

Law

The COVID-19 Impact in European Penitentiary Institutions

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Abstract. This study considers the preventive measures against COVID-19 introduced by European prison systems and their impacts on the human rights of prisoners and staff. The role of international bodies, including the United Nations, in advising on and monitoring the implementation of COVID-19 measures in prisons is explored. The impact of these measures on the rights of detainees is analyzed in light of international human rights law, particularly the European Court of Human Rights case law. The focus is on the European Court of Human Rights case law, regarding the protection of prisoner rights during the COVID-19 lockdown, particularly in relation to Article 3 of the European Convention on Human Rights. This article highlights the vulnerability of prisoners due to the overcrowded conditions and poor healthcare, making them especially susceptible to the virus. It explores challenges and provides recommendations for balancing human rights protection with virus containment. Special attention is also given to the need for long-term reform in European prison systems to address pre-existing conditions of overcrowding and inadequate healthcare. © 2025 Bull. Georg. Natl. Acad. Sci.

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Introduction

The COVID-19 pandemic faced unprecedented challenges for European prison systems. With overcrowded facilities and limited access to healthcare, the virus spread quickly within prisons, exacerbating the existing vulnerabilities of incarcerated individuals. The pandemic raised crucial questions regarding the balance between public health measures and the protection of human rights, as well as the adequacy of prison systems to address these challenges. Prisoners, due to their confined nature, were particularly at risk of contracting the virus,

and the measures implemented to combat the pandemic often raised significant human rights concerns.

In March 2020, most European countries implemented lockdowns to curb the spread of COVID-19, which immediately impacted the prison systems. The restrictions aimed at controlling the virus's spread resulted in a reduction of visitation rights, limited outdoor activities, and stricter protocols on transfers. Many countries adopted measures to reduce prison populations, either through the release of low-risk offenders or by suspending judicial procedures. These measures

were both necessary and controversial, with their impact on the rights of prisoners being subject to considerable debate.

As the pandemic progressed, prison authorities in various European countries implemented policies to mitigate the spread of the virus, including increased sanitation efforts, quarantine protocols, and the use of non-custodial alternatives to detention. However, not all countries were equally prepared to handle these extraordinary challenges. Some countries struggled with overcrowding, inadequate medical facilities, and insufficient resources to effectively combat the pandemic, which exacerbated the crisis.

The role of international human rights bodies such as the European Court of Human Rights (ECtHR) and the European Committee for the Prevention of Torture (CPT) in responding to the pandemic and issuing guidance to member states is also explored. The article argues that while many countries took urgent steps to address the crisis, the pandemic highlighted the long-standing issues of overcrowding and inadequate healthcare in many European prisons.

Discussion

The Council of Europe's Annual Penal Statistics (SPACE I project) initiated a special COVID-19 assessment in March 2020 to analyze the pandemic's impact on prison populations across Europe. The first report assessed trends from January to mid-April 2020, while the second report examined four distinct reference points: pre-pandemic (1 January), early lockdown (15 April), post-lockdown (15 June), and late summer (15 September) [1]. These reports revealed a significant decline in prison populations, which could be attributed to three main factors: (i) a reduction in crime rates, especially during the strict movement restrictions, (ii) the slowdown of judicial processes due to the pandemic, and (iii) targeted release schemes implemented to address overcrowding and reduce the risk of transmission within detention

facilities [1]. Professor Marcelo Aebi, co-author of the SPACE I 2021 report, emphasized that one of the critical responses during this period was addressing prison overcrowding. He highlighted that vulnerable groups, such as older inmates and those with underlying health conditions, were at greater risk, underscoring the importance of targeted measures like testing, isolation, and the release of detainees [2].

In the European Union, each member state implemented its own set of measures to mitigate the risks posed by the pandemic within prison systems. The European Parliamentary Research Service conducted a comprehensive analysis of these actions taken from March to June 2020. The measures introduced included the suspension of prison visits, halting inter-country transfers, and significantly enhancing sanitation protocols across detention facilities [3]. Several countries also sought to reduce overcrowding, notably through deferred sentencing and alternatives to detention, which allowed individuals to serve their sentences outside prison under certain conditions [3]. These responses aimed to prevent the spread of COVID-19 while protecting the health of both detainees and prison staff, illustrating the significant role of preventive measures in maintaining public health during such a crisis.

Further analysis by the European Union Agency for Fundamental Rights (FRA) was conducted in its report "The Coronavirus Pandemic and Fundamental Rights: A Year in Review." The report focused on the severe restrictions imposed during the year 2020, many of which were necessary to limit the spread of the virus. These included the banning of family and legal visits, suspension of outdoor activities, mandatory quarantine measures for new arrivals, and the halting of inter-prison transfers [4]. Although these measures were essential for controlling the pandemic, the FRA report noted the severe psychological consequences they had on detainees, with reports of unrest, particularly in Italy, where restrictions led to significant tension

within prison facilities [4]. However, as the pandemic continued, the post-lockdown period saw some countries begin to lift restrictions. New alternatives to in-person visits were introduced, such as the use of protective screens during visits and an increased use of video calls. France, for example, reduced its prison population by more than 13,000 inmates, with Germany releasing low-risk offenders, Portugal offering amnesty for short-term and elderly prisoners, and Italy extending special leave periods for inmates [5]. Cyprus, responding to recommendations from the national ombudsperson, also implemented measures to reduce the prison population [5].

Non-governmental organizations (NGOs) played an important role in tracking the responses of prison systems to the pandemic. EuroPris, for instance, compiled data from 33 national and regional prison administrations, including those from Spain, the United Kingdom, and Israel [6]. These contributions allowed for a detailed examination of best practices in visitation protocols, population management, legal adjustments, hygiene measures, testing, and vaccination, alongside the adoption of digital technologies in prison management. The European Prison Observatory, coordinated by the Italian NGO Antigone with EU support, conducted a more focused assessment of national prison systems and alternatives to detention. This research spanned eight countries: Austria, Germany, Greece, Hungary, Italy, Portugal, Romania, and the UK. From March to October 2020, the Observatory studied the compatibility of these national responses with international human rights standards, particularly those protecting detainees' fundamental rights [7].

Despite these efforts to contain the spread of COVID-19, critical shortcomings in the responses of European states were identified. Overcrowding in many prisons remained a pressing issue, with physical distancing measures rendered virtually impossible in many detention facilities. The lack of space to properly isolate detainees in some prisons exacerbated the risk of transmission. Additionally,

it was reported that some prison administrations manipulated or underreported infection and death rates, failing to provide an accurate picture of the pandemic's toll in prisons [8]. A joint report by Penal Reform International and Harm Reduction International, "COVID-19 Vaccinations for Prison Populations and Staff: Report on Global Scan," underscored that transparency deficits and logistical barriers hindered adequate medical care in prisons and obstructed the collection of accurate data on COVID-19 testing and vaccination coverage [8]. This situation further marginalized detainees and prison staff, who were often neglected in pandemic responses despite the higher risks they faced in closed environments.

A comparative study commissioned by the Council of Europe's Criminal Law Cooperation Unit examined the impact of the pandemic on prison reform priorities in six countries: Albania, Armenia, Georgia, Ireland, the Netherlands, and Portugal [9]. This study, which consulted a range of stakeholders in the prison administration sector, revealed that several countries had adopted common strategies. These included early release measures, suspension of court trials, COVID-19 screening and testing, quarantine and isolation facilities, and the suspension of inter-facility transfers. Many states also prioritized the protection of vulnerable groups, such as older inmates and those with pre-existing health conditions, by introducing separation measures to shield them from potential infection [9].

Moreover, the broader Council of Europe assessment confirmed that nearly all participating member states implemented essential sanitary measures, such as surface disinfection, provision of PPE, and room ventilation. Additionally, Plexiglas screens were installed in visitation areas to minimize the risk of transmission during in-person interactions. However, as the pandemic continued, it became clear that, while these measures were effective in the short term, they were insufficient in addressing the long-term issues of overcrowding

and the need for reform in prison systems across Europe. Vulnerable groups, particularly older detainees, were identified as being at the highest risk, and special attention was needed to mitigate the effects of the pandemic on their well-being. In some countries, such as Austria and France, temporary measures such as early release were implemented to alleviate overcrowding, but these efforts were not always sufficient, particularly in countries where the prison population was already stretched to its limits [9].

Psychosocial well-being in detention facilities was another area that suffered due to the restrictions implemented during the pandemic. In addition to limiting social interactions, several prison systems curtailed access to meaningful recreational activities, work, and educational programs. Inmates were often confined to their cells for prolonged periods, which negatively affected their mental health and well-being. In several countries, including Austria, Germany, and Ireland, changes were made to allow for some activities to continue while minimizing contact, such as reconfiguring prison programs to reduce the number of participants. Finland and Romania also introduced shift systems for different groups of inmates to reduce contact. Nonetheless, the suspension of in-person visits left many prisoners isolated from their families, further exacerbating feelings of loneliness and anxiety.

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) issued two key statements during the pandemic. The first, issued on 20 March 2020, reaffirmed the absolute prohibition of torture and inhuman treatment in any context, including during the COVID-19 pandemic. The CPT emphasized the necessity of ensuring detainees' health and safety, recognizing the operational challenges posed by the pandemic. It also called for the broad use of non-custodial alternatives to incarceration wherever possible, especially for vulnerable groups, and for the protection of prisoners' core rights, including access to legal and

medical aid [10]. The CPT's follow-up statement in July 2020 applauded the increased use of non-custodial measures and improved health screening protocols. However, it also noted that the pandemic had exposed long-standing structural issues in prison systems, particularly overcrowding and lack of adequate healthcare facilities. The Committee called for these emergency measures to be institutionalized as part of a broader, long-term prison reform strategy [10].

The European Court of Human Rights (ECHR) has long emphasized the state's obligation to protect the well-being of individuals in detention. In cases like *Fenech v. Malta* and *Feilazoo v. Malta*, the Court examined whether the responses to COVID-19 in detention facilities met the requirements set out in the European Convention on Human Rights (ECHR). The Court found that, although states had a positive obligation to safeguard the health and well-being of detainees, the measures adopted by governments were not always sufficient, particularly when prisoners were subjected to prolonged isolation or lacked access to adequate medical care. The ECHR reinforced the view that the obligation to provide adequate health care is a fundamental human right and cannot be suspended even during a pandemic [11]. The Court also held that effective preventive measures must be implemented to minimize the spread of infectious diseases in prisons, ensuring that detainees' health is not compromised [11].

Conclusion

In conclusion, the COVID-19 pandemic posed significant challenges to prison systems across Europe, exposing deep-rooted issues such as overcrowding, inadequate healthcare, and limited capacity for isolation. The responses of various European countries to these challenges demonstrated a commitment to mitigating the virus's spread while safeguarding detainees' rights, albeit with varying degrees of success. Measures such as early release programs, suspended judicial procedures, and the

introduction of non-custodial alternatives were critical in managing the immediate risks. However, these measures were largely temporary and highlighted the need for systemic reform in the prison systems to address long-standing issues of overcrowding and insufficient healthcare provisions.

The pandemic also emphasized the vulnerability of certain groups within the prison population, particularly older detainees and those with pre-existing health conditions, who were disproportionately affected by the virus. Although countries like Austria, France, and Italy implemented measures to protect these groups, further efforts are needed to ensure that their rights and well-being are prioritized in the future.

The psychological toll on detainees during the pandemic was also significant. The restrictions on family visits, recreational activities, and work programs exacerbated feelings of isolation and anxiety, making it clear that psychosocial well-being should be a central consideration in prison

management, especially during health crises. While some prisons adapted by implementing innovative solutions such as video calls and protective screens, the long-term effects on detainees' mental health remain a critical concern.

Looking forward, it is essential that the lessons learned from the pandemic are integrated into future penal reforms. The adoption of non-custodial alternatives, improvements in healthcare access, and the prioritization of vulnerable groups should become permanent features of prison systems across Europe. Furthermore, the pandemic has underscored the importance of ensuring transparency in prison management, particularly concerning health and infection rates, to enable informed decision-making and better safeguard detainees' rights. As Europe moves beyond the immediate crisis of COVID-19, these reforms must not be seen as temporary measures, but rather as integral parts of a broader strategy to build a more human and resilient prison system.

სამართალი

COVID-19-ის გავლენა ევროპის პენიტენციურ დაწესებულებებში

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ნაშრომში განხილულია ევროპული ქვეყნების პენიტენციურ დაწესებულებებში COVID-19-ის წინააღმდეგ დანერგილი პრევენციული ღონისძიებების ზემოქმედება მსჯავრდებულთა და იქ მომსახურე პერსონალის უფლებებზე. სტატიაში გამაზვილებულია ყურადღება ადამიანის უფლებათა ევროპული სასამართლოს პრეცედენტულ სამართალზე, რომელიც ეხება პატიმართა

უფლებების დაცვას, COVID-19-ით გამოწვეული პენიტენციური სისტემის „ჩაკეტვას“, ადამიანის უფლებათა ევროპული კონვენციის მე-3 მუხლით გათვალისწინებული ფუნდამენტური უფლებების ჭრილში. ნაშრომში ხაზგასმულია, რომ პატიმრები დაუცველნი არიან პანდემიის დროს, რადგან უმეტესობა მათგანი ერთიან სივრცეში ცხოვრობს.

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