On declaring a State of Emergency in the Republic of Armenia" dated 16 March 2020; Decree 1514-N, 11 September 2020 and Decree 1514-N as amended by Order N 1743, 29 October 2020.

89. Decree N 204, 18 February 2021.

## Due process and fair trial issues

Visits from legal counsel were never legally suspended. In interviews with prison monitors/civil society, there was some concern about the absence of formal regulations in relation to the conduct of hearings. For example, there were no regulations in place concerning the escort of detainees to/from court.

## IPC measures

The SNCO has taken measures to protect both prison staff and detainees across the prison estate. The authorities report that PPE is available and mandatory for everyone. Detainees are given regular medical examinations including temperature checks; however, the Ministry of Justice confirmed that, as of November 2021, prison staff are not subject to temperature checks. More widely, sanitary/hygiene measures have been introduced including regular disinfection of buildings, mandatory temperature checks for people entering penitentiaries, provision of masks and gloves to detainees and staff, and disinfection of vehicles. The authorities also report that 150 empty beds were installed in the two buildings of the Prison Hospital to keep patients and prisoners at most risk apart from others. However, independent prison monitors and members of civil society organisations report that IPC measures are not being followed, in practice, by staff or detainees. Monitors found that temperature checks were not being routinely conducted during visits in November 2021.

Prison monitors and civil society organisation report that it was difficult for the penitentiary authorities to source PPE during the first few months of the pandemic. Moreover, the authorities did not allocate enough state budget to procure the necessary PPE. Thus, in the early months (March-April 2020) of the pandemic, the Penitentiary Service received much-needed donations of PPE, disinfectant, pulse oximeters, remote thermometers and oxygenators from companies and international organisations (e.g. Council of Europe, Armenian Red Cross). The Council of Europe donated two oxygenators (oxygen concentrators), each designed for two patients at the same time. In addition, the Council of Europe conducted an assessment mission to better understand the immediate needs of the Penitentiary Service in terms of equipment and resources. In April 2020, the authorities were able to self-manage the situation and regulate matters independently of IGOs. However, concerns were expressed by a number of interviewees (civil society and prison monitors) that the Covid-19 response on the part of the authorities came too late in the day and preventive measures were not as robust as they should have been.

The authorities report that the Prison Hospital is equipped with appropriate medical equipment to provide the necessary medical care to Covid-19 patients, thanks to the donations received from external partners. IGOs helped to raise awareness of Covid-19 among SNCO staff, most of whom knew very little about the virus. Most recently, in October 2021, the Council of Europe delivered training to 17 prison healthcare staff on the prevention and control of healthcare-associated infections.<sup>90</sup> The transfer of detainees to civil hospitals for non-Covid-19 related complaints was very slow and, in some instances, detainees were not taken to hospital given the Covid-19 risk. At the time of writing, the situation has not improved.

## Impact of the Covid-19 response

A number of underlying weaknesses within the penitentiary estate and criminal justice system are likely to have affected the Covid-19 response. These included the legacy of a poorly managed, underequipped and understaffed healthcare system, a demoralised and demotivated workforce, and poor prison conditions. Invariably, restrictive measures have seen an interference with the human rights of detainees, prison staff and detainees' families.

The authorities report that detainees were free to submit confidential complaints, as provided for by the Republic of Armenia Penitentiary Code. Complaints are filed to three separate departments: (i) to the Penitentiary Service, received by the General Department; (ii) to the heads of penitentiary institutions; and (iii) to other bodies and officials. In 2019, 67 complaints were filed with the General Department of the Penitentiary Service and 32 to the penitentiary institutions. The figures dropped in 2020 (24 to the General Department of the Penitentiary Service, 38 to the penitentiary institutions) and to even lower levels in 2021 (9 to the General Department of the Penitentiary Service, 26 to penitentiary institutions). The authorities have not provided an explanation for the drop in figures.

There has been no reported increase in cases of self-harm or (attempted) suicide among prisoners since the pandemic began. In 2019, there were 604 instances of self-harm, 37 suicide attempts and 5 suicides registered in the penitentiary system. In fact, the figures for 2020 show a slight decline in

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90. See, "Armenian Prison healthcare staff trained on prevention and control of health-care associated infections", 25 October 2021, available at [Armenian penitentiary health care staff trained on provision of health care in prisons - Enhancing Health care and Human Rights protection in prisons in Armenia \(coe.int\)](#).



the number of self-harm incidents, suicide attempts and suicide – 537 instances of self-harm, 31 suicide attempts and 1 suicide were registered during the year. Due to the lack of data on the impact of the pandemic the authorities do not attribute any decline directly to the pandemic and cite other reasons, including the personal characteristics and situation of the detainee. Interviewees attributed the low rates of self-harm incidents to the release of detainees.

As of now, no empirical/data research studies have been undertaken exploring the links between mental health in prisons and the pandemic. According to one criminal justice expert, such analysis would be helpful to policy makers and prison monitors alike.

There have been no significant changes in the staffing numbers/turnover since the start of the pandemic. Further, no additional staff were recruited to the Penitentiary Service in response to the pandemic. At the start of the pandemic, some penitentiary staff were able to work from home if, for example, they were in an “at-risk” group. It is reported that some penitentiary staff found it psychologically difficult to wear PPE given their very active jobs despite knowing the wider public health benefits of wearing protective clothing. One criminal justice expert noted that prison staff are demotivated and demoralised given their low salaries. According to the same interviewee, the authorities should raise salaries and improve working conditions for healthcare staff in a bid to incentivise them to work in the penitentiary system.

In terms of staff training, one interviewee commented that prison staff should be provided with training (including on the job training) in managing the pandemic in the penitentiary estate.<sup>91</sup> Such training can be provided online or offline and be delivered by specialist professionals. In addition, the SNCO should create a formal Covid-19 training programme for prison healthcare staff that includes training on mental health issues.

A number of interviewees (civil society and prison monitors) expressed deep concern that the prison medical authorities were not sufficiently resourced to deal with the pandemic within the penitentiary estate; neither the quality nor quantity of prison healthcare staff is adequate to respond to the pandemic. It was reported by one prison observer that Armavir Prison has one doctor or occasionally just a nurse on call to visit detainees who may not see patients for several hours. Further, the recent separation of the SNCO from the Ministry of Justice in 2019 has not, according to interviewees, improved the quality of

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91. Under Armenian law, prison staff should be provided with annual training.

healthcare professionals as staff have simply moved from one institution to the other. However, one interviewee in an IGO noted an improvement at the policy level since the split. There continue to be deep-rooted issues and systemic challenges within the prison healthcare system that need to be addressed.

Prison lockdowns and restrictions on contact with the outside world (family, lawyers, volunteers, monitoring bodies, etc.) have been especially difficult for detainees and family members. The authorities confirm that restrictions on visits and lack of in-person contact has been the most challenging issue for detainees' families. Sports and cultural events were also cancelled due to the pandemic. This had a negative effect on rehabilitative efforts as prisoners had to forego opportunities for positive social engagement and their well-being was affected due to the absence of physical activity. However, some training programmes delivered by the Legal Education and Rehabilitation Programmes Implementation Center, SNCO, continued to be held online.<sup>92</sup> Since April 2021, the Chess Federation of Armenia has been running an online educational programme and teaching chess in Nubarashen Penitentiary.

A number of interviewees also confirmed that the ban on family visits and delivery of parcels with essential items (food, medication) had a hugely detrimental impact on prisoners. According to one interviewee, medication supplied by family members was not provided by the authorities, so prisoners were unable to continue with some of their treatment.

The Human Rights Defender (in its capacity as the NPM) was very active in discharging its prison oversight role during the pandemic. In 2020, the NPM undertook 34 monitoring visits (10 periodic; 24 as needed), including to two penitentiary institutions. The NPM translated CPT guidelines into Armenian and circulated them to relevant state bodies; in addition, the NPM translated the 2020 recommendations of the SPT into Armenian. The chat bot "Legal Advisor of Persons Deprived of Liberty" created by the Human Rights Defender was widely used and contains more than 300 questions and answers (both in English and Armenian) on the rights of persons deprived of liberty.

In its most recent report, the Human Rights Defender made a series of recommendations in respect of prison management during the pandemic.<sup>93</sup>

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92. Training programmes delivered at Abovyan, Armavir, Kosh, Vardashen, Numbarashen and Sevan.

93. Human Rights Defender of the Republic of Armenia (2021), "2020 Annual Report", available at <https://ombuds.am/images/files/bec457b51025c26ae7716dc50241ced8.pdf>, accessed 19 September 2022.

These recommendations included: calls to develop a coronavirus infection and epidemic management strategy/action plan; implementation of proper anti-epidemic control measures for penitentiary visitors; mandatory use of PPE; twice-daily cleaning measures; introduction of artificial ventilation at Armavir Prison; adequate provision of PPE and disinfectant to penitentiary staff; registration of “at-risk” groups to ensure proper medical supervision; proper conditions in cells for isolation; and provision of 14-day quarantine control for new arrivals. On monitoring visits to several penitentiaries, the Human Rights Defender noted as a cause for concern the fact that IPC measures were not being followed (e.g. failure to take temperatures on a regular basis and in accordance with established procedures, mask wearing and adherence to social distancing in line with sanitary guidelines). The Human Rights Defender also raised concerns about the poor and irregular training of SNCO medical staff and called for a systemic approach to proper and regular professional training of medical personnel in penitentiary institutions.

The presence of independent monitors such as the Prison Monitoring Group continued throughout the pandemic and such bodies kept a close watch on the treatment of prisoners in all institutions.<sup>94</sup> However, independent prison observers were cautious about bringing the virus into prisons so only undertook visits if they were requested to do so by prisoners. In addition, prison monitors themselves had contracted Covid-19, which reduced their in-person capacity to undertake visits. In March/April 2020, prison monitoring visits were slightly reduced. Prior to resuming visits, prison monitors received PPE and medical training on conducting their work in a safe environment; training was delivered with the support of IGOs.

Independent prison monitors continued other advocacy-related activities during the pandemic, such as monitoring penitentiary legislation and lobbying Ministry of Justice officials. Monitoring bodies raised their concerns about staff non-compliance with IPC measures (e.g. failure to wear face masks) with the Ministry of Justice, which investigated the situation further; the ministry is under a legal obligation to answer the reports of the independent monitoring body.

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94. The Group of Public Monitors Implementing Supervision over the Criminal Executive Institutions and Bodies of the Ministry of Justice of the Republic of Armenia, conducting public monitoring in the penitentiaries and penitentiary bodies under the Ministry of Justice, has been functioning since 2004, and Decree KH-66-N from 18 November 2005 by the Minister of Justice approves the charter of the group. According to the charter, the activity of the public monitoring group is aimed at monitoring the protection of rights of the detainees and persons under the oversight of penitentiary bodies, at improving the working and living conditions for detainees in penitentiaries, and if necessary, proposing amendments and changes in the Penitentiary Code.

Prison monitors confirmed that they had received fewer complaints in 2020 due to the Covid-19 situation, and given the smaller number of prisoners in detention compared to previous years. Of the complaints received, a number related to the withholding of medication provided by family members when parcels and family visits were prohibited. There were also some complaints filed about the quality of food. Prison monitors raised this issue directly with the Ministry of Justice and were informed that only prescribed medications could be given to prisoners. Some of the prison monitors interviewed attributed the fall in complaints to the wider geo-political events of the Nagorno-Karabakh war; prisoners were more concerned about the war and state of the nation and put their own concerns to one side. Prison monitors confirmed they felt well equipped to undertake monitoring visits following their medical training. They have undertaken visits as recently as November 2021 and, at the time of writing, are planning future visits up to the end of 2021.

## **Vulnerable prisoners**

Interviewees did not provide much insight vis-a-vis vulnerable prisoners. One interviewee noted that monitors met with members of the LGBTI community, but they were reticent to share their concerns given their low status in the criminal subculture and attendant fears for their safety. It was noted that LGBTI individuals were given their food separately to other people although the authorities confirm that the principle of non-discrimination applies equally in the penitentiary estate. It is difficult to build a full picture around the impact of Covid-19 restrictions on this particular group as there is not enough evidence to say that they have been subject to discriminatory measures.

According to prison monitors, women prisoners and juveniles have been especially affected by the pandemic. In particular, the restrictions on contact with the outside world (ban on in-person visits) have been very challenging for both groups given their increased communication needs with family members.

The mental health of women prisoners is of particular concern. The women's penitentiary is in a poor state of repair and living conditions are, according to one prisoner monitor, "unfavourable"; in one institution, the walls are wet, covered with mould, and infested with insects and rodents. Planned refurbishment has been postponed due to a lack of material resources. In such circumstances, it becomes very difficult for women prisoners to maintain hygiene standards. Prison monitors have raised the issue of poor living conditions with the authorities. Despite the unacceptable situation, there have been no Covid-related deaths among the female prisoner population. In interviews,

prison monitors said that did not notice any specific issues affecting certain groups of detainees as Covid-19 restrictions applied equally to all detainees. In its most recent report, the Human Rights Defender noted the failure of penitentiary institutions to maintain updated statistics on at-risk groups and criticised the lack of medical supervision as “unacceptable”.<sup>95</sup>

The issue of misinformation and disinformation about Covid-19 and vaccines presented as a recurrent theme across interviews with prison monitors and civil society organisations. A number of interviewees noted that misinformation about the safety of vaccines through “anti-vax” campaigns had spread into penitentiaries and may have contributed to the low vaccination rate among prisoners. It was reported that prisoners were suspicious of vaccines or did not want to be vaccinated given other health conditions. There were calls among interviewees for the authorities to provide clear information about Covid-19 and vaccinations.

The geo-political events of September 2020 in Armenia, namely the Armenia-Azerbaijan conflict in Nagorno-Karabakh, were raised by several interviewees as a distraction from criminal justice/prison-related issues. Indeed, the attention of the authorities was diverted to the war effort and priorities changed.

## **Georgia**

### **Summary**

The Georgian authorities took measures early on to prevent Covid-19 entering the prison system. These measures included the introduction of “special conditions” involving a ban on family visits; detailing staff in direct contact with detainees for 2-3 weeks inside prisons; designating facilities for quarantining prisoners to isolate positive cases early; providing makeshift spaces for medical screening; procuring PPE and disinfectant liquids; and making provision for online court hearings in most cases. Later, measures were brought in to curb the spread of Covid-19 in Georgia’s prisons, including installing glass barriers, routine testing of detainees and staff, and providing vaccinations. Good co-operation with and support from the public healthcare authorities and international organisations (e.g. the Council of Europe granting support

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95. Human Rights Defender of the Republic of Armenia (2021), “2020 Annual Report”, available at <https://ombuds.am/images/files/bec457b51025c26ae7716dc50241ced8.pdf>, accessed 19 September 2022.

such as PPE donations to prisons, and the ICRC providing funding support to cover the costs of free additional phone calls for detainees to reach out to their families) have enhanced the response to the pandemic.

The system can currently boast higher rates of vaccination among both staff and detainees compared to rates in the community. From the beginning of the pandemic, no surge in death rates among detainees was observed, evidencing effective management of Covid-19 cases through early identification and timely hospitalisations in community hospitals of confirmed cases. High vaccination rates have also allowed for the reintroduction of long-term family visits with physical contact between fully vaccinated prisoners and their fully vaccinated family members (including those who have certificates stating they have had Covid-19 previously).

Prisons have been subject to external independent oversight by the Public Defender's Office, with its Criminal Justice Department and NPM (along with invited civil society experts) undertaking visits and interviews with both detainees and prison staff. The Ombudsman's Office considered certain measures for improving the management of Covid-19 were necessary, in addition to other issues.

On the downside, already overworked prison staff (both medical and other staff) have taken the brunt of the pandemic, with staff shortages rendering them susceptible to high stress levels and professional burnout. Regime and security staff have worked significant overtime and consequently have been more exposed to the negative effects of the prison environment. They have been stationed inside prisons for over two-week periods during peaks in the pandemic and the deterioration of the epidemiological situation in the country. Turnover and shortage of healthcare staff has placed a lot of stress on medical doctors and nurses working in prisons. Some prison facilities (especially those with pre-trial detention accommodation) have been operating at maximum capacity, which has meant no possibility of physical distancing in fully occupied cells.

While a number of restrictions have afforded good protection from Covid-19, prisoners have been affected by limited contact with family and friends, because for most of the pandemic no physical contact was allowed. This has been particularly stressful for women in prison and their children, as noted by respondents.

Indeed, as Covid-19 was considered to be relatively well managed by the penitentiary system in the country, there were no specific efforts by the judicial

authorities to reduce new admissions to prisons, and courts made limited use of community sanctions and punishments as an alternative to prison.

## The prison system

Georgia has 13 penitentiary establishments for remand in custody and prison: one women's special penitentiary facility (Rustavi Prison N5 for women), one juvenile rehabilitation facility (N11 in Avchala), one low-risk facility for convicted male detainees (Rustavi Prison N 16), semi-open and closed type facilities (Rustavi Prison N12, Geguti Prison N14, Rustavi Prison N17, Ksani prisons N10 and N15), high-risk facilities (Batumi Prison N3 and Rustavi Prison N6) and pre-trial/remand facilities (Kutaisi Prison N2, Gldani Prison N8) and Prison Hospital N18. Most of the prisons are mixed type and have wings for different risk levels. Prisons are under the jurisdiction of the Special Penitentiary Service in the Ministry of Justice.

With 9 387 prisoners in September 2021, the occupancy rate in Georgia was 80.5% (with a capacity limit of 11 656).<sup>96</sup> Of these, 7 307 were serving sentences (7 031 men, 276 women, 34 children) and 2 080 were pre-trial detainees (2 020 men, 46 women, 14 children, including 2 girls). The size of the prison population has remained relatively steady since 2013, stabilising at around 9 000 prisoners. Two prisons (Gldani Prison N8 and Ksani Prison N15) remained consistently overcrowded, and one more (Kutaisi Prison N2) was close to maximum capacity, making physical distancing difficult or impossible. Two of these prisons serve as large reception facilities with sizeable remand populations that create challenges for quarantining, classification and allocation, particularly in the face of Covid-19 restrictions. At the outset of the pandemic in March 2020, the number of older prisoners (above the age of 60) was 382 (approximately 4% of the total prison population).

According to the Council of Europe, Georgia has one of the top rates of imprisonment in Europe, with a prison population rate of 263.8 (number of prisoners per 100 000 inhabitants), exceeded by only Turkey and the Russian Federation.<sup>97</sup> This is partly because imprisonment is not used as a measure of last resort.

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96. National Statistics Office of Georgia (2021), "Unified report on criminal justice statistics", available at [www.geostat.ge/media/41584/Unified-Report-on-Criminal-Justice-Statistics-%28Sep%2C-2021%29.pdf](http://www.geostat.ge/media/41584/Unified-Report-on-Criminal-Justice-Statistics-%28Sep%2C-2021%29.pdf), accessed 21 September 2022.

97. Aebi, M. F. and Tiago, M. M. (2021), "SPACE I - 2020 – Council of Europe Annual Penal Statistics: Prison populations", Council of Europe, Strasbourg, p. 4, available at [https://wp.unil.ch/space/files/2021/04/210330\\_FinalReport\\_SPACE\\_I\\_2020.pdf](https://wp.unil.ch/space/files/2021/04/210330_FinalReport_SPACE_I_2020.pdf), accessed 21 September 2022.

For instance, in 2020, the proportion of imprisonment as a sanction averaged about 26% of overall sentences used by the courts (ranging between 18% to 32% across different months). In 2021, the proportion of those imprisoned as a sanction decreased slightly to an average of 22% (data for the first 10 months).<sup>98</sup>

Prison staff are divided into civilian and uniformed personnel. Civilian staff are public employees and have responsibility for prison healthcare, administrative issues, social services and rehabilitation. Uniformed personnel have responsibility for security, the prison regime and escorting detainees. Prison healthcare is managed by the Medical Department, which is part of the Civilian Unit under the Special Penitentiary Service.

The CPT noted low staffing levels in prisons on its most recent visit in 2018 and recommended that the authorities make provision to recruit additional staff.<sup>99</sup> The Georgian authorities have indicated their plans to increase the number of prison staff, including social workers and psychologists, and to introduce new recruitment and training procedures.<sup>100</sup> In 2020 and 2021 there were around 3 650 employees in the penitentiary system compared to 4 175 in 2018.<sup>101</sup> As of October 2021, there were 1 518 employees in the Penitentiary Division, including 176 in administration, 1 062 in security, and 85 in Special Registry units (the number of female staff was 310).<sup>102</sup>

## Covid-19 response

The first case of Covid-19 was registered in Georgia on 26 February 2020 in the community. Preventive measures were introduced early by the prison authorities. In March 2020 “special conditions” were put in place in prisons in

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98. Georgian National Office of Statistics, Monthly legal statistics for 2020-2021, available at [www.geostat.ge](http://www.geostat.ge).

99. CPT (2019), “Report to the Georgian Government on the visit to Georgia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 21 September 2018”, CPT/Inf (2019) 16, p. 45-6, available at <https://rm.coe.int/1680945eca>, accessed 21 September 2022.

100. CPT (2019), “Response of the Georgian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Georgia from 10 to 21 September 2018”, CPT/Inf (2019) 33, p. 46-50, available at <https://rm.coe.int/168098e29c>, accessed 21 September 2022.

101. Georgian Laws on State Budget for 2020 and 2021, budget allocations.

102. Information provided by the Special Penitentiary Service, official letter dated 20 January 2022.



accordance with the Presidential Edict N1 (dated 21 March 2020) announcing a state of emergency in the country until 22 May 2020.<sup>103</sup>

The legal basis for these restrictions is Order No. 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. The right of prisoners to have visitors, take short visits outside prisons and take leave for extraordinary reasons was suspended.<sup>104</sup> Since 13 March 2020, medical examination of those remanded in pre-trial custody or convicted individuals newly admitted to prison has been taking place at makeshift medical stations outside prison facilities. Those presenting with symptoms are taken to a civilian clinic. Since 20 March, staff and all visitors to detention centres have been given medical checks involving thermal screening and a general epidemiological assessment. Since 24 March, courts in Georgia started to work remotely and a predominantly online system for conducting court trials/hearings was introduced. Thereafter, prisoners used electronic means of communication via prison computers to attend their online court trials. Only those who had jury trials were summoned to attend court proceedings. On 21 March 2020, visitation rights provided for by the Penitentiary Code were suspended in prisons until May. Later, only short-term visits were reinstated, with plexiglass barriers preventing physical contact with visitors.

Following the first reported cases of internal transmission of the virus in the country, to prevent the spread of infection from outside, strict quarantine was imposed in prisons across Georgia from 29 March 2020: 780 staff members (mainly prison officers and security staff) were stationed inside prison premises for lengthy periods of time. The access of social workers and psychologists to detainees was ensured online or took place via phone or in person with a glass barrier. From August to September 2021, in some prisons, security and regime prison staff continued working shifts and remained on prison premises for 2-week periods, and social workers, psychologists and educators returned

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103. President of Georgia, Decree N1, 21 March 2020, available at <https://matsne.gov.ge/ka/document/download/4830372/0/en/pdf>, accessed 21 September 2022.

104. Government of Georgia, "Measures Implemented by the Government of Georgia against COVID-19. Report 2020", available at [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjG4efuk9b6AhXN-qQKHSszAOkQFnoECAkQAQ&url=http%3A%2F%2Fmyrights.gov.ge%2Fuploads%2Ffiles%2Fdocs%2F9252COVIDRESPONSEREPORTGoG\\_ENG.pdf&usq=AOvVaw1atzpL\\_GL05wGzScZ0uewF](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjG4efuk9b6AhXN-qQKHSszAOkQFnoECAkQAQ&url=http%3A%2F%2Fmyrights.gov.ge%2Fuploads%2Ffiles%2Fdocs%2F9252COVIDRESPONSEREPORTGoG_ENG.pdf&usq=AOvVaw1atzpL_GL05wGzScZ0uewF).

to regular work wearing protective gear. All staff wear at least face masks in all prisons and are well supplied with PPE.

Two special quarantine units (one in a private civilian clinic and the other at the mental health hospital) were organised for new admissions to test them for Covid-19 and observe them for about 21 days before transferring them to prison. Later, prison quarantine in some facilities were introduced to isolate prisoners for 2 weeks and test them for early detection of Covid-19 until allocated to normal accommodation with other detainees.

In order to prevent the spread of the virus, makeshift checkpoints for staff and newly arrived defendants/convicts were set up on the outer perimeters of penitentiary facilities. Intensive thermo-screening was available to check staff, newly admitted defendants/convicts and visitors to the facility. Prisons were fully equipped with PPE and periodic disinfecting took place in areas at risk of spreading the virus. According to Decree N 975 of the Government of Georgia of 15 June 2020, employees of penitentiary institutions received PCR tests once a week, with more rapid tests conducted in between. PCR testing for detainees is performed once every 14 days. Positive cases are transferred to an isolation quarantine unit or appropriate civilian clinic.

## Testing

The Special Penitentiary Service started intensive routine testing of detainees on 31 December 2020<sup>105</sup> by means of PCR tests (with the first confirmed 23 cases identified at the women's prison). Prior to this, newly arrested individuals were tested by PCR in special quarantine zones. Upon expiration of the quarantine period, and only if they tested negative, detainees were transferred to remand prisons. According to the Special Penitentiary Service, this measure worked effectively and until the end of 2020 there were practically no cases of Covid-19 identified in prisons (there were only a few confirmed cases in quarantine units).

Prisoners held in penitentiary establishments are given PCR tests every 2 weeks. If prisoners are required to quarantine this period is reduced to 1 week. If symptoms are identified, prisoners are given rapid tests.

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105. Special Penitentiary Service of Georgia, news item (in Georgian), available at <http://sps.gov.ge/ka/media/akhali-ambebi/article/23561-specialurma-penitencurma-samsakhurmapatimrebis-intensiuri-pcr-testireba-daitsyo.html>; EuroPris, "Covid-19 feedback collection 28 April 2021", available at [www.europris.org/wp-content/uploads/2021/04/Feedback-collection-April-28.pdf](http://www.europris.org/wp-content/uploads/2021/04/Feedback-collection-April-28.pdf), both accessed 21 September 2022.

Routine PCR testing is conducted among both prisoners and prison staff by the lab staff of civilian clinics, and quick tests are administered by specially trained medical staff in the prison. Hence, there is no need to hand over tests to prisoners. Both types of tests are free of charge. Prisoner PCR testing is performed once every 14 days and upon detection of a positive case, the patient is transferred to an isolated quarantine unit or appropriate civilian clinic.

According to Decree No. 975 of the Government of Georgia dated 15 June 2020, routine PCR testing is administered to all prison staff once a week, with rapid tests conducted in between. Visitors are given quick tests before entering a prison, or they need to submit a document certifying a negative PCR test result conducted in the 72 hours prior to the visit.

Testing is not mandatory for prisoners. When a prisoner is suspected of infection and refuses to take a Covid test, they are placed in isolation and monitored. However, testing is mandatory for prison staff and without a negative test prison employees will not be admitted to prison premises.

If a prisoner (remand or convicted) tests positive for Covid-19, they are placed in isolation and if they display any symptoms, they are transferred to quarantine or the clinical unit of a civilian hospital (with outsourcing agreed on with the Ministry of Justice) depending on their condition and identified treatment needs.

## Vaccinations

Vaccination in prisons started on 18 May 2021<sup>106</sup> (two months after it commenced in the community) and was offered to detainees and staff on a voluntary basis. Initially, the two Chinese vaccines available at the time (Sinopharm and Sinovac-CoronaVac) were used to vaccinate prisoners, and later Pfizer was added. Detainees and prison staff were included under Phase III of the National Vaccination Plan for Covid-19 (Group II – Essential services and people with increased risks, such as those above the age of 55 years, and those aged 18-54 with underlying health conditions).<sup>107</sup>

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106. Agenda.ge, "Georgia to start Covid-19 vaccination in prisons today", 21 May 2021, available at <https://agenda.ge/en/news/2021/1324>, accessed 21 September 2022. In accordance with the latest data obtained after the completion of the study, 8 183 convicted and remand prisoners were vaccinated as of November 2022.

107. Decree N67 of the Government of Georgia, dated 21 January 2021, on the Approval of the National Plan for COVID-19 Vaccination (amended on 8 April 2021).

According to the 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”, both prisoners and prison staff are a priority group.

In prisons, medical staff offer vaccinations daily to prisoners and identify those willing to accept, who are then provided with detailed information about the benefits of vaccination.

In September 2021, the Special Penitentiary Service reported that 80% of prisoners were vaccinated (65% fully vaccinated), and 92% of prison staff were vaccinated (77% fully vaccinated),<sup>108</sup> compared to a vaccination rate of around 30% in the community in September 2021.<sup>109</sup> As per official information, all vaccinations have been administered on a voluntary basis. According to the information provided by the Special Penitentiary Service in January 2022, 94% of prison staff are vaccinated, and most of those who have not been vaccinated either have underlying health problems or have recently had Covid-19.

As of 4 January 2022, 7 916 remand and convicted prisoners had been vaccinated, 7 421 had been re-vaccinated, and 565 had taken booster doses. As of 4 January 2022, 3 169 employees of the penitentiary system had been vaccinated and 2 923 of them had taken second doses.

Detainees have said during interviews that one incentive to be vaccinated was becoming eligible to receive family visits involving physical contact versus the non-contact visits behind barriers they had been receiving until September 2021. Starting from 27 September, the Special Penitentiary Service announced plans to lift restrictions on extended (conjugal) visits after considering recommendations from the NCDC and the Ministry of Health. Only those prisoners and their visitors who are certified as fully vaccinated are entitled to such visits.

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108. Special Penitentiary Service of Georgia, news item (in Georgian), available at [www.sps.gov.ge/ka/component/content/article/168-kahome/23674-penitenciuur-datsesebulebebshikhangrdzivi-paemnebi-ikhsneba.html](http://www.sps.gov.ge/ka/component/content/article/168-kahome/23674-penitenciuur-datsesebulebebshikhangrdzivi-paemnebi-ikhsneba.html), accessed 21 September 2022.

109. National Center for Disease Control and Public Health (2021), “COVID-19 in Georgia. Report of the National Center for Disease Control and Public Health” p. 30, available at <https://test.ncdc.ge/Handlers/GetFile.ashx?ID=a8ec06ae-21c6-43f1-9ece-11d5fcd83e1d>, accessed 21 September 2022.

According to the official data,<sup>110</sup> 53 long-term family (conjugal) visits were conducted in 6 prisons in September 2021 involving physical contact between prisoners and their family members, and 381 long-term visits took place in October.

## Release data

Throughout 2020, some 7 515 detainees were released from prisons on various grounds, including sentence served, and 6 521 more were released in the first 10 months of 2021. The most frequent measures included release from pre-trial detention, conditional sentences and early conditional release (parole), non-custodial alternative sanctions such as community service and house arrest, as well as an amnesty (issued in January 2021).<sup>111</sup>

In 2020, 24% of those released from prisons had fully served their prison sentences. Parole accounted for 11% and those sentenced to alternatives around 7%. Other measures (including bail, termination of criminal cases and extradition) accounted for 44.5%. Conditional sentences were used to replace prison sentences in 6% of cases, 4 prisoners received an amnesty, 20 were pardoned, 22 were subject to compassionate release on grounds of ill health or their elderly status, while 4 received suspended sentences.

In 2021, of those released, 24.5% served their time, parole accounted for 9%, alternative sentences took up around 4%, and other measures (e.g. bail, termination of criminal prosecution, extradition and others) constituted 52.5%. Conditional sentences accounted for 5% of releases, 299 received an amnesty (4.5% of those released), and 18 individuals were pardoned.

## Deaths in prison

According to the official data, there have not been any Covid-related deaths among detainees or prison staff.

## Impact of the Covid-19 response

Severe restrictive measures put in place by the Georgian authorities aimed to prevent the massive spread of Covid-19 among prisoners and staff.

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110. National Statistics Office of Georgia (2021), "Unified report on criminal justice statistics", p. 136, available at [www.geostat.ge/media/41584/Unified-Report-on-Criminal-Justice-Statistics-%28Sep%2C-2021%29.pdf](http://www.geostat.ge/media/41584/Unified-Report-on-Criminal-Justice-Statistics-%28Sep%2C-2021%29.pdf), accessed 21 September 2022.

111. According to the monthly statistics (2020-2021) of the National Statistics Office of Georgia.

However, this led to an infringement of the human rights of both groups. Some mitigating measures were provided, including additional free phone calls for prisoners and some bonus payments for staff.

Prison lockdowns and restrictions on contact with the outside world (family, lawyers, monitoring bodies, etc.) has been particularly difficult for detainees and family members. Rehabilitation programmes and cultural events were also cancelled, curtailed or transferred online due to the pandemic.

In its annual report for 2020,<sup>112</sup> the Public Defender of Georgia (the Ombudsman, in its capacity as the NPM) issued a number of recommendations. Among other things, these addressed managing the pandemic in Georgia's penitentiaries, especially in terms of measures enabling facilitated contact with the outside world, improving release schemes and ensuring access to confidential complaints mechanisms. Recommendations included amending and adapting existing legislation/regulations to facilitate the video conference calls that prisoners are entitled to have with family and friends, and providing for the necessary equipment and structural framework to enable use.

Other recommendations also called for prisoners' access to the confidential complaints procedure, in order to repeal the prohibition of contact with the outside world as a disciplinary punishment and as a security measure used against prisoners, except when such contact is related to criminal activity. Other recommendations included taking all necessary measures to ensure foreign nationals and Georgian citizens whose families reside outside Georgia can make international calls at a reduced and more affordable cost.

The Public Defender also expressed concern that despite calls by various international organisations for jurisdictions to release more people from prison in view of the pandemic, in Georgia, the rate of use of parole measures dropped in 2020. Specifically, a total number of 1 279 convicted individuals were released on parole in 2019 but that figure was down to 830 in 2020. On the other hand, compared to 2019, 2020 saw an increased rate of commutations to more lenient sentences.<sup>113</sup> The Ombudsman recommended improving the legal framework for parole and commutation processes using more sophisticated criteria and other factors, including the individual's future plans, attitude

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112. Public Defender of Georgia (2020), "Report of the Public Defender of Georgia On the Situation of Protection of Human Rights and Freedoms in Georgia", available at <https://ombudsman.ge/res/docs/2021070814020446986.pdf>, accessed 21 September 2022.

113. *ibid.*, p. 12.

and job opportunities. Refusal should not be based solely on the nature and gravity of the offence, particularly if the individual has demonstrated positive behaviour while serving their sentence.<sup>114</sup>

## Contact with the outside world

In January 2020, detainees contacted family in 4 289 cases, with around 73% of these being short-term family visits, 15.6% being long-term family visits and 10.6% being video conference calls. In March 2020, the overall number of family contacts was only 977, with the share of video calls increasing to 48%, and the share of long-term visits decreasing to 7%. The number of contacts was just 334 in May 2020, with short-term visits (with glass barriers) accounting for 60% and video conference calls accounting for 40%. With the regime introduced by the special conditions and respective restrictions being removed upon the expiration of the state of emergency, the number of visitations increased again and there were around 3 000 visits conducted in July 2020 (83% short-term visits and 16% video conferences). This remained constant until the end of the year when another surge of Covid-19 and ensuing restrictions affected visits. In December, there were only 428 communications conducted with family members and friends in the form of video conference calls. In January 2021, there were 123 video calls, and an increase was noted in February with 2 644 family visits (85% short-term family visits and 15% video calls). This practice continued over the following months, and a change took place in September with the reintroduction of long-term (conjugal) visits. In September 2021, there were 2 923 cases of contacts (86% short-term visits, 53 cases of long-term visits and 12% video calls).<sup>115</sup>

## Impact on mental health of detainees

Frequently, detainees themselves chose not to receive visits from family members so as not to subject them to the risks of Covid-19. Detainees also had reduced access to psychological or social services, caused by the fact that psychologists and social workers shifted to remote working during Covid-19 surges. All this had a negative effect on the mental health of prisoners.

In general, mental health and personality disorders are the most commonly reported disorders in the penitentiary system (both among adult male and female detainees), as revealed by medical consultations. This remained

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114. *ibid*, p. 85.

115. Monthly statistics of the National Statistics Office of Georgia, 2020-2021.

consistently high during the pandemic, providing an indication of the impact on mental health of detainees.<sup>116</sup> Mental healthcare problems remained the most reported medical problem among women detainees as well, with the prevalence of psychiatric and behavioural problems being consistently around 20% of all disorders reported in 2021 compared to about 16-17% in the early stages of the pandemic in 2020 and 18% in the latter half of the year.<sup>117</sup> The prevalence of mental health problems also increased among children, from approximately 13% on average in 2020 to around 20% in 2021, along with occasional increases in traumas.<sup>118</sup>

According to the official data, there was no increase in the occurrence of self-harm or suicide attempts within the prison estate. In 2019, there were 1 360 cases of self-harm by prisoners and 83 suicide attempts; in 2020, 1 245 cases of self-harm and 51 suicide attempts were registered; in 2021 (as of 30 September) 758 registered cases of self-harm and 45 cases of attempted suicide were registered.

## Access to healthcare

Access to medical services was limited during certain episodes of the pandemic surges and resulting restrictions. This was most notable in terms of 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 a regular basis or as needed). For instance, in January 2020, there were 3 131 consultations by external doctors (excluding psychiatrists and dentists), in March there were 1 117 consultations, and

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116. Figures since January 2020 of the overall number of disorders: January – 8 883 disorders, including 1 549 psychiatric/behavioural disorders (17%); February – 8 205, 1 612 (20%); March – 8 250, 1 733 (21%); April – 5 806, 1 284 (22%); May – 6 181, 1 320 (21%); June – 6 557, 1 392 (21%); July – 6 504, 1 426 (22%); August – 6 197, 1 518 (24%); September – 6 388, 1 402 (22 %); October – 5 885, 1 351 (30%); November – 5 618, 1 242 (22 %); and December – 5 507, 1 097 (20%). In 2021: January – 5 315, 1 107 (21%); February – 5 797, 1 363 (23.5%); March – 6 225, 1 417 (23%); April – 6 175, 1 344 (22%); May – 6 168, 1 282 (21%); June – 6 276, 1 395 (22%); July – 6 503, 1 317 (20%); August – 6 309, 1 260 (20%); September – 6 918, 1 346 (19%); October – 6 875, 1 299 (18%). However, despite this the number of suicides has not increased. There were 5 reported suicides in 2020, and 3 cases in 2021 (up until the end of October).

117. *ibid.*

118. For instance, prevalence of traumas was 21.7 % (of all reported disorders/health problems) in March 2020, 23.2 % in August, 20% in September, and 41.4% in May 2021, reflecting accidents, but also self-inflicted traumas, as well as those involving other inmates in tentative incidents.



this dropped to just 237 in April, 199 in May, 154 in June, 155 in July and 171 in August 2020. The figures remained low until the end of 2020. In February 2021, the number of external medical consultations increased to 481, and further to 1 179 in March, 1 682 in April, 1 928 in July, 2 361 in September and 2 588 in October 2021, reflecting the return to near-normal practices.<sup>119, 120</sup>

The number of consultations with doctors within primary healthcare units (prison doctors) was also affected by pandemic-related restrictions and ensuing staff shortages (see section below on staff).<sup>121</sup>

## Access to rehabilitation programmes and services

The number of rehabilitation programmes is, in general, low due to several reasons, including lack of funding, lack of prioritisation, shortage of support staff (psychologists and social workers), and the negative influence of the criminal subculture in prisons, as reported by the Public Defender's Office. During the pandemic, the number and variety of programmes and services were further limited as activities involving group work/engagement had to be cancelled. Psychologists and social workers moved to remote working (having phone contact or video contact with detainees or seeing them through glass barriers) for most of the time; some returned to normal working as early as September 2021 wearing protective gear. Some educational programmes were made available online. These measures significantly limited already scarce programmes and services for detainees and reduced out-of-cell time and activities. Programmes and services provided by NGOs were stopped or significantly curtailed or transferred online.

According to officially available data, the great majority of detainees involved in out-of-cell activities were engaged in paid domestic work in prisons (delivery and distribution of food and parcels to cells, pickup and delivery of laundry, minor repair works, cleaning works, etc.). At the outset of the pandemic, in March 2020, there were just 779 detainees (just 8% of the overall prison population)

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119. Monthly statistics of the National Statistics Office of Georgia, 2020-2021.

120. There is no disaggregated data available by age or gender as to the provision of healthcare services.

121. In January 2020, the number of consultations provided by prison doctors was 6 331, in August it was 3 698, in October it was 3 646 and in December it was 3 097. The lowest figure was registered in January 2021, at just 2 949, slowly increasing to around 3 000 in the following months, then 3 739 in August and 3 996 in October 2021. This is a clear reduction compared to 2019, when the average number was around 6 000 consultations per month.

involved in any sort of rehabilitation activity, including 566 engaged in paid labour or individual crafts (72.7%), 81 (9.5%) involved in psycho-social training and therapy, 58 and 17 detainees, respectively, involved in general and higher education programmes, and 4 more in vocational training. Programmes available online, and psycho-social counselling services, were significantly reduced or were not available, while some sports and cultural activities were added later at a reduced level in 2020. In March 2021, there were 777 detainees (8% of the overall prison population) involved in rehabilitation activities, including 631 (81%) in labour and individual craftworks, 58 (7.5%) in educational programmes, and 46 and 28, respectively, in general and higher education programmes (10%).

Children in detention enjoyed almost uninterrupted schooling, and their rehabilitation programmes remained available, compared to those involving adult inmates. Women also had the possibility of being involved in some online training sessions.

## Independent oversight

During the pandemic, the Public Defender's Office, through its Department of Criminal Justice and NPM,<sup>122</sup> continued to undertake visits to places of detention and have meetings with prisoners. In 2020, members of the Department of Criminal Justice paid 286 visits to penitentiary institutions and talked to 1 159 pre-trial and convicted individuals, observing special rules adopted for monitoring visits to closed institutions during the pandemic. Also, within the framework of the NPM, which envisages monitoring detention facilities through planned and ad hoc visits, in 2020 the Special Preventive Group paid 28 visits to 10 penitentiary institutions and 38 visits to 28 pre-trial detention facilities in addition to other closed institutions.

In 2021, the Public Defender's Office (through the staff of the two departments and invited experts from civil society) carried out 29 visits to 7 prisons in both West and East Georgia, surveying over 700 prisoners and including interviews with prison managers and staff. These looked into staff working conditions, general policies and practical responses to ascertain the impact of Covid-19 on the functioning of the system. An ad hoc report will be produced by the end of 2021.

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122. Public Defender of Georgia (2020), "Report of the Public Defender of Georgia on the situation of protection of human rights and freedoms in Georgia", p. 8, available at <https://ombudsman.ge/res/docs/2021070814020446986.pdf>, accessed 22 September 2022.

During the visits, full PPE was worn by prison monitors, and internal guidelines for safety measures were observed, including enhanced search procedures while entering and exiting the penitentiaries. For instance, besides PPE (consisting of face masks and shields, caps, gowns and foot covers), meetings with prisoners were conducted behind glass/plexiglass barriers to minimise the risk. Specially adapted questionnaires addressed the provision of healthcare in prisons, sanitation and hygiene, access to family visits and other entitlements, availability of rehabilitation programmes, and so on. Prison monitors also had to undertake PCR testing every 72 hours and could access penitentiaries only after presenting with a negative PCR test result (containing a QR code).

## **Effects on prison staff**

Prison staff faced an extraordinarily strict working regime at the beginning of the pandemic. They were stationed in prisons and actually had to live on the premises for long periods of time without the possibility of leaving. Due to the Covid-19 pandemic, an emergency regime was introduced in penitentiary institutions where testing was not possible, requiring a proportion of prison staff to remain on prison premises without leaving the establishment (with weekly, 2-weekly or monthly intervals).

According to the official information, between 13 March 2020 and 6 September 2021, increased numbers of staff resigned. However, vacancies were also being filled throughout the pandemic. As for medical staff, compared to previous years, the pandemic did not have a significant impact on their numbers.

The abnormal working hours, as well as the stressful work and restricted communication with family, affected staff mental health and in some cases even affected their physical health, as reported by respondents who had interviewed them. In August and September 2020, in some prisons staff spent an average of 2 weeks working shifts after testing negative for Covid-19. Reportedly, these working conditions were undertaken voluntarily in response to the risks posed to detainees by the pandemic. Those staff members who could not adjust did not face disciplinary or other measures.

Staff morale was affected and many presented with mental health symptoms such as frustration and low mood, as well as feelings of anxiety and aggression. Some staff members complained about the longer working hours caused by insufficient numbers of staff; some even had to work on their rest days when officially off-duty.

Considerable stress resulted from the uncertainty of the situation, as nobody knew how long this extraordinary work regime would last, keeping them away from their homes and families. Some staff also mentioned inadequate financial remuneration, which could at least have compensated somewhat for their working conditions.

As for personal safety, staff members were less concerned, as the lengthy period for which Georgian prisons were completely closed reduced the risk of Covid-19 spreading. At the same time, prison staff were well equipped with PPE, including medical masks, antiseptics, shields and other items. After Covid-19 vaccines became available in the country, prison administrations organised mass vaccination for staff to provide additional protection.

Pre-pandemic, prison doctors and nurses used to work part-time in civilian hospitals in addition to working in prisons. However, at the outset of the pandemic they were required to cease working in civilian clinics and hospitals in order to prevent the spread of the infection in prisons. For this reason, many doctors quit their jobs in prison altogether, as reported by some interviewees, who felt that this was due to low pay and the difficult working environment. This led to high turnover and shortage of medical staff at a critical period. There was an urgent need to recruit new staff although it has been difficult, according to interviewees, to attract highly qualified healthcare personnel considering the poor pay and work conditions. The staff shortage in the period of the pandemic caused by the medical emergency has led to overwork and professional burnout of staff. Besides attending to the health concerns of detainees, staff have to undertake a lot of administrative work, such as medical documentation. They do not have regular fixed breaks due to excessively high workloads, and even have to take meals at their desks (no canteen is available for them).

In 2020 and 2021, the Georgian Centre for Psychosocial and Medical Rehabilitation of Torture Victims (GCRT) ran a series of training workshops for the prevention of prison staff burnout and stress within the remit of a European Community-funded project. During these two years 312 and 983 staff members were trained, respectively, namely prison officers, medical staff, social workers and psychologists from different prisons in Georgia. Topics included stress management in the workplace, diaphragmatic breathing technique, compassion fatigue and so on.

According to the Special Penitentiary Service, prison staff have been recognised for working in particularly stressful and difficult circumstances during the

pandemic. In connection with the celebration of the professional day of prison staff, up to 450 employees of the Special Penitentiary Service were awarded this year with expressions of gratitude, with early promotion and medals from the Ministry of Justice, badges and other incentives. Medical staff as well as the staff of the penitentiary institutions were thanked for their performance and recognised for their long and conscientious service. Employees of the Main Division of External Security and Information and Technical Security and the Main Division of Escorts and Special Measures were recognised for their commitment to excellent work and for their consistent performance.

## Complaints

According to the information provided by the Public Defender's Office, there were fewer complaints received from detainees in prisons in 2020 compared to 2019, with 1 384 statements/complaints versus 2 273, respectively. In general, complaints received from prisoners concern the barriers to accessing healthcare, living conditions as well as lack of regime activities. During the pandemic, the following concerns were reiterated in the statements or complaints sent to the Ombudsman's Office:

- ▶ the ban on, and later restriction of, the right to family visits was one of the most common complaints. Following the recent reintroduction of long-term family visits due to high vaccination rates, satisfaction levels have increased, and less complaints have been received in this regard;
- ▶ there were difficulties associated with medical referrals to civilian hospitals, as during the initial phase of the pandemic, transfers for planned medical interventions were stopped for a certain period of time. These were later resumed. Beyond the pandemic period, detainees usually challenged long waiting times for non-urgent medical treatment or diagnosis and also criticised the quality of medical services received. Other complaints related to detainees not getting access to external contracted medical specialists as they were not entering prisons for lengthy periods of time during the pandemic. Also, during the initial period of the pandemic, the number of nurses available for detainees was reduced due to work pressures and attendance schedules introduced during the operation of "special conditions" within the penitentiary system;
- ▶ problems arose when social workers engaged in remote working due to the restrictions imposed in prisons, and were unavailable to provide direct support or face-to-face consultations for detainees. Social workers did not make rota visits to prison wings and hence, did not take

applications, statements or complaints from detainees. Instead, boxes were installed in which prison staff could deposit detainees' complaints and correspondence;

- ▶ detainees had higher expectations regarding approval of parole in connection with the pandemic. However, according to the interlocutor at the Ombudsman's Office, poor decision making had always been a problem and remained so during this public health emergency. Practice did not change much despite changes to the timelines and the terms of approval. In fact, according to official statistics, there were more people released in 2019 than during the pandemic, in 2020. Key criticisms of the existing parole practice from the Public Defender's Office (which dedicated two special reports to the issue) concern the lack of justifications for decisions taken in favour of or against granting early conditional release to detainees. For example, in two seemingly similar cases, different decisions might be taken. According to a respondent, the only exception to this practice was the parole board reviewing applications from juvenile detainees – they were very thorough and took account of all the relevant circumstances before taking decisions;
- ▶ detainees expressed dissatisfaction about online/remote court hearings as there is lack of computer equipment in prisons. They have to wait in queues, there are technical glitches interfering with visual and auditory reception, it is not possible to have confidential communication with lawyers, and there is reduced opportunity to participate in the examination of evidence or interrogation of witnesses, which ultimately results in reduced confidence in delivering the right to a fair trial. In 2020, the Public Defender's Office dedicated a special report to the problems of remote hearings for criminal cases.<sup>123</sup> Despite the host of problems associated with remote court hearings, however, the timelines defined by the legislation were observed overall;
- ▶ during the initial phase of the pandemic, transfers of detainees for psychiatric forensic examination to have their legal capacity determined

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123. Public Defender of Georgia (2020), "Special report of the Public Defender of Georgia. Monitoring report on remote hearings of criminal cases", available at <https://ombudsman.ge/res/docs/2020071917595833001.pdf>, see also Public Defender (Ombudsman) of Georgia, *Public Defender publishes monitoring report on remote hearings of criminal cases*, available at <https://ombudsman.ge/eng/spetsialuri-angarishebi/sakhalkho-damtsveli-distantsiuritsesit-chatarebuli-siskhlis-samartlis-skhdomebis-monitoringis-angarishs-akveqnebs>, both accessed 22 September 2022.

were stopped: the LEPL Levan Samkharauli National Forensics Bureau suspended the relevant activities. Though they were resumed later, there were delays for 4-5 months, with detainees not receiving adequate mental health support and treatment before their placement in appropriate mental health facilities for involuntary treatment. Some detainees ended up in de-escalation rooms for disciplinary incidents and were subject to disciplinary punishments;

- ▶ according to the information provided by the Special Penitentiary Service, in 2019 there were 179 internal complaints registered related to claims by prisoners against prison managers and/or prison staff members. In 2020, the number of such registered internal complaints was 97. In 2021 (as of 30 September), there were 70 such internal complaints.<sup>124</sup>

## Access to legal aid

When interviewed, lawyers stated that due to Covid-19 measures and associated regulations, they have to wait in long queues to meet with their defendants. They have to undergo testing and wear full protective gear provided by prison administrations. Sometimes, detainees are transferred to quarantine units in other penal institutions, which also delays meetings.

However, access to legal counsel was not reduced even during the period of the “special conditions” in the early phases of the pandemic. Most court hearings (about 80%) were held remotely through online platforms, while the rest were held in court. However, it was unclear to the interviewed lawyers as to how judges decided which trials should be held online and which in courtrooms. Lawyers observed that the remote hearings caused concern as video courts do not fully ensure participation of detainees in proceedings. There are frequent delays as the number of computers in prisons is limited and used for different purposes (e.g. online court hearings, online training sessions, video calls with family and friends), and one has to wait sometimes for as long as 2 hours. In addition, it was not possible to hold court hearings remotely by video, as envisaged by the Criminal Procedure Code of Georgia.

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124. Letter from the Special Penitentiary Service No. 17036/01 (dated 20 January 2022).

During the pandemic, the right to refuse to attend a session remotely on the grounds of preferring to attend court in person was suspended.<sup>125</sup>

Lawyers complained of the inability to have truly confidential communication with their clients in prisons as during meetings through glass barriers, they have to either speak loudly or through phones to be heard. In facilities with several rooms available for consultations with lawyers, noise interference was a concern.

## **Ireland**

### **Summary**

It has been generally recognised that the IPS, in close co-operation with other stakeholders, moved quickly and efficiently to implement IPC measures and kept the number of cases among prisoners relatively low. However, there was a cost to the restrictions in terms of the mental well-being of prisoners, who struggled with a lack of communication with the outside, especially family visits and extended periods of time in their cells with little by way of meaningful activities. There was particular concern about people in isolation and quarantine. The IPS implemented services to mitigate the negative impact of IPC restrictions, such as access to telephones, video-conferencing equipment to facilitate virtual visits and virtual court appearances, and in-cell TVs. These innovations were commended by several stakeholders, who encouraged their expansion, particularly in relation to technological improvement.

### **The prison system**

The political responsibility for the Irish prison system lies within the Ministry of Justice. The IPS operates as an Office of the Department of Justice and is headed by the Director General, supported by five directors.

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125. Article 332<sup>5</sup> of the Criminal Procedure Code (temporary rule in force until January 1, 2022): “In the situation of pandemic and/or an epidemic particularly dangerous to public health, the court session provided for by the criminal procedure legislation of Georgia may be held remotely, using electronic means of communication, if a) defendants or convicted people agree; b) detention is used as a measure of restraint or the person is sentenced to imprisonment, and/or failure to hold a court hearing in this manner may lead to the opening of a crime and violation of the public interest in criminal liability of the person. 2. In case of holding a court session in accordance with the procedure provided for in Paragraph 1 of this Article, no person participating in it shall have the right to refuse to hold the hearing remotely on the grounds of wanting to attend it directly.”



The IPS comprises 12 institutions, of which 10 are traditional “closed” institutions and 2 are minimal security open centres. Most women in prison are housed in one facility – Mountjoy Prison in Dublin (Dóchas Centre) – with others held in Limerick Prison.

As of 10 November 2021, there are 3 876 people in custody and the total number of prisoners – which includes people in custody, people on any form of temporary release, people detained in hospitals, and people serving life sentences in the community – stands at 4 310. With a total bed capacity of 4 375, this corresponds to an overall occupancy level of 89%. Only one prison – Limerick women’s prison – is above 100% capacity (114%).

As of 10 November 2021, there were 793 people on trial/remand custody, a figure that has almost doubled since the year 2000. People on trial/remand constitute around 20% of the total prison population. Since 2019, the average number of people on remand has increased by 4.4%. The average duration of remand has increased as well; in December 2020, 11.5% of all people on remand had been on remand for 1 year or more, compared with 6% in December 2019. Since 2000, the total prison population has increased by 30%. According to official statistics, as of September 2021, women in prison comprised 3.9% of the total prison population and foreign nationals accounted for 14.8%. Older persons in prison constituted 15% of sentenced prisoners at the beginning of 2020. At 81.4 per 100 000, the rate of imprisonment in Ireland can be considered low compared to the median prison population rate in Europe of 103.2 people per 100 000 inhabitants.<sup>126</sup>

The IPS comprises 3 492 staff, of which 195 are healthcare staff.

## Covid-19 response

### IPC measures

Long before the pandemic hit Ireland, the IPS had established comprehensive infection control protocols at local and national level, which aided the Covid-19 response in prisons. Partly because of previous experience with infectious diseases in prison, notably outbreaks of tuberculosis in recent years, the IPS

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126. Aebi, M. F. and Tiago, M. M. (2021), “SPACE I - 2020 – Council of Europe Annual Penal Statistics: Prison populations”, Council of Europe, Strasbourg, available at [https://wp.unil.ch/space/files/2021/04/210330\\_FinalReport\\_SPACE\\_I\\_2020.pdf](https://wp.unil.ch/space/files/2021/04/210330_FinalReport_SPACE_I_2020.pdf), accessed 22 September 2022.

had arrangements in place, such as contingency plans, which meant it was well equipped to meet the challenges of the pandemic. Staff had been trained in infection control long before the pandemic, including through an online portal where information on infectious diseases and the use of PPE could be accessed. In addition, the posts of executive clinical lead as well as head of infection control were created many months before the pandemic. Staff were also trained in maintaining cleanliness.

The initial response to the pandemic in prison was very rapid. At the beginning of 2020, even before the first case of Covid-19 was confirmed in Ireland, the IPS was monitoring developments on the spread of the virus in other countries and began preparations. Senior management of IPS and the Department of Justice have noted that there was an acute awareness of the potential impact that Covid-19 could have in prisons, and the IPS anticipated these needs and planned accordingly. At an early stage of the pandemic, the IPS procured PPE and in March 2020 the Director General established the ERPT at a national level, consisting of senior staff with relevant skills and experience, including in operations, healthcare and infection control, to decide on measures to prevent and control the spread of the virus in prisons. In addition, a Covid-19 liaison officer was appointed in each prison.

There was comprehensive training for IPS staff and the provision of appropriate PPE across the prison estate. Physical distancing, both among prisoners and staff, was encouraged through marking of floor areas with separation lines. Prisoners who were considered most vulnerable based on their age or health status were provided with gloves and face masks during exercise as an added precaution. Interviewees noted that prisoners, as well as staff, were allocated to “pods” to minimise infection risk.

In order to identify possible cases of Covid-19 as early as possible and to isolate suspected cases, a contact tracing system with prison-led contact tracing teams was developed, which has been recognised by WHO as a model of good practice.<sup>127</sup> When a Covid-19 outbreak is detected in prisons, an Outbreak Control Team, led by a director and consisting of prison management, healthcare staff and the National Infection Control Team, among

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127. See Clarke, M. et al. (2020), “Establishing prison-led contact tracing to prevent outbreaks of COVID-19 in prisons in Ireland”, available at <https://academic.oup.com/jpubhealth/advance-article-abstract/doi/10.1093/pubmed/fdaa092/5860596>, accessed 22 September 2022.

others, guides, advises and oversees the management of these outbreaks. During each outbreak, the National Infection Control Team and healthcare team arrange for mass testing of prisoners and prison staff.

Covid-19 testing is widely available for prisoners. PCR testing is routinely administered to any detainee who meets the criteria for testing by trained healthcare staff. People newly admitted to prison are tested on day 5 or day 7 of their mandatory quarantine period, depending on their vaccination status. If there is an outbreak within a prison, mass testing is conducted. Close contacts of a person who has tested positive are tested on day 0 and day 7. All prisoners who are symptomatic are tested. Prisoners can also request to be tested. Testing is never mandatory for prisoners. If a person refuses to be tested, they must complete 14 days of quarantine. However, it has been reported that refusals to be tested are extremely rare. As of November 2021, a total number of 10 422 Covid-19 tests have been administered to prisoners. The IPS does not provide testing for staff or visitors.

On entry to prison, all staff and visitors undergo temperature screening and complete a Covid-related questionnaire.

## Isolation and quarantine

When prisoners are suspected of being infected, they are placed in precautionary isolation, either in their own cell or on landings dedicated to Covid-19 isolation. If a person tests positive, they are isolated for a minimum of 10 days, wherein the last 5 days have to be symptom-free. People who are isolated are monitored by nursing staff on a daily basis.

All newly admitted detainees are quarantined for 14 days; however, it is possible to exit quarantine earlier if one tests negative. Prisoners suspected of being infected are isolated. In addition, between March and June 2020, the IPS used cocooning to protect older persons and those with underlying medical conditions by reducing their contact with other prisoners and prison staff.<sup>128</sup> For those who are cocooning, the number of available television channels and national newspapers were increased.

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128. Office of the Inspector of Prisons and Maynooth University (2020), "Ameliorating the impact of cocooning on people in custody – a briefing", available at <http://iopdev.wpengine.com/wp-content/uploads/2020/07/Ameliorating-the-impact-of-cocooning-on-people-in-custody-a-briefing.pdf>, accessed 22 September 2022.

## Curtailing of in-person visits

In order to allow for some IPC measures, in July 2020, an amendment to the Irish Prison Rules<sup>129</sup> was passed, which allowed for the curtailing of in-person visits and recreational activities in the context of an infectious disease threat. The amendment allows the Director General, when in receipt of advice or guidelines from the Department of Health or Health Services Executive or a recommendation from a prison doctor, to direct a prison governor to suspend or modify the entitlement to physical recreation as regards frequency or duration, as well as physical visits, as regards frequency, duration and visiting arrangements.

Representatives from the OIP and civil society organisations noted with concern that there was insufficient communication around this amendment, including a lack of scrutiny, and that it is phrased in a broad way and does not contain a sunset clause.

Physical visits by family members were restricted in March 2020, followed by a suspension of all physical visits to prisons in the same month. By July 2020, physical visits were possible again, if deemed compliant with public health guidelines. By September 2021, physical visits recommenced across all prisons – to be suspended in the event of an outbreak. Visitors were screened for symptoms and questioned about having been in contact with an infected person or tested positive themselves. When in-person visiting returned it was only for a 15-minute duration (now visits have largely been extended again in accordance with the pre-pandemic entitlement of 30 minutes), with mandatory masks and screens, which some people reported as distressing. Further to this, there was no physical contact allowed and just one child was allowed to be present, leading to the predicament for some individuals of having to choose which of their children to see.

These restrictions on in-person visits also affected community-based organisations and others, who would ordinarily visit prisons in person to provide their services to prisoners, such as education services, addiction counselling or pre-release support to young adults. However, while in-person visits for family members have largely been reinstated (provided there is no current outbreak in a prison), representatives of community-based organisations have noted that they have not been able to regain access in some instances.

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129. Office of the Attorney General, electronic Irish Statute Book, available at [www.irishstatutebook.ie/eli/2020/si/250/made/en/print](http://www.irishstatutebook.ie/eli/2020/si/250/made/en/print), accessed 22 September 2022.

## Measures to reduce the number of prisoners

In order to attempt to contain the spread of the virus in prisons, the IPS, with the approval of the Minister of State at the Department of Justice, acted quickly to reduce the prison population through the use of temporary release, as set out in the Criminal Justice Act 1960, as amended by the Criminal Justice (Temporary release of Prisoners) Act 2003. This measure took effect on 16 March 2020 and applied to people who had already been sentenced and were deemed to pose no risk to the public. The granting of temporary release was assessed on a case-by-case basis and involved collaboration between the IPS, *An Garda Síochána* (the Irish national police service), the Department of Justice, the Probation Service, the Department of Housing and resettlement services. Eligibility was extended to people serving sentences for non-violent offences of up to 12 months and those who had less than 6 months of their sentence remaining. Prisoners deemed to pose a significant risk to the public, including those serving sentences for violent offences, were not eligible. All people granted temporary release were subject to the regular conditions, including residing at a particular address and/or reporting daily to their local Garda station.

As a result of temporary release expansion, the prison population was reduced by about 15% between March 2020 and mid-June 2020 – from 4 235 to less than 3 700. These numbers have been more or less sustained throughout the pandemic.

Interviewees noted that penal policy in previous years has moved towards increased efforts to take as many people out of the penal system as possible where they do not pose a risk. This policy reflects a more general trend of moving away from short sentences, an attempt to increase the use of community service orders and non-prison-based sanctions, and an emphasis on alternative sanctions such as supervised structured temporary release. Interviewees highlighted that these policy changes had emerged in recent years and in a way, Covid-19 had accelerated this process.

All interviewees commended the expeditious application of existing temporary release measures as good practice. According to a representative of the Department of Justice, this was possible because of swift co-operation between different stakeholders in the criminal justice system and the prior work of the IPS in assessing levels of risk, so that people who posed a minimal public safety threat could be identified quickly. Some observers noted that there has been minimal recidivism as a result of this policy. Legislation was

not expanded to release more people and the measure was implemented within existing legislative parameters. Some interviewees noted the limitations of the policy, pointing out that eligibility for temporary release could have been expanded to encompass more people, such as older people serving sentences for historical sexual offences, who now pose very little public safety risk.

In addition to an increased use of temporary release, there was also a decrease in the number of people newly admitted to prison. Prior to the pandemic, the average number of prisoners on any given day was increasing. From March 2020 onwards, this trend reversed, and the daily average number of prisoners declined by 10.3% between February and September 2020 (from 4 108 to 3 684). Compared to the previous year, in 2020 a decrease of 29% was noted in the number of newly admitted people. According to the annual report of the Irish Prison System, this is due to reduced activity by courts as well as public health measures, such as reduced travel and closure of hospitality, which prevented certain types of offences from being committed. Interviewees reiterated this view.

## Vaccinations

The roll-out of vaccinations in prisons has been described as slow and uncoordinated. Several interviewees have expressed disappointment that prisoners were not considered a priority group in the national vaccination plan based on their increased infection risk due to living in high-risk settings and the generally lower health status of prisoners compared to people in the community. Instead, prisoners were either vaccinated in accordance with their age cohort in the community, or much later, after their age cohorts in the community had received their vaccination.

In April 2021, a Covid-19 vaccination programme for prisoners and staff was agreed on. By the end of May 2021, only 2% of the prison population had received the vaccination.<sup>130</sup> According to the Minister of State at the Department of Justice, a vaccination programme commenced on 9 June 2021, on a prison-by-prison basis, with vaccinations being administered by the National Ambulance Service, supported by IPS healthcare teams,

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130. *The Irish Times*, "Coronavirus: all prisoners have now been offered vaccine", available at [www.irishtimes.com/news/crime-and-law/coronavirus-all-prisoners-have-now-been-offered-vaccine-1.4646541](http://www.irishtimes.com/news/crime-and-law/coronavirus-all-prisoners-have-now-been-offered-vaccine-1.4646541), accessed 22 September 2022.

to all detainees and unvaccinated staff under 40 years of age.<sup>131</sup> By July 2021, over 43% were reported to have received the vaccination<sup>132</sup> and by August 2021, reportedly, all prisoners had been offered the vaccine and about 71% or 2 700 prisoners had been fully vaccinated; 84% had received at least one dose.

As of 2 November 2021, 89% of prisoners are fully vaccinated, compared to 75.7% in the community. All prisons, except Cloverhill Remand Prison and Castlerea Prison, have reached a 75-90% vaccination status. Interviewees noted lower vaccination uptake is due to the transient population within the remand prison, as well as some vaccine hesitancy among certain communities, for example the Traveller community and non-nationals. Prisoners have received the Pfizer, AstraZeneca, Moderna and Janssen vaccines, in line with the wider community. No incentives have been provided to encourage uptake.

The subsequent success of the prison vaccination take-up has been attributed by interviewees to a successful information offensive. Efforts have been made to provide prisoners with evidence-based information related to vaccination through leaflets and broadcasts on the in-cell TV channel. Red Cross prisoner volunteers have conducted a number of awareness campaigns to respond to any concerns prisoners may have. There have also been dedicated information campaigns targeting populations with higher vaccine hesitancy. Several interviewees commented that there was an expectation among prisoners, partly because of things they had been told informally by peers or staff, that restrictions would ease up and they would be able to have in-person visits with their families if they got vaccinated. This led to some frustration among prisoners when this expectation did not materialise.

As regards the vaccine roll-out among staff, interviewees noted that staff felt that they were frontline workers and should have been prioritised because they worked in a high-risk environment.

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131. Houses of the Oireachtas, "Covid-19 pandemic, Dáil Éireann debate", Thursday – 17 June 2021, available at [www.oireachtas.ie/en/debates/question/2021-06-17/394](http://www.oireachtas.ie/en/debates/question/2021-06-17/394), accessed 22 September 2022.

132. WHO, 72nd Session of the WHO Regional Committee for Europe, available at [www.euro.who.int/en/health-topics/health-determinants/prisons-and-health/news/news/2021/7/who-europe-shows-high-rates-of-covid-19-vaccination-in-prisons](http://www.euro.who.int/en/health-topics/health-determinants/prisons-and-health/news/news/2021/7/who-europe-shows-high-rates-of-covid-19-vaccination-in-prisons), accessed 22 September 2022.

## Communication and co-operation in the context of the Covid-19 response

Several interviewees praised the level and frequency of communication and effective co-ordination and co-operation between the Department of Justice and prison management. There was a sense that criminal justice actors worked jointly to achieve a common goal and that efforts matched intention.

However, other stakeholders noted that they experienced a lack of communication around restrictions. The OIP claimed that it was not formally consulted prior to the amendment to the Prison Rules, nor was it notified when the amendment came into force.

Interviewees noted that at the beginning communication worked quite well, prisoners were getting regular updates and buy-in remained high. This buy-in was affected by the perception that in the community, restrictions were being lifted at a faster pace. With less communication inside the prison as time went on, and while restrictions remained, prisoners resented the fact that there was no projected end date in sight. It was noted that prisoners would have liked to hear from prison management directly as to when they could expect certain services to be reinstated.

In general, interviewees observed that there was a lot of effort from various stakeholders to communicate information about the pandemic and the necessary restrictions to prisoners – especially at the beginning of the pandemic. In order to convey information and decisions to prisoners, a cascading system of communications was developed, relaying information from the Director General, to the ERPT, to local management, and to prisoners and prison staff. Volunteers from the Red Cross were also engaged in relaying information to prisoners. This communication programme played a pivotal role in communicating measures and why they were being introduced, which meant that prisoners were more receptive. The Red Cross volunteer programme was in place before the pandemic and subsequently adapted flexibly to communicate information related to Covid-19.

In addition, the IPS introduced newsletters (41 editions of the prisoner newsletter were issued in 20 months) and an in-cell information TV channel for prisoners. This was rolled out in selected prisons before being expanded to all prisons in 2021. The channel broadcast specifically targeted and up-to-date information regarding services (healthcare, overdose prevention, psychology, education, chaplaincy, etc.), educational topics, information on visits, weekly



mass, exercise videos, and so on. During 2020, the channel was also used to broadcast a Q&A session on vaccinations.

As a result of these communication efforts, there was a high level of buy-in to the restrictions imposed on prisoners at the beginning of the pandemic. Interviewees observed that as time went on, changes in the prison regime and restrictions were not just poorly communicated to prisoners, but also to community-based service providers, who had little access to their clients in prison and no information on when they could resume in-person visits.

## **Prison management**

Decision making was centralised with the ERPT leading Covid-19 policy development and implementation, and was subsequently communicated to the liaison officers in each prison. However, some interviewees noted a lack of consistency within the Irish prison system, commenting that “each prison was kind of its own island with its own rules”. Some interviewees also observed a level of inconsistency in how public health guidelines were implemented in different prisons, leading to some frustration on the part of monitoring bodies and civil society organisations.

In addition, some interviewees argued that staffing was an issue even before the pandemic. This was seen not as an issue of insufficient staff but rather a perceived lack of flexibility in how staff were allocated – posts were not filled where needed. Staff redeployment did take place to allocate staff to other posts, for example to infection control duties. However, some interviewees commented that more could have been done in terms of flexible allocation, as some services were not provided for.

## **Initiatives to mitigate the negative impact of IPC measures**

In order to mitigate the harmful impact of IPC measures that restricted the contact of detainees with the outside world, the IPS implemented a number of initiatives.

### **Video calls**

As physical visits were not possible, the IPS introduced video conferencing as a way to enable prisoners to communicate with family members, as well as with psychologists and psychiatrists. During the suspension of physical visits, an average of 1 800 virtual family visits were facilitated each week.

It was possible for prisoners to attend court appearances virtually before the pandemic. However, the uptake of video-link court appearances increased significantly – in 2020, weekly average appearances increased by 397% compared to pre-pandemic levels, while physical court appearances decreased by 52% in 2020 compared to 2019. The use of video link in court settings has been expanded through the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020, which introduced reforms in response to pandemic challenges. Currently, around 60% of court appearances are carried out remotely.

Within this context, Covid-19 expedited a change in the expansion of court proceedings with interviewees noting that “what seemed impossible before Covid-19 became possible in light of Covid-19”. There was a particular emphasis on the role of technology in this process, with some interviewees detailing how “IT has been a game changer in the provision of services”. The IPS expressed the opinion that video conferencing is here to stay.

A non-exhaustive list of the benefits of video technology include:

- ▶ interviewees across the board welcomed the introduction of video technology;
- ▶ for psychological support, some people found it easier than face-to-face counselling;
- ▶ prisoners could see their family in their home environment;
- ▶ interviewees noted the particular benefit for individuals whose family live far away;
- ▶ the ability to attend funeral services or have contact with a loved one in end-of-life care has been facilitated by the use of iPads;
- ▶ video visits avoid security searches, which can be intimidating for children visiting prisons;
- ▶ these measures alleviated some of the burden on staff escorting prisoners to court. The amount of resources required to escort prisoners to court has a detrimental impact on other important rehabilitative services.

However, this new emphasis on digital technologies posed a new set of challenges, with infrastructure being at the forefront. Interviewees noted that many of the prison facilities had not been designed for modern IT capabilities, which seriously affected their capacity to deliver services digitally. For example, older prison facilities had not even been equipped with phone lines. As regards the roll-out of video-conferencing technology, a lot of teething problems were raised, in relation to technological difficulties as well as a perceived lack of staff

willingness to facilitate video calls. To mitigate some technological challenges, the IPS established a helpline and developed videos and how-to guides to support families in connecting to video calls.

In general, while commending the positive potential of video technology, interviewees were concerned about a perceived lack of accessibility as well as the possibility that it would substitute for in-person visits. According to interviewees, technological challenges meant that often, the video calls did not work; some prisoners thereby ceased to ask for such calls to avoid disappointment. The experience with video calls was also affected by the small screens available and a strict time limit of 15 minutes, as well as by a perceived lack of flexibility around scheduling. In addition, while video calls were rolled out as a substitute for in-person family visits, civil society organisations struggled to get access to provide their services via video calls. Across the board, all interviewees emphasised that video technology should remain available and be expanded – as a supplementary option rather than a replacement for physical visits. All interviewees highlighted the importance of physical visits, especially by family members, in maintaining positive contact with the outside world and contributing to prisoners' well-being. As regards remote court access, interviewees expressed concern around a lack of engagement in developing ethical guidance, a lack of privacy and frustrating due process.

## Psychology services

There was an awareness and appreciation that the restrictions would be tough for people with existing mental health challenges and there was an effort to mitigate these. The IPS responded to the increased need for mental health support by developing communication channels such as printed materials and in-cell TV channel communications, distraction packages and peer support through Red Cross volunteers. A telephone hotline was established to enable communication with prisoners, and this was primarily used to support people who were in distress because they were in isolation/quarantine. Even when there was a lockdown, it was possible to connect with mental health services over the phone. Unfortunately, there were difficulties with remotely formulating a waiting list, and it was not possible to provide services in order of priority. Further to this service, the psychology service worked with the Red Cross on activities and to produce newsletters. Newsletters provided information on self-help, activities and how to keep busy in-cell. There was a quarantine newsletter and a general newsletter. Psychologists, alongside chaplains, were generally considered frontline staff and were always present.

## Chaplaincy services

In May 2020, TeleChaplaincy was introduced. This allowed prisoners who were in isolation, in quarantine or cocooning to contact a chaplain for support. This service had a high uptake –growing to 390 monthly calls by November 2020 – which showed the need for chaplaincy contact, especially for isolated groups. TeleChaplaincy was for those on Covid-19 confinement/isolation initially but when a prison was in lockdown and restrictions had been introduced for the whole prison, this was adapted for the entire prison population for the duration of outbreaks.

## Education

Although education centres were closed for some time in 2020, alongside school closures in the community, effort was made to facilitate the continuation of prison education programmes. Before the pandemic, a range of courses and programmes were available through partnership with educational agencies in the community, such as courses to take the Junior and Leaving Certificate, and courses for basic education, creative arts, technology, general subjects, life skills and healthy living.<sup>133</sup> During the pandemic, education materials were delivered to prison cells through collaboration between teachers, suppliers, prison staff and volunteers from the Red Cross. However, it has been noted by interviewees that access to education was not available across the estate, and in particular, there was difficulty in accessing education materials for people in isolation/quarantine. Over time, schools adapted a blended learning approach with classes delivered through TV. Teachers developed education materials for in-cell TVs but unfortunately these TVs often did not work.

## Cash transfers

Many prisoners depended on family and friends bringing cash into prison during their visits to be deposited in private funds, which they could use to purchase items from the prison shop. As physical visits were suspended for some time, by the end of March 2020, the IPS introduced an electronic funds transfer service. In May 2020, it also became possible to transfer money to prisoners via cash or debit card at all An Post offices.

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133. Irish Prison Service, Prison Education Service, available at [www.irishprisons.ie/prisoner-services/prison-education-service](http://www.irishprisons.ie/prisoner-services/prison-education-service), accessed 23 September 2022.

## Impact of the Covid-19 response

The first confirmed case of Covid-19 among prisoners was identified on 19 August 2020. According to news reports, as of August 2021, 167 prisoners have been infected with the virus.<sup>134</sup> Transmission in the community accounted for 74 of those cases, with the rest resulting from transmission between prisoners. According to the IPS, as of mid-November 2021, there have been a total of 248 confirmed cases of Covid-19 among prisoners, including 10 women. One person has been hospitalised as a result of Covid-19 infection and there has been one fatality. There are no data on Covid-19 infections that are disaggregated by facilities and demographics. The first confirmed case of Covid-19 among staff was identified on 15 March 2020.

All interviewees noted that the swift implementation of IPC measures led to a minimising of Covid-19 cases and therefore limited the spread of Covid-19 in prisons. The general sentiment of the interviewees was that at the beginning of the pandemic, there was a high level of buy-in to IPC measures and related restrictions. Prisoners understood what was happening, understood that the measures were necessary to keep them safe, and co-operated with what was needed from them. Generally, it has been accepted that the restrictions were necessary and proportionate, especially at the beginning of the pandemic in the absence of vaccinations.

As the pandemic continued, prisoners became concerned that restrictions in prisons were being maintained without being significantly relaxed, even though restrictions in the community had eased.

## Impact on contact with the outside

All interviewees acknowledged that the lack of in-person visits and meaningful contact with family members has been very difficult for prisoners and it is this aspect they struggled with the most. It was noted that people found it very harsh to have to choose one child per visit and to only see them for 15 minutes at a time, even when safety measures such as distancing, masks and plastic screens were used.

Interviewees noted that prisoners have welcomed the introduction of virtual family visits through video conferencing – where they were operational – as

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134. *The Irish Times*, “Coronavirus: all prisoners have now been offered vaccine”, available at [www.irishtimes.com/news/crime-and-law/coronavirus-all-prisoners-have-now-been-offered-vaccine-1.4646541](http://www.irishtimes.com/news/crime-and-law/coronavirus-all-prisoners-have-now-been-offered-vaccine-1.4646541), accessed 22 September 2022.

well as additional phone calls. However, the lack of physical visits has had a negative impact on children whose parents are in prison.<sup>135</sup>

As in-person visits were not possible for most of the pandemic, it was also very difficult for community-based service providers to get in contact with clients in prison. Interviewees stated how distressing this was for those providing the services as well as those intended to receive them, especially at the beginning. There was no way of communicating with clients and no prospect or timeline for when or how this would be remedied. Interviewees from community-based organisations expressed frustration that in spite of contingency planning on their side on how they could maintain their service provision during the pandemic, they were not engaged consistently, if at all, by prison management or others in the justice system. For some, this was perceived as a lack of appreciation of their services.

Furthermore, due to issues around the deployment of staff, the process of mail being delivered and received (and the associated screening processes) was considerably delayed. This also had the effect of making it difficult to communicate with the outside world, not only with families but also with community services. Interviewees complained that activities could have continued with a bit more “thinking outside the box”. For many civil society organisations, access has stopped due to this breakdown in communication and access arrangements. Interviewees said this was very upsetting, particularly for those providing addiction counselling or working with youth.

## **Impact on mental health of prisoners**

A recent report by the Inspector of Mental Health Services concluded that many prisoners have existing mental health issues and support services are largely inadequate.<sup>136</sup>

It has been generally acknowledged that imprisonment is a difficult experience for those in custody and during the pandemic, this has become much harder to endure. Mental health services noticed a rise in mental distress, anxiety and

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135. *Irish Times*, “Lack of ‘in-person’ prison visits could affect rehabilitation for parent and child”, available at [www.irishtimes.com/news/social-affairs/lack-of-in-person-prison-visits-could-affect-rehabilitation-for-parent-and-child-1.4620429](http://www.irishtimes.com/news/social-affairs/lack-of-in-person-prison-visits-could-affect-rehabilitation-for-parent-and-child-1.4620429), accessed 23 September 2022.

136. Mental Health Commission, “Access to mental health services for people in the criminal justice system”, available at [www.mhcirl.ie/sites/default/files/2021-11/Access%20to%20mental%20health%20services%20for%20people%20in%20the%20criminal%20justice%20system%20FINAL.pdf](http://www.mhcirl.ie/sites/default/files/2021-11/Access%20to%20mental%20health%20services%20for%20people%20in%20the%20criminal%20justice%20system%20FINAL.pdf), accessed 23 September 2022.

depression, noting that in many instances, pandemic-related difficulties triggered mental health issues that were already present before the pandemic.

According to the mental health services, there was an increase in self-harm towards the third quarter of 2020 and in the first quarter of 2021, arguably when resilience waned.

A Self-Harm Assessment and Data Analysis project facilitated by the IPS is currently taking place in collaboration with the National Office for Suicide Prevention and the National Suicide Research Foundation. No completed analysis of data for the years 2020 and 2021 are available yet preliminary data suggests that there has been an increase in self-harm among women in prison since the start of the pandemic.

People in isolation/quarantine who experienced solitary/confinement for prolonged periods of time struggled with aspects of their isolation, including lack of showers and lack of meaningful activities.

People who were isolating experienced challenges with exercise, social contact, access to meaningful activities and the overall negative impact on their physical and mental health. The OIP has published a briefing on cocooning<sup>137</sup> providing insight into how it was experienced by the individuals concerned and recommendations on how to minimise the resulting harm.

Interviewees also expressed concern about people serving life sentences whose release has sometimes been delayed, leading to distress. Foreign nationals who struggle to understand communications due to language barriers, and members of the Traveller community who may struggle with literacy and written communications and have a higher prevalence of physical health issues, also had problems coping.

There have been efforts by the IPS to respond to this increased need for mental health support due to the pandemic. See the sub-sections “Psychological services” and “Chaplaincy services” for the support provided.

## **Impact on staff**

Continuing with their routine has been a protective factor for some staff, but over time people’s personal resilience wore down. Interviewees noted that

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137. Office of the Inspector of Prisons, “Ameliorating the impact of cocooning on people in custody – A briefing”, available at [www.oip.ie/ameliorating-the-impact-of-cocooning-on-people-in-custody-a-briefing](http://www.oip.ie/ameliorating-the-impact-of-cocooning-on-people-in-custody-a-briefing), accessed 23 September 2022.

dealing with Covid-19 has been very difficult for prison staff and more are in need of mental health support.

In particular, healthcare staff have endured increased work demands and have shown dedication and resilience in the face of challenges. There has been visible support among colleagues to help each other cope with the pressures presented by ever-changing infection control guidelines. The IPS recognises that prison staff work in a challenging environment that has become even more challenging due to the pandemic. There are several support services available for staff, including the Employee Assistance Programme, which supports staff on a variety of issues; the Critical Incident Stress Management model of interventions, which supports staff in minimising the emotional impact of critical incidents in their work; a free and confidential 24/7 counselling service; as well as a mental health support text service, which was introduced in August 2021 and is available to all IPS staff.

For staff from community-based services the pandemic has entailed considerable challenges and representatives of community-based services have expressed a high level of concern at not being able to get in touch with their clients in prisons and continue providing services.

## Complaints and inspections

All prisoners have the right to make a complaint at any time. Complaints vary in nature and severity and are categorised from the most serious (Category A) to the least serious (Category F).<sup>138</sup> However, in its seventh periodic visit to Ireland in 2019,<sup>139</sup> the CPT noted that “the current complaints system cannot be considered fit for purpose”.

With regard to independent monitoring, historically, there has not been a strong practice of prison inspections in Ireland. In response to restrictions introduced by the IPS, and the need to assess their impact on people living and working in prison, the OIP prepared a programme of Covid-19 Thematic Inspections to be carried out in all Irish prisons in 2021. The objective of these

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138. Category A complaints comprise, *inter alia* alleged assault, ill-treatment, racial abuse and discrimination, and are investigated by persons outside of the IPS. Compared to the previous year, fewer complaints were recorded in 2020; of the total number of 954 complaints in 2020, 80 were Category A complaints, compared to 1 041 complaints in 2019, of which 64 were Category A complaints.

139. CPT, “Council of Europe anti-torture Committee publishes 7th periodic visit report on Ireland”, available at [www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-publishes-7th-periodic-visit-report-on-ireland](http://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-publishes-7th-periodic-visit-report-on-ireland), accessed 23 September 2022.



visits was to provide a human rights-informed assessment of the treatment and care of prisoners. Covid-19 Thematic Inspections were carried out in line with the process provided in the 2020 Framework for the Inspection of Prisons in Ireland,<sup>140</sup> and are designed to examine the five focus areas detailed in the framework, with a particular focus on the impact of Covid-19 on prisons.

Four of the Thematic Inspection Reports<sup>141</sup> have been published at this stage by the Minister for Justice and the remaining reports are due for publication in the near future. In all four reports, the OIP commended the prisons for successfully managing Covid-19 outbreaks and noted that measures have been taken to mitigate the impact of Covid-related restrictions, such as providing video calls. However, in all four reports the OIP also highlighted that prisoners in quarantine/isolation are being denied rights (such as taking a shower) and are not being provided with sufficient meaningful human contact, and also that solitary confinement is being used as a measure to prevent transmission of Covid-19. Some interviewees have expressed dissatisfaction at the slow pace at which reports are published, as this diminishes public scrutiny of measures in an environment where restrictions are constantly changing.

## The Netherlands

### Summary

Interviewees noted that the response of the Dutch prison service was swift, timely and effective. The response undoubtedly contributed to preventing more major outbreaks of Covid-19 within prisons. There were, however, some major outbreaks of Covid-19 in the prison system in the second half of 2021 in the Netherlands, leading to prison-specific restrictions and related unrest. The full impact of the current Covid-19 situation in the prison system is yet to be seen. In Zaanstad Prison, 700 detainees are currently under lockdown due to a surge in infections in the facility.

The factors in place that aided the response to Covid-19 in prisons in the Netherlands included its low prison population rate and a good staff-detainee ratio. The lack of overcrowding enabled isolation of suspected Covid-19 cases

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140. OIP (2020), "A framework for the inspection of prisons in Ireland", available at [www.oip.ie/wp-content/uploads/2020/09/OIP-Inspection-Framework-Single.pdf](http://www.oip.ie/wp-content/uploads/2020/09/OIP-Inspection-Framework-Single.pdf), accessed 23 September 2022.

141. OIP, *Thematic and Functional Reports*, available at [www.oip.ie/publications/inspection-reports/thematic-and-functional-reports](http://www.oip.ie/publications/inspection-reports/thematic-and-functional-reports), accessed 23 September 2022.

without significant disruption to the functioning of the system. There is also a good existing healthcare system in place and a well-equipped prison medical service. The Dutch prison system is well resourced and was able to adapt quickly to the pandemic while dealing with a high staff absentee rate.

The authorities were well co-ordinated, and some were able to share experiences and good practice from the early stage of the pandemic. However, more could be done to share examples of good practice within prisons.

The authorities demonstrated sensitivity to the needs of particular groups of prisoners, including for example by allowing psychologists to continue working with children in conflict with the law, even during the strictest lockdown period.

## The prison system

The prison administration (National Agency of Correctional Institutions – NACI) in the Netherlands falls under the responsibility of the Ministry of Justice and Security (DJI). There are 53 facilities in the country, consisting of remand centres for pre-trial detainees and people serving short-term sentences; prisons for convicted persons; correctional institutions for juvenile offenders and small-scale custodial youth facilities for young people convicted of an offence (between the ages of 12 and 18 years, or 22 years in some cases); forensic psychiatric hospitals for adults who have been convicted and who require psychiatric care; and detention centres for foreign nationals living illegally in the Netherlands, those refused access at the border, and drugs couriers.

On average, in 2020, there were 10 732 people in the prison system on any given day, with an average of 26 000 new detainees admitted each year. The Dutch prison service has an official capacity of 14 419 (as of 30.09.2020), so is operating at less than 75% capacity. Of the prison population, 5% is female. More than 40% of the detainee population are born outside the Netherlands. There are 15 608 staff members (36% are women), meaning there is a ratio of more than 1 staff member per detainee.<sup>142</sup> The Netherlands has a low rate of imprisonment of 60 per 100 000. Approximately 33% of prisoners are in pre-trial detention.<sup>143</sup>

Planned changes to prison-related legislation proceeded with only minor delays and were not unduly affected by Covid-19.

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142. Custodial Institutions Agency, available at [www.dji.nl](http://www.dji.nl), accessed 23 September 2022.

143. World Prison Brief, Netherlands, available at [www.prisonstudies.org/country/netherlands](http://www.prisonstudies.org/country/netherlands), accessed 23 September 2022.

## Covid-19 response

Measures to be taken in prisons to tackle Covid-19 were announced in a series of notices from the Minister for Legal Protection to the Prison Service, a function that has existed since 2017 within the DJI. This function has been credited with facilitating a rapid, effective Covid-19 response. The authorities also produced a manual for those working in prisons on the Covid-19 response.

Civil society representatives noted that decision making around Covid-19 restrictions in prisons was centralised, but the prison director's mandate allowed each prison to decide on the specific details of restrictions for the safety and health of its inmates. However, this also led to some concerns that approaches were inconsistent across the prison system.

There was also some criticism of inconsistent approaches towards Covid-19 between the different ministries, particularly in the juvenile detention system, where the Ministry of Health had a different set of Covid-19 rules on close contact during educational activities from what the Ministry of Justice had within detention facilities.

## Measures to reduce the number of prisoners

From March 2020, several measures were taken to reduce the number of people in detention and the movement of people in and out of prison to curb the risk of Covid-19 infection and reduce the pressure on prison staff:<sup>144</sup>

- ▶ children residing in a very low-security regime who were at the end of their prison sentence and who were usually only in the prison at night (they would be outside the prison in the daytime and electronically monitored) were allowed to remain outside the prison facility;
- ▶ those convicted of minor offences with short sentences were given suspended sentences (the majority of so-called "self-reporters" who were required to present themselves for their prison sentence were temporarily not summoned);
- ▶ the rules on arrest and detention for minor crimes were temporarily amended, including the custody requirement for unpaid fines or refusal to perform community service.

Also, there is now a proposed parliamentary study on creating a legal basis to replace detention for fine defaulters with community service. The bill has

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144. Custodial Institutions Agency, available at [www.dji.nl](http://www.dji.nl).

yet to be introduced. A study by Leiden University has been carried out into this option,<sup>145</sup> which provides an opportunity for future reform.

## Visits

The Dutch prison service suspended all prison visits from 14 March 2020, allowing visits to youth detention centres only in special cases, and visits from lawyers in cases where online meetings were not possible or where visits were determined to be necessary. Children under the age of 13 continued to be allowed to visit their parent/guardian in prison. By 2 April 2020, however, even visits of parents and legal aid providers to juveniles had been suspended, except for very special cases by agreement of the prison director. Options for telephone contacts and video calls were offered as an alternative when possible, though there were disparities in the communication equipment offered in different locations, with digital communications reportedly getting off to a slow start in some facilities. Mobile phones were available in some facilities, but not all.

Skype calls that were previously mainly on offer for foreign nationals continue to be offered as an alternative to physical visits due to the continued restrictions on visits. These calls are reported to be popular because they enable prisoners to speak to all their family at the same time and get a view of the outside world. Parents have an opportunity to be more involved in their child's life; this is particularly beneficial for fathers and their children. Several commentators noted that the authorities are currently discussing whether the option of Skype calls in addition to in-person visits can be incorporated into future plans.

The gradual easing of Covid-related measures began from June 2020 with visits and temporary releases for juveniles and those held in psychiatric facilities, trial visits in three facilities, and leave for exceptional circumstances such as attending a family member's funeral. Prison visits with family, lawyers, probation officers and others were gradually reinstated with Covid-19 protection measures in place, including visits taking place behind plexiglass at most facilities and the 1.5-metre distancing rule in operation. Visits were not suspended during subsequent waves of the virus, but restrictions remained in place.

Short hugs are permitted at the beginning and end of each visit if a face mask is worn and if the situation in the facility allows it (including if the presence

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145. Scientific Research and Documentation Center, available at <https://repository.wodc.nl/handle/20.500.12832/3078>, accessed 23 September 2022.

of plexiglass prevents it). The number of visitors allowed at one time and the specifics of the visits also depend on the current rules of each institution. These are clearly set out on the DJI website for each facility.<sup>146</sup>

For visitors over the age of 13, mask wearing is mandatory when it is not possible to maintain a 1.5-metre distance. This means that mask wearing is required during visits to judicial institutions, at access control, and to and from the visitors' area. Prisoners can remove their face mask once in the visitors' room, once their visitor is seated. Parent-child activities were allowed to resume in May 2021.

Visitors are also required to demonstrate their Covid-19 vaccination status, and present a recovery certificate or negative antigen test (valid for 24 hours) or PCR test (valid for 48 hours), and there are health checks upon arrival. Unsupervised visits and visits in the family room are also permitted for eligible detainees where applicable without the requirement for quarantine. Detainees are tested on day 3 after the visit with an antigen test.

## **New arrivals**

During the initial Covid-19 measures, all new detainees underwent a medical check and were placed in isolation for at least two weeks – later reduced to eight days – and monitored for Covid-related symptoms. Anyone with Covid-19 symptoms was placed in isolation or transferred to a hospital if needed. New detainees continue to be placed in a single-person cell when they arrive and are given a rapid antigen test after five days. If the result is negative, they are able to participate in the regular day programme. If the person does not co-operate with the testing, they are required to remain in single cell accommodation and cannot participate in regular activities for a period of eight days.

## **Isolation and other precautionary measures**

Currently, anyone with Covid-19 symptoms is isolated in a single cell as a precautionary measure. If they test positive, they are required to isolate until they are free from Covid-19. Those who are very sick with Covid-19 will be held in a cell in isolation at the Judicial Center for Somatic Care (part of the Haaglanden Penitentiary Institution) or in hospital. The close contacts of the individual are tested and held in preventive isolation.

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146. Custodial Institutions Service, *Locations*, available at [www.dji.nl/locaties](http://www.dji.nl/locaties), accessed 23 September 2022.

In the event of multiple infections within a facility, preventive testing is in place. If there are multiple infections in one unit, detainees in that unit might also be quarantined as a precaution. In case of a large-scale outbreak within a specific facility, a full lockdown may be ordered by the prison director in consultation with others.

## **Court services/lawyer visits**

Court services were suspended until May 2020, with detainees attending virtual hearings where possible, except in cases where the judge decided that the defendant should be present or if the defendant wanted to be present. The process was facilitated by existing video-conferencing equipment for remote trials in some facilities. During 2021, there were between 180 and 335 remote hearings per month.

Most hearings for pre-trial detainees were conducted remotely. However, some prisons initially lacked the facilities to enable this, including juvenile detention centres. There were, however, no reports of pre-trial detainees being held longer than the legal time limit, as a result of the changes in court proceedings. By late April 2020, at least one remote hearing room or video-conferencing facility had been set up in each location. Court hearings resumed in May 2020, but a large share of hearings continue to be handled remotely.

Communications with lawyers was via telephone, raising significant concerns over lawyer-client confidentiality. This was a particularly sensitive issue due to a scandal in 2019 involving the recording of lawyer-client phone calls.

## **Vaccinations**

As of November 2021, the vaccination programme inside prisons was reported to be nearly complete. As in the community, the most vulnerable groups of prisoners had priority access to vaccination in accordance with the vaccination strategy of the Ministry of Health, Welfare and Sport, beginning with priority groups (those with mental healthcare needs, medically vulnerable detainees and those over the age of 70).

Vaccination is not obligatory for prisoners or staff and the rate of vaccine uptake among prisoners and staff is not known. Political discussions are currently ongoing as to whether there will be any professional consequences for staff who decide against vaccination (this is not specific to prisons). Covid-19 testing for prisoners is also not compulsory, but anyone who refuses can be placed in isolation as a protective health measure.

## Other measures

In the early days of Covid-19, there was a reduction in the use of double cells, though these cells were still in use to free up single cells for isolation purposes in cases of suspected infection. Activities and work opportunities for prisoners were allowed to continue with precautions in place throughout the pandemic response. Where this was not possible, alternative activities were offered. Concern was raised over detainees' access to pre-release programmes and how that might affect their rehabilitation and reintegration prospects.

Remote health consultations were in place where possible, facilitated by the fact that telemedicine was already being trialled in some facilities. Physical distancing measures and the use and distribution of PPE equipment and hygiene supplies are widespread. Detainees and employees are only required to wear masks in situations where they are unable to follow the 1.5-metre distancing rule. Mask wearing is also subject to the discretion of individual prison directors, who may prohibit detainees from wearing masks if considered necessary for the safety, quality of life, or care and treatment of detainees, or for the safety of DJI staff. Prison directors may also require detainees to wear masks where necessary, and may determine whether mask wearing is required for individuals with psychiatric problems.

In April 2021, it was reported that 130 people detained in Sittard Prison, and isolated due to Covid-19, were unable to use the shower facilities during their isolation. The authorities explained that they did not have the staff available to clean the shower areas, according to sanitation requirements, after each use. This was reportedly due to Covid-related staff shortages. Concerns have also been raised on how to address the lack of adherence to hygiene measures among detainees with behavioural issues and substance dependencies and those with intellectual disabilities.

Temporary leave from prison was suspended as part of the initial measures but this is now permitted again. If it can be established that a detainee has complied with Covid-19 guidelines during their leave, they can return to prison with no additional measures needed. However, if it is not possible to determine this, they are subject to the same measures as newly arriving detainees.

Vehicles for transporting detainees are subject to more frequent cleaning and disinfection than previously and employees use protective equipment according to DJI protocol. During transportation, both officers and detainees are required to wear masks.

It has been noted that detainees were keen to engage with community efforts to tackle Covid-19.

## **Impact of the Covid-19 response**

Mounting frustration was noted among prisoners as a result of the Covid-19 restrictions, with more confrontations reported. This has also been linked to the diminished supply of illegal drugs in the prison system. In April 2020, there was a protest in Lelystad Prison, with 36 detainees reported to have barricaded themselves in the prison kitchen.

It has also been noted that some detainees were reluctant to report health problems because they did not want to risk being placed in isolation. This is linked to the need for better information provision for prisoners.

Commentators also pointed out that some positive changes had been accelerated as a result of Covid-19, including improved access to online communications for children in conflict with the law. At the same time, Covid-19 slowed down the implementation of reform in the juvenile justice system.

## **Prisoner complaints/requests**

Complaint procedures were digitalised, and prisoners were able to make complaints via video link. There does not appear to have been any impact on prisoners' willingness/ability to make complaints as a result.

Unsurprisingly, most complaints brought by prisoners since March 2020 were linked to Covid-related measures and restrictions, and specifically to quarantine/isolation measures. Some of these complaints were upheld because it was found that the regular procedures and safeguards around isolation had not been followed. Compensation was awarded by the courts in some cases. Some prisoners requested temporary suspension of their sentence because they were concerned about Covid-19 infection in prison. These requests were rejected.

## **Covid-19 cases**

Available information (from April 2021) shows that there had been a total of 755 confirmed cases of Covid-19 among prisoners, including 33 cases in youth detention facilities. There were no reported Covid-19 deaths among prisoners. As of November 2021, there were 18 known active cases of Covid-19 among prisoners.<sup>147</sup> Statistics on Covid-19 cases among prison staff have not been obtained.

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147. See [www.dji.nl](http://www.dji.nl).



## Reduction in prisoner numbers

The prison population is reported to have decreased by nearly 12% between January and September 2020 as a result of these measures, allowing for increased use of single cells<sup>148</sup> (the drop in prison population may also be partly attributed to the judicial slowdown as a result of Covid-19). The number of people under electronic monitoring had increased from 700 to 900 by April 2020.

## Portugal

### Summary

It has been observed that the Portuguese authorities managed the Covid-19 situation in prisons well by providing a swift and speedy response within the prison estate. In particular, successful measures included a large number of releases (via Law No 9/2020); a swift vaccination programme; good hygiene/sanitary measures; agile, flexible and joined-up responses from the Ministry of Justice and Ministry of Health; forward planning (early purchase of PPE/creation of Covid-19 units); and the designation of dedicated wings/units for older and vulnerable prisoners. However, the response was somewhat limited by a poor and slow roll-out of technology to support video conferencing as an alternative for family visits, education and so on. Further challenges included insufficient staffing and over-reliance on short-term/contract staff as well as budgetary pressures. There were also concerns about the lack of timely preparation for release, and the role and jurisdiction of the Probation Service, particularly with respect to pardoned prisoners and wider resource issues.

### The prison system

The prison system in Portugal falls under the responsibility of the DGRSP within the Ministry of Justice. The prison system in Portugal includes 49 institutions: 42 male prisons and 3 female; 3 mixed prisons (mainly male but with a female section); and 1 prison hospital for both sexes. One of the male prison establishments holds young people up to the age of 21 years old.

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148. Aebi and Tiago, 2020. By 22 June 2020, the percentage of prisoners staying in double occupancy cells had been reduced from 30% to 12%.

## Key prison statistics

As of 1 September 2021, the prison population stood at 11 603, with an imprisonment rate of 113 per 100 000. The prison population includes pre-trial detainees (18.4%), women (6.8%), juveniles (0.1%) and foreign nationals (14.5%). The official capacity of the prison system, as of September 2021, is 12 618 and it is operating at just under full capacity (90.3%, excluding psychiatric institutions).<sup>149</sup> There are different prison regimes: common, open and special (high security). Prior to the pandemic (1 February 2020), the prison population stood at 10 366 (convicted) and 2 319 (pre-trial).

Prisons are overcrowded and the incarceration rate is among the highest in the EU. The CPT has highlighted overcrowding in prisons. Following its country visit in 2019, the CPT noted the progress made in reducing the overall prison population to within prison capacity, but raised concern that certain prisons continued to operate at 120% or higher of official capacity.<sup>150</sup> There are plans to close several institutions (Lisbon Central and Setúbal prisons) and to build a new establishment, Ponta Delgada Prison, by 2024.

In its most recent visit to Portugal in 2019, the CPT documented poor prison conditions. It found “a mixture of both decent and poor living areas in the establishments visited”. More worryingly, in relation to one institution (Setúbal Prison), it stated that “conditions could be considered as amounting to inhuman and degrading treatment”.<sup>151</sup>

There are currently 6 677 staff employed in the prison system in Portugal.<sup>152</sup> The CPT noted insufficient staffing levels at institutions on its most recent visit in 2019 and recommended the authorities make provision to recruit additional

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149. Data from the World Prison Brief, available at [www.prisonstudies.org/country/portugal](http://www.prisonstudies.org/country/portugal), accessed 23 September 2022. The Portuguese authorities’ calculation of occupation is made taking into account the standard measures defined by the CPT.

150. CPT (2020), “Report to the Portuguese Government on the visit to Portugal carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 3 to 12 December 2019”, CPT/Inf (2020) 33, available at <https://rm.coe.int/1680a05953>, accessed 23 September 2022.

151. *ibid.*

152. Aebi, M. F. and Tiago, M. M. (2021), “SPACE I - 2020 – Council of Europe Annual Penal Statistics: Prison populations”, Council of Europe, Strasbourg, available at [https://wp.unil.ch/space/files/2021/04/210330\\_FinalReport\\_SPACE\\_I\\_2020.pdf](https://wp.unil.ch/space/files/2021/04/210330_FinalReport_SPACE_I_2020.pdf), accessed 23 September 2022.

staff. The Portuguese authorities have indicated a willingness to increase the number of prison officers and to promote new recruitment procedures.<sup>153</sup>

## Covid-19 response

The Portuguese authorities introduced a comprehensive set of preventive measures designed to mitigate the spread of Covid-19 in the prison setting.

At an operational level, the DGRSP approved a contingency plan, in line with guidelines from the health authorities, and created a Crisis Group that was in permanent contact with the Director General of the DGRSP.<sup>154</sup> The contingency plan saw the introduction of several measures including the creation of infirmaries and emergency wards/field hospitals, the readjustment of cleaning and sanitisation schedules, and the separation of vulnerable detainees (over 60s and/or with chronic illnesses) from other detainees. It also included measures relating to the temporary suspension of visiting at all prisons, temporary suspension of granting of ordinary administrative prison leave, and temporary restrictions on the admittance of clothing and food into prisons from the outside. In addition, clear communication between policy officials and operational staff (such as prison directors) as to applicable rules/guidelines assisted the Covid-19 response at the macro level. The success of the contingency plan was highlighted in the Council of Europe's SPACE I Special Report of June 2020. The DGRSP started planning for the pandemic as early as January 2020.

## Covid-19 cases

The first Covid-19 cases were identified among the prison population and prison staff on 28 March 2020. The most recent confirmed Covid-19 cases are of a detainee (6 October 2021) and a prison officer (14 October 2021). There are no confirmed deaths among the prison population or prison staff. As of 28 October 2021, the authorities reported two positive cases of Covid-19 (both prison officers) in the Prison and Educational System and no positive cases have been recorded among detainees since 11 October 2021. Some 1 954 people have recovered from Covid-19, of which 605 were staff,

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153. CPT (2020), "Response of the Portuguese Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Portugal from 3 to 12 December 2019", CPT/Inf (2020) 34, available at <https://rm.coe.int/1680a05956>, accessed 23 September 2022.

154. The Crisis Group is composed of the Head of the Competence Centre for Health Care Management, the Director, Clinical Director, the Nurse Director and a nurse from the Prison Hospital of São João de Deus, and the Director of Security Services.

1 324 were detainees, 2 were children of detainees and 23 were young people detained at educational centres.<sup>155</sup> People who test positive for Covid-19 are isolated and subject to continuous health monitoring. There was also reported to be a big cluster of Covid-19 cases in women's prisons.

The prison healthcare authorities also took the immediate decision to separate vulnerable prisoners and house them in separate wards.

In April 2021, a co-operation protocol was agreed between the DGRSP, INSA, INEM and the DGS. In May 2021, under this protocol, Covid-19 tests began for prison staff who were willing to undertake them. In total, 51 906 PCR and lateral flow tests have been carried out on detainees and staff in suspected and confirmed cases and as part of protocol arrangements. Testing is available for free and offered in line with public health guidance rather than individual request. It is mandatory for all detainees to take a test after entering the prison system and for those detainees awaiting transfer, including those undergoing a period of quarantine. The authorities do not report any barriers in testing the prison population given the fact they were deemed to be a "population at risk".

Prison staff and those working in educational centres are tested on a fortnightly basis with the scheme extended to test non-permanent workers who provide regular services in the prison estate (e.g. kitchen staff, security agents) on a weekly basis.

## Vaccinations

The vaccination programme started in January 2021 and, as of 13 October 2021, some 92.42% of the prison population has been vaccinated. The programme started at the same time as for the general public, and the priority groups in prison were the same as for the wider population. The authorities confirm that detainees in all prisons and young people in all educational centres are vaccinated. Vaccination is not compulsory for prisoners, however. Both detainees and staff are offered the same brand of vaccines as are available to the wider population (Pfizer, Moderna, AstraZeneca and Janssen). The vaccination programme began in the Prison Hospital of São João de Deus and in the clinical services of the prison facility in Porto, and prioritised health professionals in different units of the General Directorate and "at-risk" groups (older persons, vulnerable persons and those with mental health conditions). Thereafter, the

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155. All statistics provided by the Portuguese authorities in the response to the questionnaire, 28 October 2021.

vaccination programme was rolled out to the wider prison population (both staff and detainees) on a prison-by-prison basis. In order to speed up the process, the prison healthcare authorities received help from the Ministry of Health with the vaccination roll-out. The share of individuals rejecting vaccination is low: 0.8% among prison staff and 0.05% among detainees, which is below the rate for the general population. As of November 2021, the prison healthcare authorities are looking to roll out the Covid-19 vaccination booster programme among the prison population.

## Release and pardon measures

In April 2020, the authorities introduced a raft of formal release measures through Law No 9/2020,<sup>156</sup> which included the following exceptional measures:

- ▶ Partial Pardon: a pardon for prison sentences up to 2 years or less and of the remaining periods of longer prison sentences if the time remaining is 2 years or less. The pardon was only applicable to individuals who were sentenced before the law came into force and was conditional on the beneficiary not reoffending for a period of 1 year. The pardon did not apply to those convicted of certain crimes such as murder, domestic violence, sexual offences, corruption, money laundering, drug trafficking, crimes against police or prison officers, and crimes committed by politicians, public office-holders, police or prison officers, among many other serious offences;
- ▶ Exceptional Individual Pardon (*indultos*): available to those aged 65 or older, if they had an illness, physical or mental, or a degree of autonomy incompatible with a normal stay in prison, in the context of the pandemic. Such cases were considered by the President of Portugal on a case-by-case basis following a recommendation from the Minister of Justice. The same exclusions as above applied (16 pardons granted);
- ▶ Special Prison Leave (Extraordinary Administrative Leave, EAL): sentenced detainees who were already subject to approved temporary release from prison were entitled to wait at home for a period of 45 days on licence, which was renewable for a further period of up to 45 days, depending on the individual's conduct and on the progress of the pandemic. This special leave required the individual to stay at home and remain under surveillance (by police and probation officers). Most detainees released

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156. Law 9/2020, April 2020, available at <https://dre.pt/application/file/a/131347487>, accessed 23 September 2022.

under Special Prison Leave have been subsequently granted parole (906 people released; at the current time, there are 27 detainees on EAL, with the last such leave granted on 4 June 2021);

- ▶ Early Release (extraordinary anticipation of conditional release): those who had benefited from EAL and received a positive assessment, could, if the court so decided, have their parole brought forward by a period of up to 6 months. The period brought forward had to be spent at home, under the supervision of probation officers and police.

Law 9/2020 also provided for the re-examination of the grounds of pre-trial detention, especially in the cases of individuals aged 65 or over and with health problems incompatible with being part of the general prison population during the pandemic.<sup>157</sup>

The implementation of the pardon provisions in Law 9/2020 resulted in the sudden and simultaneous release of numerous individuals from prison without adequate preparation. According to the authorities, some 2 030 detainees were released under the above measures. The measures only applied to persons already serving their sentences. Except for a few isolated objections, the release measures were generally accepted by the public. Members of the judiciary appeared on TV/radio interviews to address public concerns about the release measures and used the opportunity to highlight the low recidivism rate.

Of the 2 030 released since the entry into force of Law 9/2020 on 10 April 2020, 1 687 were released by 31 December 2020 and 343 were released between 1 January 2021 and 31 August 2021. Most detainees released were men and a small number (115) were women. The rate of recidivism is low: 140 people returned to prison prior to 31 December 2020 and 120 between 1 January 2021 and 31 August 2021.

There was some criticism of the choice of offences excluded under Law 9/2020 among interviewees (i.e. NGOs, lawyers), particularly around the inclusion of drug-related offences; a lawyer also expressed concern about the 2-year eligibility threshold. In their view, the threshold should have been raised to 3-4 years. There was also some criticism levelled at the application and interpretation of Law 9/2020 by the courts. Representatives of the Portuguese legal community were not consulted prior to the introduction of Law 9/2020 and only met with government officials to discuss the legislation some 10 months after its introduction.

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157. See Article 7, Law 9/2020.

In November 2021, the Portuguese Parliament (Assembly of the Republic) decided to revoke Law 9/2020 as it was felt to be an opportune moment to do so given the high rate of vaccinated detainees. In an interview, a judge confirmed that the law is currently still in force and releases continue to take place under the legislation.

Civil society organisations and the media reported that among the detainees released, many had no family support. City councils provided accommodation for released detainees without family or any other support.<sup>158</sup> The DGRSP set up a link with the social security service, private social solidarity institutions, local authorities and the National Strategy for the Integration of Homeless Persons (ENIPSSA) to support people released without housing. According to several interviewees (i.e. NGOs, lawyers), the Probation Service had difficulties providing support to detainees released under Law 9/2020, particularly those who were released via pardons, as they were effectively deemed to be out of the formal criminal justice system. In such instances, detainees were released without any meaningful support or housing and were rendered homeless. The increase in the number of homeless persons as a result of the release measures has been noted by the Ombudsperson. Senior officials in the Probation Service noted that assistance to pardoned individuals was curtailed by existing legislation that restricted their support to those individuals still serving a judicial sentence. Probation officials confirmed the importance of organising “beyond the gate” support prior to release and were also keen to emphasise their duty to refer individuals to the appropriate support services.

The release measures had a particularly acute impact on long-term prisoners who had little, if any, family support on leaving prison. It fell to civil society organisations to provide support to these individuals on release. According to one NGO official, during the first stages of release, five people asked to return to prison due to lack of adequate housing. In the view of NGO officials, the Portuguese authorities, namely the Probation Service, should have given greater consideration to the way in which they supported individuals released under the pardon regime. There were wider criticisms among NGO interviewees about the lack of resources (human, capital and financial) within the Probation Service, which affected the Covid-19 response.

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158. European Union Agency for Fundamental Rights (2020), “Coronavirus and the pandemic in the EU – Fundamental rights implications”, available at [https://fra.europa.eu/sites/default/files/fra\\_uploads/pt\\_report\\_on\\_coronavirus\\_pandemic\\_may\\_2020.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/pt_report_on_coronavirus_pandemic_may_2020.pdf), accessed 23 September 2022.

The release regime raised not only criminal justice questions but also socio-economic issues and challenges. Interestingly, one academic highlighted the economic and social impact/burden of returning prisoners to families that were already under financial strain and also deeply affected by unemployment. This, in turn, raises questions around the quality of the risk assessment undertaken by the authorities as part of the release regime; the release programme may have been undertaken in haste and thus compromised some of the safeguards built in to manage releases. During the pandemic, the Probation Service continued to undertake risk and needs assessments using the LS/CMI (Level of Service/Case Management Inventory) tool to support reports, rehabilitation plans and supervision levels. According to a senior probation official, fewer requests were received from the courts for a risk and needs assessment; the psycho-social data collection that is needed to perform risk assessments was limited due to fewer in-person contacts, particularly with collateral sources of information (such as family members) and field visits. During the period 1-30 April 2021, there was a 30% decrease in the number of completed LS/CMI assessments compared to between 1 March 2019 and 31 March 2020, but this was also due to fewer court requests.

It is worth noting that the pardon regime did not “erase” specific crimes, but did eliminate the penalty or part of it. Moreover, detainees released via pardon were not under an obligation to remain at home on a permanent basis, unlike under the Administrative Exit Leave regime. It was anticipated that the pardon regime would predominantly cover property-related offences (i.e. theft, fraud, robberies).

Law 9/2020 had a wider societal impact and, according to one lawyer, triggered a broader conversation about the nature of imprisonment and the prison population. On a practical note, the release scheme allowed the public healthcare system to respond to the pandemic in an effective way.

There were no specific measures taken to curb new admissions, but reporting suggests that greater consideration was given by the courts to the possibility of applying house arrest.<sup>159</sup> In addition, courts were given scope to review the possibility of non-custodial sentences for pre-trial detainees. In response to overcrowding and poor conditions, 40 detainees were transferred from the psychiatric clinic of Santa Cruz do Bispo Prison.

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159. *ibid.*



The use of electronic monitoring could have offered a good solution in lieu of detention but, according to one NGO interviewee, the hardware (tags) did not arrive on time. The economic imperative for using electronic monitoring was highlighted by a member of the legal community: it costs €55 a day to detain a prisoner and €17 a day to use an electronic tag. Thus, it makes good sense financially to use electronic surveillance over and above detention whenever possible; such arguments were put to the Portuguese authorities by members of the legal community through the Bar Association. According to a lawyer, in some pre-trial cases, convicted offenders were detained at home under an electronic tag but individuals charged with serious crimes were still sent to prison.

## Fair trial and due process

The judiciary adapted its working methods with relative ease to meet the pressures of the pandemic. In fact, judges were already using video conferencing for hearings pre-pandemic but with the advent of Law 9/2020, such hearings became the norm rather than the exception. A Public Prosecutor (Coimbra Court) also confirmed in an interview that the use of digital tools (including video conferencing) assisted with their work and allowed for the continued and efficient functioning of the courts during the pandemic. Further, communication between magistrates and officials took place by phone and e-mail without affecting the circulation of the information. Between January 2021 and September 2021, some 57 812 video conferences were held with the courts. In terms of future preparedness, the interviewee reiterated the importance of investing in communication technologies, automating procedures and creating/improving justice databases.

Lawyers report that in several cases in one particular court (Sintra), detainees were not able to attend their own trial because they were in quarantine in prison. The judge continued to hear the cases in the absence of the prisoner, however; such practices raise concerns around fair trials more widely. In other instances, the judiciary were more mindful of these issues and conducted the trial in an environment suited for its purpose.

## Contact with the outside world

Family visits were temporarily suspended in March 2020 and were gradually reintroduced (in June 2020) with special rules and severe limitations (e.g. visiting booths/social distancing/glass barriers).<sup>160</sup> However, in November 2020 (the

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160. Guideline GDG 6/2021, available at <https://dgrsp.justica.gov.pt/Noticias-da-DGRSP/Covid-19-AI%C3%ADvio-progressivo-de-medidas-1>, accessed 23 September 2022.

“second wave”), the authorities reimposed various restrictions including the suspension of weekend visits and day release work outside of prison in local areas at higher risk, along with educational, recreational and religious activities (except where these could be carried out outdoors, with social distancing or, in the case of educational activities, through e-learning).

The authorities remain cautious in opening up prisons to external visitors. In September 2021, the DGRSP started to progressively ease restrictions on visits; the glass partitions for visits were only removed in November 2021. Visitors must present a rapid antigen test taken within the previous 24 hours; masks are worn during visits.

In lieu of prison visits, detainees were allowed to make three (as opposed to one) daily phone calls of 5 minutes each. This negligible increase in the number of phone calls was criticised by some NGO interviewees. It is worth noting that, prior to the pandemic, two pilot projects had been set up to test the use of landline telephones in cells. This initiative contributed to individuals keeping in touch with family members during the pandemic and the pilot project has subsequently been extended to other prisons.

All prison facilities were equipped with video-conferencing systems. By the end of 2020, 20 126 video visits between detainees/juveniles and family members had been carried out. Video calls between detainees and family members outside prison were conducted initially over Skype and later replaced by the Webex platform. These calls are on a weekly basis and last 20 minutes. Similarly, video visits were permitted between family members in different prisons via video conference (on a monthly basis, 20 minutes). A prison monitor interviewee noted that the video-conferencing service was quite slow to roll out as the authorities had to procure the right technology (e.g. tablets). The poor digital response was also noted by NGO officials, who thought the system should have been better prepared with more “digital answers”. Moreover, some economically disadvantaged families had difficulty accessing computers or smartphones at home and were unable to attend “virtual visits” with their family member in prison.

Following the resumption of visits, the DGRSP spent €30 000 on equipping 675 visiting rooms with acrylic booths in prisons and youth detention centres. One NGO interviewee noted that the preparation of specific rooms for visitors came quite late in the day.

The legal community faced a series of challenges in conducting its work during the pandemic. In terms of access to counsel, lawyers were allowed to

enter prisons to attend to urgent cases but had to abstain from face-to-face contact wherever possible and use a phone instead. The legal community lobbied the authorities to ensure that they be given access to their clients via remote technology. However, lawyers have expressed concerns about the time limits allotted for legal calls (30 minutes on Zoom) and would like to see other technical solutions deployed for remote legal consultations. Lawyers also raised safety concerns at legal meetings with the Portuguese authorities at the start of the pandemic. In the early months, lawyers met their clients in a small area without any barriers and detainees who were not wearing masks or using sanitary gel. Following discussions with the Director of Prisons, lawyers were provided with their own legal consultation rooms. The legal community lobbied the Portuguese authorities to be vaccinated as a priority group at the start of the vaccination programme, but to no avail.

The authorities also temporarily suspended administrative prison leave, transfers between prisons, work outside the prison (open regimes), training, and educational and leisure activities. Educational activities were suspended in March 2020. As a result, detainees spent most of their time in cells with only limited time out of cells (approximately 1 hour per day). There were temporary restrictions on clothes and food coming in from the outside. As mentioned above, during the “second wave” of the pandemic (November 2020), the authorities reinstated many of the previous restrictions including suspension of weekend visits, educational, recreational and religious activities, and work outside prison. There has been a slow and cautious return to these activities with respect to work activities, short-term discharges and detainee transfers.

The Ministry of Education worked closely with the DGRSP to provide remote learning in prisons during periods when school activities were suspended. Most of the prisons did not have the resources to provide live online classes, so resorted to a model in which teachers provided students with learning materials. These were delivered to prisons in person or by e-mail, then photocopied and delivered to the students by prison staff, who later returned to teachers the work they had done. Only about 15% of prisons managed to provide live online classes, but on an irregular basis. Educational activities only returned to institutions in September 2021. Detainees also had access to the television channel “RTP Memoria”, a public service channel where classes for all levels of schooling were broadcast daily for students nationwide. (#EstudoEmCasa).<sup>161</sup>

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161. Available at <https://estudoemcasa.dge.mec.pt>, accessed 24 September 2022.

Those attending higher education through the Open University (*Universidade Aberta*) were able to continue their studies without constraint as teaching followed a distance learning model. The DGRSP also collaborated with the Ministry of Culture to screen 70 films in prisons during these periods.

International oversight bodies continued their activities during the pandemic; the CPT last visited Portugal in December 2019 and is scheduled to undertake a periodic visit in 2022. International prison monitors confirm that Portuguese officials were mindful of and committed to following international prison standards (i.e. CPT guidelines, European Prison Rules).<sup>162</sup>

The pandemic affected the work and operations of the Probation Service<sup>163</sup> in Portugal; much of its work focused on managing the fallout resulting from prisoners released under Law 9/2020 at short notice. In interviews, probation officials were keen to emphasise the importance of “business-as-usual” activities during the pandemic.

In terms of policy responses, the Probation Service acted quickly to draft internal guidelines to respond to the releases under Law 9/2020. These guidelines had to be drafted at short notice and included guidance on the logistics of supervising individuals released under the legislation. In terms of future preparedness, senior probation officials noted the value and importance of embedding longer-term plans rather than responding at short notice, as had been the case with the pandemic.

The Probation Service reduced its face-to-face meetings and suspended group rehabilitation programmes for people serving their sentences in the community. Rehabilitation programmes were suspended between March and July 2020 but have since resumed, with necessary adaptations according

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162. See: CPT (2020), “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>, accessed 24 September 2022; CPT (2020), “Follow-up statement regarding the situation of persons deprived of their liberty in the context of the ongoing Covid-19 pandemic”, available at <https://rm.coe.int/16809ef566>, accessed 24 September 2022; Committee of Ministers, Recommendation Rec(2006)2-rev of the Committee of Ministers to member states on the European Prison Rules, available at [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016809ee581](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016809ee581), accessed 24 September 2022.

163. Penal Reform International (2021), “The impact of the Covid-19 pandemic on the imposition and implementation of alternatives to prison and preparation of individuals for release in Portugal”, available at [https://pages.uc.pt/site/assets/files/510137/ppf\\_report\\_-\\_portugal\\_-\\_en.pdf](https://pages.uc.pt/site/assets/files/510137/ppf_report_-_portugal_-_en.pdf), accessed 24 September 2022.

to the guidelines from the public health authorities. In the early months of the pandemic (March-May 2020), there was a decrease in the number of face-to-face interviews and meetings and a move to remote means of communication (i.e. telephone, e-mail) when available. Probation officials report that the move to online communications worked well, and teams adapted quickly to this “new normal” in working with new online platforms/tools. Home-working arrangements/staff rotation also helped to ensure adherence to social distancing rules. There is support among probation officials for greater investment in online tools/services to support both staff and service users (probationers).

On an operational level, face-to-face contact with those under supervision were reduced to essential and urgent cases, for example in domestic violence cases. The hours of operation of services were reduced and the number of professionals working face-to-face in probation and electronic surveillance teams was limited to the essential, with other team members working remotely on a rotating schedule.

Via interview, probation officials confirmed that there was a reduction in external services, namely travel to the area of residence of clients under supervision. Such visits were only allowed in very exceptional circumstances and with the support of the police and NGOs.

In light of the fact that Law 9/2020 did not provide for any rehabilitation/resocialisation activities per se, the Probation Service had to reorient its focus to more of a compliance/control role. According to a senior probation official, this required some adaptation. The Probation Service worked closely with the police to ensure the enforcement of home detention under the Special Prison Leave regime, given their closer proximity to local communities. Probation officials noted a shift in emphasis in their work, which revolved more around monitoring and control with the support of healthcare professionals, NGOs and family members rather than intervention with the aims of changing behaviour and promoting skills.

The pandemic has also had repercussions for the implementation and imposition of community service. In some instances, community service placements were postponed during the pandemic. According to probation officials, as of September/October 2021, organisations have started to accept individuals on placements.

Probation officials report that some individuals released under Law 9/2020 struggled with their new-found “freedom”. In particular, individuals released

under the Special Prison Leave regime found it extremely difficult to adapt to home detention. Under this regime, individuals could not leave home except for exceptional reasons (e.g. court hearings, medical appointments) thus compelling them to remain at home, effectively, 24/7; moreover, these individuals could not work or undertake any activities that would support their rehabilitation. In some cases, individuals were held on this regime for up to a year (for 45 days at a time, renewable on licence). In light of these challenging circumstances, some individuals found it simply too difficult to be confined to home for such long periods of time and asked to voluntarily return to prison. The regime also had an impact on family members who felt the burden (financial and emotional) of the return of their loved one.

At the time of writing, group rehabilitation programmes have resumed to near-normal levels but with strict hygiene measures in place, as well as field visits by probation staff. In the period between March and July 2020, to comply with the guidelines in force, group activities were suspended, and the launch of new group courses was postponed. There was a further suspension of group activities in early 2021; as an alternative, individual sessions were held online with probationers. The Probation Service has taken a careful and cautious approach to restarting its services. Probation staff continue to create/adapt programmes for delivery via online format.

Notably, senior probation officials raised issues around the mental health and well-being of field staff and the importance of providing them with appropriate psychological and professional support. It was recommended that more investment be made to support the mental health of probation staff, many of whom had been very deeply affected by challenging work conditions during the pandemic. The service has started to think about a “recovery plan” for staff, which is being deployed, albeit on an informal basis at present, within the organisation.

## **Detainees in situations of vulnerability**

Several NGO interviewees noted that the pandemic had a particularly serious impact on older detainees as the correctional system was not equipped to provide the necessary geriatric care. However, it is important to note that the authorities took specific measures to shield older prisoners from Covid-19 by accommodating them with other vulnerable prisoners, in dedicated accommodation with the prison estate. The authorities maintained contact

with older persons serving community-based sentences remotely, except in urgent situations where face-to-face contact was essential.

Women prisoners were affected by the Covid-19 restrictions in prison and on release. Women serving non-custodial sentences, although still in the minority, make up a larger proportion than women serving custodial sentences (10.3% as compared to 6.7% in 2020).<sup>164</sup> Civil society organisations continued to support women prisoners during the pandemic and adapted or created programmes accordingly. For instance, one NGO working primarily with women prisoners, *Dar a mão* (A Helping Hand), created a correspondence programme (through letter writing) with women prisoners as a means of providing ongoing support. Such programmes are expensive (because of postage costs), so NGOs cannot run them on as regular a basis as they would like. Volunteers from the same NGO also provided practical support to women who were released at short notice, specifically as a response to the pandemic; a multidisciplinary team (social worker and psychologist) was on hand to provide the requisite support to women to help with their reintegration to society. According to interviewees, women prisoners felt deeply isolated during the pandemic, as there were no educational activities, work or family visits. It was also reported that women found it difficult to access the necessary healthcare within prisons. At the time of writing, *Dar a mão* cannot enter the women's prisons so continues to provide support on a remote basis. There are also reports that prison guards in the women's prison (Tires) will go on strike from 10 December 2021 to 23 January 2022, which will worsen the situation for women prisoners.

Probation officials noted some challenges in returning prisoners with mental health conditions to their family home following their release under Law 9/2020. It was reported that families found it challenging to look after these individuals, but it was difficult to find alternatives places to accommodate them at that time.

It has been difficult to gather data on the impact of the pandemic on ethnic minorities as the collection of data on an ethnic-racial basis is not allowed in Portugal. It is reported that the main difficulty for probation staff when implementing court sentences was understanding the cultural context for foreign nationals and particularly the cultural characteristics of some minorities, which is an important factor in establishing a relationship between probation staff and the individual in question.

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164. *ibid.*

## IPC measures

Each prison had a contingency plan and increased sanitation measures were introduced for common areas and detainees' private facilities. The authorities introduced procedural protocols to manage Covid-19 cases following public health guidelines. At the start of the pandemic, the prison authorities created a cleaning schedule to meet the daily needs of all units, based on the requirements of each facility. Prisons review their local contingency plan on a regular basis and adapt them in line with any changes for the wider population. (For example, the prison healthcare services adapted their contingency plans to accommodate the Delta variant and Covid-19 cluster cases in prisons). Prior to the pandemic and in advance of any "live" cases, the prison service started to procure PPE and other medical equipment. The prison healthcare service also created Covid-19 units (for example in Oporto and Lisbon prisons) to receive Covid-19 patients.

All IPC measures were taken by prison healthcare staff in close co-ordination and conjunction with the Ministry of Health. At the start of the pandemic, the prison healthcare service acted quickly to create dedicated zones/back-up wards for Covid-19 cases; these field hospitals have since been deactivated. During case surges, medical units were created inside prisons (for example, in January/February 2021, 11 medical units were created). Prison healthcare staff confirm that it was a deliberate decision to create these Covid-19 wards within prisons and to isolate infected detainees immediately.

At the time of writing, all detainees entering the prison estate undergo a 14-day quarantine (10 days if vaccinated and 14 days if not vaccinated) and take a rapid antigen test. Detainees remain in isolation and, from day 8-10, take a PCR test that, if negative, leads to the transfer of the detainee to the general prison population on day 10 or 14. Suspected cases are placed in isolation in Covid-19 units – such as the prison hospital, which is the only facility with a Covid-19 unit currently functioning within the prison estate. Detainees also undertake rapid antigen tests on leaving/returning to prison. At the start of the pandemic, prison clinical services distributed a PPE kit to staff to deal with potentially infected persons. In the event of Covid-19 clusters in certain prisons, prison healthcare services acted quickly and flexibly and moved doctors and nurses to provide healthcare support. At the start of the pandemic, the prison healthcare service delivered information sessions to detainees on Covid-19 and on the use of face masks to detainees, who readily accepted these measures.



Furthermore, the prison healthcare service increased staff intake to service and support Covid-19 medical needs. For example, in Oporto Prison, 11 nurses and 2 doctors were contracted (on a temporary basis) to meet needs. Contract staff were employed by the Ministry of Justice on a short-term basis (1-year contracts).

The authorities confirm that, since the start of the pandemic, the DGRSP has invested approximately €5.7 million in PPE, lease of hospital beds, acrylic screens for adaptation of spaces, disposable ready-made meals, reinforcement of cleaning services and employing additional health professionals. The authorities provided a comprehensive inventory of PPE and other material distributed across the prison estate in 2020/2021 by the prison hospital pharmacy in their response to the questionnaire.

## Impact of the Covid-19 response

Several interviewees noted that, on the whole, detainees accepted the restrictions and complied with the regulations; according to one academic, there was “peace in prison”. However, there were some small pockets of discontent. The restriction on family visits caused distress among detainees at Oporto and Braga prisons; they refused to eat lunch and were subsequently locked in their cells (Braga Prison). In June 2020, supervisors in Carregueira Prison in Sintra protested after the confirmation of three positive cases among prison officers.

The imposition of Covid-19 regulations and restrictions also saw a number of associated complaints from detainees. Officials from the General Inspectorate of Justice Services (*Inspecção-Geral dos Serviços de Justiça*, IGSJ) reported several complaints in relation to the suspension on family visits in prisons and education centres.<sup>165</sup> They also noted complaints relating to the terms of early release measures under Law No. 9/2020 and the process of the pardon regime. On the whole, complaints focused on the interpretation of the law. In response to the pandemic, the IGSJ set up an extra SOS helpline for detainees and ensured that an inspector was available to receive complaints.

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165. The IGSJ is responsible for auditing and inspecting all bodies, entities and services under the Ministry of Justice or subject to its supervision or regulation, including the DGRSP. The GIJS carries out its mission by (i) undertaking inspections, audits, investigations, inquiries, surveys and other inspection actions, ordered or authorised; and (ii) the assessment of complaints, claims and complaints presented by citizens (including those deprived of liberty), and dealing with possible legal violations, suspected irregularities or deficiencies in the functioning of bodies and services of the Ministry of Justice, which includes the DGRSP.

The service also increased its use of remote tools for meetings and interviews and undertook “virtual visits” to those services under its monitoring jurisdiction. In those cases where it was possible, the IGSJ replaced fieldwork with online work sessions and collection of information by e-mail. Interviewees were keen to emphasise the value of remote communications as part of the Covid-19 response. There was some concern raised about the lack of digitalisation consistency between services, which hampered co-operation and easy access to information. Internally, the IGSJ introduced workplace wellness initiatives to keep employees motivated. In terms of future preparedness, the IGSJ will be convening a multidisciplinary conference in 2022 to review the procedures for rehabilitation/social reintegration of detainees, particularly in the areas of health, education and social security.

In response to the questionnaire, the authorities reported no increase in suicide and self-harm since the start of the pandemic. However, prison statistics suggest that the suicide rate did increase in 2020 (186.6 suicides per 100 000 individuals) and was more than double the rate of previous years (86.5 in 2018; 87.1 in 2019).<sup>166</sup> The authorities report that mental health issues are of concern to the DGRSP, which issued guidelines (March 2020) on the administration of psychiatric medication and management of behavioural disorders due to the use of psychoactive substances. According to one academic, it is too early to say whether the pandemic had a notable impact on suicide and self-harm rates; it will be necessary to capture this data through evidence-based studies and a review of prison statistics over a 5-year period. Also, it has been difficult to ascertain whether the authorities actively increased mental health support to detainees during the pandemic.

There has been some reinforcement of permanent staff, in particular health professionals, to respond to the pandemic. There are currently 194 nurses in the system, which is a large increase from the 78 nurses employed in 2015. The DGRSP stopped using temporary employment agencies as of 31 December 2019, which they describe as a “paradigm shift”. The authorities also report that “retainer contracts” are now signed directly with healthcare professionals, thus allowing these individuals to be better remunerated. According to one academic, the prison service needs a good cohort of permanent medical staff; in particular, there is a shortage of psychologists and nurses in the prison

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166. Penal Reform International (2021), “The impact of the Covid-19 pandemic on the imposition and implementation of alternatives to prison and preparation of individuals for release in Portugal”, available at [https://pages.uc.pt/site/assets/files/510137/ippf\\_report\\_-\\_portugal\\_-\\_en.pdf](https://pages.uc.pt/site/assets/files/510137/ippf_report_-_portugal_-_en.pdf), accessed 24 September 2022.

healthcare system. There has been no assessment as yet of the mental health impacts of the pandemic on prison staff.

The biggest reported challenge for the prison administration has been maintaining a balance between activities, family contact, and security and discipline within the prison estate. An NGO official noted that the authorities could have found more innovative ways to hold online meetings with family members and highlighted the shortage of computers in prisons (2-3 computers per prison in some cases). Another NGO interviewee noted that the pandemic could have provided the authorities with an opportunity to better promote the use of online visits and educational programmes.

A number of external oversight bodies continued to visit prisons during the pandemic. For example, the IGJS continued its visits to prisons when it was justified to do so. Officials took an informed view and weighed up the value of their visit against safety concerns.

Several interviewees (academics, NGOs, lawyers, the judiciary) were keen to emphasise the fact that the release of detainees under Law 9/2020 did not see a commensurate rise in the recidivism rate. This may be due to several reasons, but one interviewee (a judge) noted that the time already spent in prison may have been enough to “intimidate” detainees into not reoffending. Further, it was observed that recidivism rates are generally higher among detainees who have committed serious offences; in this instance, the release measures targeted minor offences.

Civil society organisations played a critical role in supporting prisoners during the pandemic. Like the Probation Service, many civil society organisations dealt with the fallout of releases under Law 9/2020. While some NGOs had to temporarily close their physical offices at the very beginning of the pandemic, they continued to support detainees (both in detention and on release) in terms of rehabilitation needs. In some cases, NGO officials met detainees at the prison gates (they were unable to enter) and escorted them to halfway houses (known as a Transition House). NGO officials were allowed to return to some prisons in October/December 2020 and then more fully in October 2021. In those instances where NGO officials could not enter prisons, they were allowed to meet their clients through “virtual visits” using the Webex platform. Such hybrid solutions provided a useful workaround to enable continued support to be provided to detainees. Similarly, NGO officials provided online support to family members. At the time of writing, NGOs continue to undertake virtual visits to detainees, especially those who are some distance

away (in some cases, 200 kilometres), which makes in-person visits more difficult. NGO officials were keen to emphasise the benefits of virtual visits as they allow more regular contact with detainees (visits take place on a monthly basis) and help with release planning.

In other NGOs, staff corresponded by letter with detainees in lieu of in-person visits and also provided hygiene products (masks, etc.) as well as entertainment activities. In addition, NGO offices within the prisons closed, which resulted in NGOs opening offices outside of prison to ensure a continuation of activities (in one instance, running a small pottery business). The pandemic did not prevent ongoing advocacy and lobbying efforts; one interviewee noted that their organisation continued its advocacy efforts around the use of Transition Houses and used the pandemic as a lever to call for legislative change.

In terms of collaboration, the pandemic prompted NGOs working in the criminal justice field to join forces to form a network of organisations, *REDE Entregades*, to work jointly on human rights issues affecting prisoners.<sup>167</sup>

NGO interviewees also noted that the release measures were issued at speed (within a period of 2-3 days) with little planning or reflection and with an expectation that civil society would step into the breach and provide support. The poor resourcing of the Probation Service was also raised by several interviewees. In their view, this affected the quality of the response to the crisis. NGO officials were unable to confirm whether civil society organisations had been consulted prior to the passing of Law No 9/2020.

While on the whole positive, the Covid-19 response in Portugal may have been hampered by a few factors, including budgetary constraints, understaffing (as noted by the CPT), poor digitalisation, and obsolete or insufficient computer systems.

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167. See <https://www.facebook.com/rede.entregades>.



# Appendix 1

## Questionnaires

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**Country:**

**Date questionnaire completed:**

**Completed by (name and position):**

This set of three questionnaires is being sent to authorities in the seven countries<sup>168</sup> selected for a study being conducted for the Council of Europe on the Covid-19 pandemic in prisons and its impact on prison reform priorities. The research will inform a study detailing good practices and lessons learnt in relation to Covid-19 and ongoing/future penal reform priorities.

Authorities in the selected countries are requested to complete the following questionnaires in as much detail as possible. The questionnaires should be distributed to the officials/other stakeholders best placed to answer the questions.

**Persons to interview**

The questionnaires will be supplemented by a series of detailed interviews with relevant stakeholders in each country to be conducted in online/virtual format (approximately 15-20 interviews per member state/beneficiary). As part of the questionnaire process, the authorities are asked to suggest priority individuals/stakeholders who should be considered for inclusion in the detailed interviews.

These nominated people should include those who have detailed knowledge of Covid-19 prison policy in the country, practitioners who are directly involved in implementation, and those representing the views of prisoners or their families. Examples include ministry officials/policy makers, prison directors/staff, judges, lawyers or other justice sector officials, monitoring bodies, NGOs and other organisations working in the justice sector, and parole, probation and social services representatives and academics. Where possible, we will include prisoners, released individuals and/or their family members among the interviewees.

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168. Including Turkey that did not respond.



## **Questionnaire 1 – Healthcare and preventive measures and protocols undertaken as a direct response to Covid-19**

Statistics provided and other answers should reflect the data/situation nationally where possible. If it only reflects the situation from some institutions due to lack of reporting, please indicate this.

For the purposes of the questionnaires, detainees and prisoners refer to all persons held in criminal justice detention facilities, both pre-trial and post-sentencing.

### **CONTEXT QUESTIONS: THE PRISON SYSTEM/ALTERNATIVES TO IMPRISONMENT**

1. Total number of detention facilities.

Please provide breakdown of facility by type – e.g. women/male/juvenile/mixed, pre-trial facility/for convicted persons, open/closed facilities.

2. Total capacity of national prison system (total number of people that the prison system can accommodate). Please include details on how the prison capacity is calculated.

3. Total number of prison staff.

Please include breakdown by male/female staff and by role (e.g. healthcare/security/administration) and average detainee/staff ratio.

4. What types of alternatives to imprisonment are currently available in the justice system?

5. Number of prison sentences/alternatives to imprisonment:

Year	Total number of people sentenced to imprisonment			Total number of people sentenced to alternatives to prison			Total
	Men	Women	Juveniles	Men	Women	Juveniles	
2019							
2020							
2021							

6. Are statistics on crime rates available? If so, please provide data on national crime rates for:

- 2019:
- 2020:
- 2021 (most up-to-date figures):



## PRISON POPULATION/RELEASES (STATISTICS)

7. Releases made as a Covid-19 prevention and control measure (including commutation of sentences, pardons, temporary releases, etc.):

Year	Men	Women	Juveniles	Total
2020				
2021				

8. Total number of temporary releases included in the statistics (men/women/juveniles) 2020 and 2021.
9. Total number of those temporarily released who have since returned to prison (men/women/juveniles) 2020 and 2021.
10. Total number of pre-trial detainees released (men/women/juveniles) 2020 and 2021.
11. Total number of convicted individuals released (men/women/juveniles) 2020 and 2021.
12. Total pre-trial detainee population and total convicted prison population in February 2020 pre-pandemic (men/women/juveniles).
13. Total pre-trial population and total convicted prison population at most recent count – please provide date (men/women/juveniles).

## RELEASES

14. What type of release mechanisms were used (e.g. pardons, compassionate release under supervision, temporary release)? Please provide details and a breakdown of numbers (disaggregated) of releases for each type of measure taken.
15. Eligibility criteria for releases and specific exclusions (e.g. sentence length, type of crime).
16. Particular groups of detainees included in releases (e.g. older persons, those with chronic illnesses, women with infants, foreign nationals). Include statistics where available.

## MEASURES TO CURB NEW ADMISSIONS

17. What measures were taken to curb new admissions to prison (e.g. suspended sentences, house arrest, other alternatives to detention)? Please provide details.
18. Eligibility criteria for these measures and any specific exclusions.
19. Known statistics on the impact of measures to curb new admissions.

## COVID-19 TESTING/CASES (STATISTICS)

20. Statistics on Covid-19 testing/cases/hospitalisations and deaths

Please indicate the date these statistics are valid from:

	Detainees			Staff	
	Men	Women	Juveniles	Men	Women
Number of confirmed Covid-19 cases					
Number of confirmed Covid- related hospitalisations					
Number of confirmed Covid- related deaths					
Total number of Covid-19 tests administered					

21. Covid-19 case rate/death rate in prison compared to the case rate/death rate in the general population (if known).

## COVID-19 TESTING/CASES

22. What type of testing is available within the prison system (PCR/lateral flow tests) for staff, the prison population and visitors?

Breakdown of statistics on type of tests administered to date.

23. With what frequency/under what conditions are Covid-19 tests administered for the prison population and staff (e.g. on a regular basis or testing only available for those displaying symptoms)?

24. Are individuals in prison able to request tests themselves?

25. What procedures are in place when a detainee tests positive or is suspected to be positive for Covid-19?

26. Date the first confirmed case in the country that was identified among staff.

27. Date the most recent confirmed case in the country that was identified among staff.

28. Date the first confirmed case that was identified among people who are imprisoned or detained.

29. Date the most recent confirmed case that was identified among people who are imprisoned or detained.

30. What challenges do you face that prevent testing?

31. What happens if a person in prison refuses to take a Covid-19 test?

### VACCINATIONS (STATISTICS)

32. Vaccination statistics:

	Detainees			Staff	
	Men	Women	Juveniles	Men	Women
Number who have received first vaccination					
Number who have received both vaccinations (where applicable – not all vaccinations require two doses)					
Number who have refused vaccinations					

33. Vaccination rate for detainees compared to vaccination rate in general population, if known.

### VACCINATIONS

34. What kind of information/education/communication material regarding vaccinations have detainees received?

35. What vaccinations are available to detainees/staff? Please list names of the vaccines (e.g. Pfizer, AstraZeneca).

36. How is the vaccination of detainees and staff members prioritised in the national vaccination plan (e.g. according to age/vulnerability/status as essential workers)?

37. Is vaccine refusal more common among prisoners compared to the general population, and/or among particular groups of prisoners? If so, what are the common reasons given for vaccine refusal among detainees?

38. Have any incentives been offered to detainees or prison staff in relation to having a Covid-19 vaccination?

39. What are the implications for detainees who have refused to be vaccinated?

40. What challenges do you face that prevent vaccination?

## HEALTHCARE/PREVENTIVE MEASURES AND PROTOCOLS

41. Please detail other infection, prevention and control measures taken in response to Covid-19, such as:
- ▶ screening, risk assessment and quarantine/isolation;
  - ▶ environmental and personal preventive measures;
    - i. Regarding PPE – is it available? Mandatory? For prison staff or detainees?
  - ▶ physical distancing;
  - ▶ access restriction and movement limitations within prisons;
  - ▶ restrictions on service/activities;
  - ▶ restrictions on third-party visits to prison;
  - ▶ detainee transfers and movements outside of prison;
  - ▶ suspension of in-person court hearings and remote justice;
  - ▶ information/training on infection, prevention and control measures (for staff and prisoners).

## **Questionnaire 2 – Changes in modus operandi due to Covid-19: challenges and adaptations in methods of work and (observations on) prisoners’ treatment**

42. Total number of detainee requests/complaints in 2019.
43. Total number of detainee requests/complaints in 2020 and % of these that related to Covid-19.
44. Total number of detainee requests/complaints in 2021 and % of these that related to Covid-19.
45. Has there been any increase in self-harm/suicide attempts among prisoners since the pandemic began? If available, please provide statistics on suicide/self-harm rates pre-pandemic and since the pandemic began.
46. Has there been any increase in reported/diagnosed mental health problems among prisoners since the pandemic began? Please provide statistics/details, where available.
47. Have there been any significant changes in staff turnover numbers since the pandemic began? If so, please include details (e.g. number of staff pre-pandemic and number of staff now) and the turnover rate, if available.

48. Has the prison service recruited additional staff to respond to the Covid-19 pandemic?
49. Did the prison service face additional challenges in recruiting staff as a result of the pandemic? If so, please describe them.
50. Has there been any noticeable impact on staff well-being as a result of the pandemic (e.g. staff off work with stress, or other mental health problems)?
51. What other changes in prison management did Covid-19 necessitate?
52. What has been the most challenging thing for the prison administration as a result of Covid-19?
53. What do you think has been the most challenging thing for prison staff as a result of Covid-19?
54. What do you think has been the most challenging thing for prisoners as a result of Covid-19?
55. What do you think has been the most challenging thing for relatives of prisoners as a result of Covid-19?
56. Are there specific groups of prisoners who have faced particular challenges as a result of Covid-19 (e.g. foreign nationals, those with mental healthcare needs)? If so, please describe them.
57. Please provide a list of laws, policies and procedures related to prison management that have been changed as a result of Covid-19.

### **Questionnaire 3 – The impact Covid-19 might have on prison reform plans and processes, technical assistance and co-operation activities in future: perspectives for long-term sustainability**

58. Are there specific prison reforms or other initiatives that had to be cancelled/postponed because of Covid-19 or were otherwise affected by Covid-19? If so, please provide details.
59. What lessons have been learnt from the Covid-19 experience in terms of future prison management?
60. What are the priorities for the prison administration now in terms of tackling Covid-19, based on lessons learnt?
61. What are the ongoing/future prison reform plans?

62. In what areas of prison management/reform does the prison administration need the most support/co-operation?
63. Are there any measures taken in response to Covid-19 that proved to be successful and will now be fully incorporated in prison reform plans?
64. Are there any activities/services of civil society organisations in prison that were impacted by Covid-19?



## Appendix 2

# Interview guide

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### **1) What do you think worked well in the response to Covid-19 in prisons?**

Areas to explore could include:

- ▶ speed of response;
- ▶ co-ordination between different agencies;
- ▶ communication relating to Covid-19 in prisons;
- ▶ co-operation between all stakeholders;
- ▶ availability of budget/materials/facilities to enable the response.

### **2) Do you think the actions taken by the prison system actively limited the number of Covid-19 cases/deaths? If so, what actions do you think were instrumental in preventing spread?**

Areas to explore could include:

- ▶ distribution of PPE equipment;
- ▶ hygiene and sanitation measures;
- ▶ Covid-19 awareness raising and educational materials;
- ▶ limiting/suspending prison visits;
- ▶ limiting movement within and between facilities/physical distancing;
- ▶ prison decongestion measures;
- ▶ the use of quarantine and isolation.

### **3) Which existing factors do you think enabled good practice in Covid-19 responses?**

Areas to explore could include:

- ▶ crisis preparedness/contingency plans already in place;
- ▶ budget available for crisis response/budget flexibility;
- ▶ availability of physical space and other resources;



- ▶ existing co-ordination mechanisms between different agencies;
- ▶ existing good co-operation/relationships between prison management/ staff/prisoners;
- ▶ streamlined decision-making processes;
- ▶ good prisoner-staff ratio/lack of overcrowding;
- ▶ organisation and management of prison health services.

#### **4) What do you think could have been done better, and why?**

Areas to explore could include:

- ▶ faster responses/streamlined decision making;
- ▶ better communication/co-ordination;
- ▶ more actions to mitigate the negative impact of Covid-19 restrictions;
- ▶ more resources to implement infection prevention and control measures.

#### **5) What do you think were the main factors preventing a better Covid-19 response?**

Areas to explore could include:

- ▶ lack of co-operation/resistance/misunderstanding of Covid-19 preventive measures;
- ▶ lack of information about the virus and how to respond;
- ▶ bad management/poorly trained staff;
- ▶ lack of budget/equipment/other resources;
- ▶ inadequate medical care, including medical equipment supplies and availability of medical staff;
- ▶ prison overcrowding/understaffing;
- ▶ stigma against prisoners/a lack of concern or indifference towards prisoners/not politically expedient to support prisons.

#### **6) Which groups of detainees do you think were most badly affected by the Covid-19 response and why?**

Areas to explore could include:

- ▶ women (why? visit restrictions, health, availability of services?);

- ▶ foreign nationals (why? contact with outside world, isolation, language barriers?);
- ▶ older people (why? vulnerability to Covid-19, other health concerns?);
- ▶ those with mental health problems (why? mental health deterioration, lack of support, impact of restrictions?);
- ▶ those with existing physical health conditions (why? more vulnerable to negative outcomes of the disease, lack of specific measures to shield this population, access to non-Covid-related healthcare when systems were overloaded?);
- ▶ pre-trial detainees (why? trial delays, mental health?);
- ▶ children (why? contact with families, communication?).

**7) In your opinion, what aspects of the Covid-19 response most impacted prisoners?**

Areas to explore could include:

- ▶ restrictions on family visits or other external visitors (e.g. religious representatives, embassy officials);
- ▶ access to lawyers/legal advice;
- ▶ restrictions on out-of-cell time;
- ▶ suspension of activities/education/training;
- ▶ quarantine/isolation measures;
- ▶ impact on mental health;
- ▶ self-harm/suicide rates.

**8) What do you think were the main human rights concerns arising from Covid-19 restrictions?**

Areas to explore could include:

- ▶ solitary confinement/prolonged solitary confinement;
- ▶ torture/ill-treatment;
- ▶ access to healthcare, including mental healthcare;
- ▶ contact with the outside world;
- ▶ fair trial rights/access to justice;

- ▶ lack of rehabilitation/reintegration opportunities;
- ▶ out-of-cell time/access to fresh air and exercise.

### **9) What do you think were the main impacts on prison staff and why?**

Areas to explore could include:

- ▶ impact on physical health;
- ▶ impact on mental health;
- ▶ long working hours;
- ▶ time away from family;
- ▶ personal safety.

### **10) If there was violence/unrest/disquiet in prisons related to Covid-19, what do you think were the main factors? What could have been done to prevent these issues arising?**

Areas to explore could include:

- ▶ fear/panic about the pandemic;
- ▶ lack of information/poor communications/transparency;
- ▶ impact of restrictions (e.g. visit restrictions, legal delays);
- ▶ lack of avenues to make requests/complaints/presence of monitoring bodies;
- ▶ related to release mechanisms – perceived to be unfair?;
- ▶ equal access to tests/vaccinations and vaccine hesitancy/refusal.

### **11) What were the most successful strategies to mitigate against Covid-19 restrictions and why did they work well?**

Areas to explore could include:

- ▶ increased phone calls/video calls with family;
- ▶ virtual court hearings;
- ▶ online classes;
- ▶ increased out-of-cell time/other activities;
- ▶ psycho-social care and additional mental health services.

**12) In your opinion, what were the main lessons learnt? What needs to be in place for future preparedness?**

Areas to explore could include:

- ▶ staff training;
- ▶ reduced overcrowding/use of alternatives to detention to reduce prison populations/faster action needed to reduce prison populations through early release mechanisms;
- ▶ better contingency resourcing;
- ▶ legality, timeliness and proportionality of responses.

**For prison managers (these areas are also covered in the questionnaire for the authorities in similar questions):**

- ▶ what do you think the long-term impact of Covid-19 on the prison systems will be?
- ▶ what longer-term changes have been put in place because of Covid-19?
- ▶ how has/will Covid-19 impact other areas of prison management reform?
- ▶ did Covid-19 delay planned reforms? Has it changed any planned reforms?

**For other agencies (where relevant, e.g. probation agencies/social services):**

- ▶ how did the Covid-19 response in prisons affect the work of your agency, in particular the impact of mass prisoner releases?

**For monitoring bodies:**

- ▶ what has the immediate and longer-term impact of Covid-19 been on your work as prison monitors?
- ▶ what particular challenges did you face in implementing your visiting mandate?
- ▶ what extra measures and safeguards have you taken to enable you to continue “business as usual” during the pandemic?
- ▶ how did you adapt your working means and methods?
- ▶ did you suspend monitoring activities at all? If so, for how long?
- ▶ did you undertake remote or virtual monitoring at all? If so, please provide details. How did these compare to in-person visits? Was there anything you weren’t able to do as a result?
- ▶ what measures (hygiene and sanitation) did you take to protect prison monitors pre-/post- and during their visits?
- ▶ how did you support the correctional authorities in your country during the pandemic (e.g. translation of international detention standards, policy support, PPE protocols)?
- ▶ how was contact with prisoners maintained (e.g. social media, e-mail, physical mail, video or telephone communications)?
- ▶ what measures have you taken to monitor detainees in situations of particular vulnerability due to the pandemic and accompanying

restrictions (e.g. foreign nationals, those self-isolating because of Covid-19 infection as well as suspected infection or close contact, those in solitary confinement, those with physical health conditions)?

**For lawyers:**

- ▶ what have been the main challenges faced by lawyers/legal aid organisations?
- ▶ how has access to your clients been impacted by Covid-19?
- ▶ what health and hygiene measures have you taken to ensure that you meet clients in a safe environment?

**For judges:**

- ▶ how have you adapted your working methods in light of the pandemic?
- ▶ what role have technology and remote tools played during the pandemic (e.g. remote hearings, audio and video technology)?
- ▶ how have these tools assisted your work?
- ▶ have these tools presented any challenges to your work?
- ▶ have you created any Covid-19 related guidelines? If so, please provide details.

**For prisoners :**

- ▶ impact of Covid-19 on day-to-day activities?
- ▶ impact of Covid-19 on contact with the outside world (e.g. lawyers, family members)?
- ▶ impact of Covid-19 on physical and mental health?
- ▶ have reasons for restrictions been explained to you fully by the authorities?
- ▶ how has technology (e.g. virtual visits, phone calls, e-mail) been a support during the pandemic?

**For families:**

- ▶ how did the pandemic impact contact with your family member in prison?
- ▶ what alternative measures, if any, have you used to maintain contact (e.g. virtual visits, phone calls, e-mail)?

- ▶ impact of Covid-19 visiting restrictions on your mental health?
- ▶ what has the impact of the visiting restrictions on your children been (e.g. mental health and well-being)?
- ▶ coping strategies?

**For healthcare staff:**

- ▶ health interventions and measures taken to reduce the spread of Covid-19 in prisons?

## Appendix 3

# List of interviewees

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### Albania

- ▶ Institute for Activism and Social Change (x1)
- ▶ Organization for Security and Co-operation in Europe, Albania office (x1)
- ▶ Social worker (x1)
- ▶ Family of detainee (x1)
- ▶ Albanian Helsinki Committee (x1)
- ▶ Prison Ombudsman office (x1)
- ▶ Council of Europe country office (x1)
- ▶ Stop AIDS Alliance (x1)
- ▶ Tirana Legal Aid Society (x1)
- ▶ United Nations International Children's Fund (UNICEF) (x1)
- ▶ United Nations Development Programme (UNDP) (x1)
- ▶ Academic (x1)
- ▶ Judge (x1)
- ▶ Prison Fellowship Albania (x1)

### Armenia

- ▶ Representative of the Open Society Foundations, Armenia Office (x1)
- ▶ Representatives of the Helsinki Citizens' Assembly – Vanadzor (x2)
- ▶ Representative of the Human Rights Defender of the Republic of Armenia (x 1)
- ▶ Representative of Protection of Rights Without Borders (x1)
- ▶ Representative of Pink Armenia (x1)
- ▶ Armenian criminal justice expert (x1)
- ▶ Ministry of Justice – Penitentiary Service officials (x2)
- ▶ Probation expert/academic (x1)



- ▶ Armenian human rights lawyer (x1)
- ▶ Representative from the Prison Monitoring Group (x1)

## **Georgia**

- ▶ Human rights lawyers (x3)
- ▶ Representatives of NGOs (x3) (GCRT, Rehabilitation Initiative for Vulnerable Groups – RIVG)
- ▶ Representatives of the National Probation Agency (x2)
- ▶ Health experts (x2)
- ▶ Representatives of the Special Penitentiary Service (x2)
- ▶ Representatives of international organisations (x3) (Council of Europe, EU4Justice)
- ▶ Representatives of the Public Defender’s Office (x4)
- ▶ Judge (x1)

## **Ireland**

- ▶ Secretary General, Department of Justice (x1)
- ▶ Representative of the Department of Justice (x1)
- ▶ Director General, Irish Prison Service (x1)
- ▶ Senior officials at Irish Prison Service (x5)
- ▶ Representatives of Office of the Inspector of Prisons (x2)
- ▶ CPT lead for Ireland (x1)
- ▶ Representatives of NGOs providing education/counselling/reintegration/ other support services (x6)
- ▶ Former prisoner (x1)
- ▶ Academics (x2)

## **Portugal**

- ▶ Representative of Porto Prison healthcare service (x 1)
- ▶ Representative of the General Directorate of Reintegration and Prison Services, healthcare management in prisons team (x1)
- ▶ Representatives of the General Inspectorate of Justice Services (x3)
- ▶ Member of the Portuguese Bar Association, Human Rights Committee (x1)

- ▶ Representative of APAC-Portugal (x1)
- ▶ Representative of *Confiar* (x1)
- ▶ Representative of the CPT, Council of Europe (x1)
- ▶ Representative of the judiciary, Coimbra Court (x1)
- ▶ Academic, Minho University (x1)
- ▶ Public Prosecutor of Coimbra Court (x1)
- ▶ Representative of *Dar e Mão* (x1)
- ▶ Representative of the Porto Probation Service (x1)
- ▶ Representative of the Community Sanctions team, Probation Service (x1)
- ▶ Academic, University of Coimbra (x1)

## **The Netherlands**

The research team tried their utmost to reach government officials but due to the lack of co-operation from the Dutch Ministry of Justice and Security, it was not possible to speak to officials working in the prison system or the probation service.

- ▶ Academic (x2)
- ▶ Psychologist (x1)
- ▶ Netherlands Institute for Human Rights (x1)
- ▶ NGO (x2)

Additional information was received from academics, NGOs and international organisations via e-mail.



This study looks at the efforts undertaken by Albania, Armenia, Georgia, Ireland, Portugal and the Netherlands to prevent and control Covid-19 within their prison systems, including through the reduction of prison populations as one of the most effective and sustainable measures.

The research findings are based on questionnaire responses provided by authorities and on stakeholder interviews, and they draw on other available information, including other Covid-19 studies. The aim of the study was to learn how prison administrations, staff and prisoners themselves coped with the challenges of Covid-19, looking especially for examples of good practice and lessons learnt. Its findings can help stimulate discussion on how prisons can function better in the event of a pandemic in the future, and how international partners can best support prison administrations in these circumstances. It further includes a set of recommendations to national authorities and international stakeholders.

[www.coe.int](http://www.coe.int)

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