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European NPM Forum

European NPM Newsletter

New series issue no. 6

(March-April 2020)

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Introduction

Strasbourg, 5 May 2020

Dear reader,

It is with great pleasure that I introduce the **European NPM Newsletter new series issue no. 6** (March-April 2020) produced by the newly established Torture Prevention Unit within the Council of Europe's Directorate General Human Rights and Rule of Law. The European NPM Newsletter is a review of information deemed relevant for National Preventive Mechanism (NPMs) as foreseen by the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) working in the Council of Europe region.

This publication is an activity carried out in the context of the **European NPM Forum**, a joint European Union (EU)-Council of Europe project, co-funded by both organisations and implemented by the Council of Europe. The project provides a forum for exchange and discussion for EU NPMs with the ultimate aim of enhancing mutual trust in detention conditions in EU member states. The Council of Europe ensures that the European NPM Forum is extended to NPMs in all Council of Europe member states and beyond.

Effective monitoring of places of deprivation of liberty has become more challenging with the coronavirus disease (**COVID-19**) outbreak. Both the enhanced risk of a COVID-19 spread in closed detention settings and the impact of the measures taken by authorities in an attempt to prevent such a spread present a particular challenge for persons deprived of their liberty who live in closed environments. Detained persons are thus exposed to a greater risk to be subject to potential human rights violations, including ill-treatment. In these circumstances, independent and external oversight of places of deprivation of liberty is of vital importance. NPMs have a key role to play in ensuring that the rights of detained persons are upheld.

It is therefore obvious that most of the information contained in the present issue of the newsletter deals with the pandemic. This time, the thematic discussion outlines the **responses of European NPMs to the COVID-19 pandemic** in order to continue fulfilling their mandate in these peculiar circumstances. I would like to thank all NPMs for their numerous and valuable contributions, which justify the length of the present newsletter. I am also very pleased to reintroduce the section "in focus", with a contribution by colleagues from *Her Majesty's Inspectorate of Prisons* (a member of the UK NPM), who kindly agreed to share a summary of their **adapted monitoring methodology** for visiting prisons.

NPMs will also find a request for contribution for future thematic discussions and are kindly invited to respond and make additional suggestions. If you would like to share information with colleagues from the NPM community on relevant news, activities or events from your NPM or organisation, as well as opportunities for contributions, training or funding, please send them (if possible by providing a short summary) to npm.newsletter@coe.int. To subscribe or unsubscribe please also send an email to this address.

I do hope you find this newsletter informative and helpful. Please feel free to share it with your colleagues and networks. As always, any feedback is more than welcome!

Yours sincerely,



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Project Manager

European NPM Forum

Torture Prevention Unit

Independent Human Rights Bodies Division

Human Rights Policy and Co-operation Department

Directorate General of Human Rights and Rule of Law

Council of Europe

I. European NPM Forum

1.1 NPM news

Armenian NPM

Publication of 2019 NPM Annual Report

On 6 April 2020, the Armenian Human Rights Defender [published](#) the [2019 annual report](#) (in Armenian only, an English translation is planned) on its NPM activities, which it submitted to the National Assembly. The report contains the NPM's findings and recommendations on the human rights situation of persons deprived of their liberty, in particular within the criminal justice system, as well as trends observed.



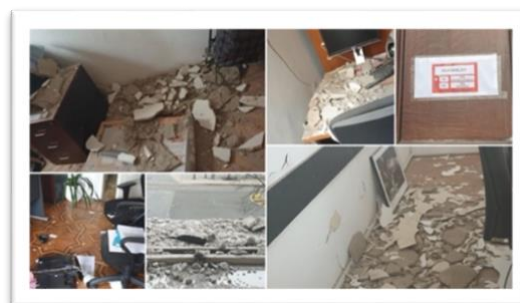
Information video on the NPM's work and information leaflet on the rights of psychiatric patients

Respectively on 12 and 23 March 2020, the Armenian Human Rights Defender has [released](#) an [information video](#) on its work in the field of torture prevention and [published](#) an [information leaflet](#) on human rights protection in psychiatric institutions. The video shows what institutions the Defender or his representative can visit and what actions can be taken to address the problems observed. The leaflet presents the Human Rights Defender's powers, the procedure for applying to the Defender and the rights of persons held in psychiatric establishments. It will be provided to psychiatric patients and staff.

Croatian NPM

Ombudsperson's Office damaged during earthquake

On 22 March 2020, in the midst of the coronavirus pandemic, the Office of the Ombudsperson was severely [damaged](#) and, for security reasons, cannot be used until further notice. Colleagues from the Croatian NPM deserve our full solidarity.



Czech NPM

Summary of NPM's main activities in Q4/2019

On 30 March 2020, the Czech NPM [published](#) a summary of its main activities carried out in the 4th quarter of 2019. The summary contains information on visits and monitoring of return flights carried out, the publication of a report on forensic psychiatry, the holding of a meeting aimed at monitoring return flights, and international cooperation activities, including a visit by the Ukrainian NPM.

Finish NPM

Greater efforts on preventing and monitoring death in police custody announced

As a result of the publication of decision 4103/2016 on the Finish Parliamentary Ombudsman's own initiative inquiry into death in police custody, issued in July 2019, the National Police Board has [announced](#) that it will update its guidelines on deaths in police custody and investigate new technological solutions for improving safety and operational procedures in custody. The Prosecutor General has also reviewed her guidance on the prosecutor's role in investigating death in police custody and a number of legislative reforms as regards the treatment of persons in custody, criminal investigations, and coercive measures are currently underway.

Georgian NPM

Public Defender responds to fining of Ministry of Justice and Special Penitentiary Service

On 1 April 2020, the Public Defender [reacted](#) concerning the recent decision of the State Inspector to fine the Ministry of Justice and the Special Penitentiary Service for violating the Law on Personal Data Protection by exposing video footage of confidential interviews between NPM staff and prisoners. The State Inspector's Office also accepted to study the legality of electronic surveillance processing in prisons. In addition, the decision exposed that new video footage of another confidential interview between the NPM and a prisoner

were once more recorded upon instruction of the Director General of the Special Penitentiary Service. This renewed violation raises the suspicion that the Special Penitentiary Service keeps the Public Defender's representatives under surveillance, records their meetings with prisoners and retains the recordings for an indefinite time, in violation of relevant provisions on functional independence, immunity and confidentiality under OPCAT.

Publication of Ombudsman's annual report



On 2 April 2020, the Public Defender [published](#) its [2019 annual report](#) (in Georgian) on the situation of human rights and freedoms, with a special section on the prohibition and investigation of torture and other ill-treatment. The report points to the need for greater efforts to effectively counter ill-treatment and describes the situation in Georgian prisons (characterised by informal governance of prisoners), police custody, and psychiatric institutions (which fails to ensure patients' dignified life and protection of rights). It also recommends improving the effectiveness of criminal investigations into alleged ill-treatment.

Italian NPM

Publication of report on the monitoring of forced return flights in Europe

The Italian NPM [published](#) a [report](#) on monitoring of forced returns in Europe, commissioned within the project "Implementation of a forced return monitoring system" of the ISMU Foundation. The report offers the first overview of the various European bodies which, at national level, monitor forced return operations. It is the result of a wide-ranging research, also carried out on the basis of the answers to a questionnaire sent to all European monitoring bodies. Among the main conclusions of the research, the report stresses the need: (a) to ensure that coercive measures are proportionate and do not exceed reasonable force; (b) to monitor the handover phase of the return operations and carry out post-return monitoring; (c) to notify returnees in a timely manner about their impending return and to guarantee fundamental safeguards; and (d) to ensure that mechanisms and/or solutions compatible with national legislation are put in place, to allow for dignified returns with full respect of fundamental rights.



Lithuanian NPM

Excessive use of force by police and systematic use of handcuffs during transfer of detainees blamed

On 4 March 2020, the Seimas Ombudsperson [presented](#) a report in which he was critical on the high number of cases of alleged excessive use of physical force by police officers. Data of the Prosecutor General had revealed that, despite numerous complaints, it was difficult to investigate such allegations due to the non-use, misuse and non-availability of technical video recording equipment by police officers. The report also raised concern about the systematic use of handcuffs during transfers of detainees by the police, including against non-opposing persons and in breach of the presumption of innocence, which – in his view – might amount to degrading treatment, and called on the Government to amend the rules on transfer of detainees.

Norwegian NPM

Publication of the NPM's 2019 annual report

On 24 March 2020, the Norwegian NPM [published](#) its [2019 annual report](#). 2019 also marks the NPM's 5th anniversary. Happy birthday! The report presents some of the NPM's major achievements and highlights some of the key issues revealed during the 65 visits carried out since 2014, including improved safeguards in mental health care and child welfare institutions and putting a hold of immigration detention of families with children. 2019 has been dominated by the work on the special report on solitary confinement and lack of human contact in Norwegian prisons and the completion of a study into the use of restraint beds in Norwegian prisons. Another focus is on the NPM's visits to child welfare and mental health institutions.



Polish NPM

Call for legal amendments to introduce definition of torture and strengthen forced return monitoring

On 19 March 2020, the Polish Ombudsman [sent](#) a letter to the Prime Minister in which he stressed the need to introduce into the Polish legal order a definition of torture which complies with international standards, in line with longstanding recommendation made by several international organisations. The Prime Minister forwarded the letter to the competent Minister of Justice asking him to take a position; the Ombudsman had repeatedly written to the Ministry of Justice on the matter but to no avail. On 3 April, in a separate letter, he [called](#) on the Minister of the Interior and Administration for changes in the law in order to strengthen and render effective the system of monitoring forced return operations, and ensure that the Ombudsman, acting as NPM, is allowed to monitor return flights. The legislation currently in force does not include the Ombudsman's Office among the entities entitled to monitoring deportations and there are no specific rules for participation in return operations, which prevents the NPM from exercising its mandate, in violation of the law. He also called for greater transparency and public reporting of return flights.

Swedish NPM

Thematic report on isolation of inmates in detention

On 28 February 2020, the Chief Parliamentary Ombudsperson, Elisabeth Rynning, [published](#) a thematic [report](#) on isolation of inmates in detention. In addition to the observations from more than 30 inspections, the report points to the findings and recommendations of an own-initiative inquiry carried out and calls for legislative amendments to guarantee isolation-breaking measures for inmates in detention. By decision of 13 February, the Government introduced such measures only for children – the provision which will enter into force in July.



UK NPM

Publication of NPM's annual report and 10-year anniversary report



On 26 March 2020, the UK NPM published its [10th Annual Report](#), covering the period of April 2018 – March 2019. The Annual Report highlights some of the key developments in policy and legislation on issues relating to people in detention and gives an overview of the NPM's findings relating to detention during the year. Among the main concerns raised are the increased number of people detained under mental health legislation, the high level of violence, use of force and restraint, as well as self-harm in prisons, and the impact of indefinite immigration detention. The reporting period was also marked by the CAT's evaluation and the SPT's and the CPT's visits to the UK.

Unfortunately, there was still no strategy from the Government on how to strengthen the NPM by placing it on a statutory footing, giving it the powers it needs and guaranteeing its independence. On this occasion, the NPM also issued a [report](#) to mark its 10-year anniversary. The UK was one of the first countries to ratify OPCAT and set up an NPM in 2009. Ten years on, the mechanism looks back at the positive impact it had on preventing torture and ill-treatment. The report highlights key moments in the UK NPM's history and work. The NPM has become a 21-member network of independent inspectorates and lay-visiting bodies, carrying out over 66,000 visits to places of detention each year. Happy birthday!



Ukrainian NPM

Council of Europe positively assesses the work of the Ukrainian NPM in monitoring detention

On 30 April 2020, the Council of Europe in the framework of the European Union and Council of Europe joint project "EU and Council of Europe Working Together to Strengthen the Ombudsperson's Capacity to Protect Human Rights" [published](#) a re-assessment [report](#) of the operational capacities and needs of the Ukrainian NPM. The document analyses the legal framework, structure and activities of the NPM, including with the participation of public monitors within the "Ombudsman +" model, and provides an assessment of the needs for further strengthening and development of this mechanism. Among the main conclusions are that the

Ukrainian NPM is making progress and continues operating effectively, having fulfilled most of the recommendations provided in 2015 during the previous assessment. It benefits from an increased budget, is no longer in charge of dealing with complaints, and ensures broader coverage and makes regular visits to places of deprivation of liberty, including by its reinforced regional presence. Some challenges remain, such as the need for additional human resources and medical experts, for visiting all places of deprivation of liberty and for revising the Regulation governing the NPM operation and the role and activities of Public Monitors.

Forthcoming events:

- 6-7 October 2020 (tentative dates, postponed from May): South-East European (SEE) NPM Network meeting on “**Monitoring fundamental safeguards in the first hours of police custody**”, Zagreb (Croatia).

II. United Nations

2.1 Committee Against Torture (CAT)

COVID-19: UN Human Rights Treaty Bodies call for human rights approach in fighting COVID-19

On 24 March 2020, the Chairpersons of the 10 UN Treaty bodies, including the CAT, [urged](#) global leaders to ensure that human rights are respected in government measures to tackle the COVID-19 pandemic. They called on states to take extra care of those particularly vulnerable to the effects of COVID-19, including older people, people with disabilities, asylum seekers and migrants and people deprived of their liberty.

CAT session postponed and forthcoming session

The CAT decided to postpone its [69th session](#), which was scheduled to take place from 20 April to 15 May 2020 (see also [here](#)). The examination of the reports on **Iceland** and **Montenegro** has been postponed to the 72nd session which is due to take place in April-May 2021. No such decision has yet been taken as regards the [70th session](#) which is scheduled between 13 and 24 July 2020. The CAT will consider the following State party reports: **Belgium** (see [LoIPR](#) and [State party report](#) and [annexes](#)) and **Ukraine** (see [LoIPR](#) and [State party report](#) and [annex](#)). The deadline for written submissions is **22 June 2020**. Further information for NPMs, NHRIs and CSOs, as well as contact information can be found [here](#) (in [French](#)).

2.2 Sub-Committee on Prevention of Torture (SPT)

COVID-19: SPT issues advice on measures needed to protect people deprived of liberty

On 30 March 2020, the SPT [issued](#) detailed [advice](#) on a range of actions governments and independent monitoring bodies should take to protect people deprived of their liberty during the COVID-19 pandemic. The recommended measures relate to all places of deprivation of liberty and aim at mitigating the risks to health created by the Coronavirus, by considering reducing prison populations and the use of immigration detention. All detainees and people in quarantine and closed medical settings should also receive reliable and accurate information concerning all adopted measures. It further calls on NPMs to continue exercising their preventive mandate during the pandemic, including by carrying out visits to places of detention when possible, bearing in mind the “do no harm” principle, and by adapting their working methods – the overriding criterion being that of effectiveness in preventing ill-treatment of detained persons. NPMs must not be hindered in their work, even if full access to places of deprivation of liberty is temporarily restricted.

COVID-19: SPT issues advice on compulsory quarantine for Coronavirus

On 6 March 2020, the SPT [issued advice](#) on compulsory quarantine for COVID-19 cases, which was requested by the United Kingdom NPM and adopted during the SPT’s 40th session (10-14 February 2020). The advice states that, whilst quarantines are for the public benefit, they must not result in the ill-treatment of those

detained and respect for all fundamental safeguards shall be guaranteed when they are imposed. NPMs have an important role to play in their monitoring. During this session, the SPT also adopted a confidential report on its visit to the United Kingdom (8-19 September 2019), which was sent to the NPM concerned.

Postponement of visits

On 10/11 March 2020, the SPT [decided](#) to suspend an on-going visit (to Argentina), in view of the current situation caused by the Coronavirus (COVID-19), and to postpone its scheduled visits, including the visit to Bulgaria, which was due to take place in March. The visits will be rescheduled as soon as feasible to minimise the impact on the SPT's monitoring work.

2.3 Special Rapporteur on Torture

COVID-19: Security measures no excuse for excessive use of force; right to life-saving interventions for all

On 17 April 2020, UN human rights experts, including the UN Special Rapporteur on torture, Nils Melzer, and the Working Group on Arbitrary Detention (WGAD), [expressed](#) grave concern at the multiplication of accounts of police killings and other acts of violence within the context of COVID-19 emergency measures. The experts reminded governments and law enforcement agencies that the prohibition against arbitrary deprivation of life, torture and other ill-treatment, is absolute and non-derogable at all times, and the use of force remains guided by the principles of legality, necessity, proportionality and precaution. On 26 March, in a separate statement, the UN experts [underlined](#) that “everyone, without exception, has the right to life-saving interventions and this responsibility lies with the government”, stressing that the “scarcity of resources should never be a justification to discriminate”, including against people who live in residential institutions or people in detention.

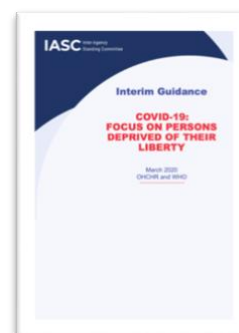
Special Rapporteur on torture facing resources constraints

On 28 February 2020, when presenting his thematic [report](#) on psychological torture, the UN Special Rapporteur on torture, Nils Melzer, [noted](#) that his mandate could not deal with the many requests it received due to limited resources. The unprecedented measure by the Government of Norway to withdraw \$ 100,000 from his mandate had deprived his office of its entire research budget and had caused significant delays in his thematic work. Given the increasingly constrained resources and the constantly growing demand, he appealed for additional contributions and resources.

2.4 Office of the High Commissioner for Human Rights (OHCHR)

COVID-19: OHCHR and WHO interim guidance paper on persons deprived of liberty

On 27 March 2020, the OHCHR and the World Health Organisation (WHO) have [issued](#) an Inter-Agency Standing Committee (IASC) [interim guidance paper](#) on the impact of COVID-19 for persons deprived of their liberty. Persons deprived of their liberty face higher vulnerabilities as the spread of the virus can expand rapidly due to the usually high concentration of persons deprived of their liberty in confined spaces and to the restricted access to hygiene and health care in some contexts. The state has the obligation, according to international human rights law, to ensure the health care of people in places of detention. This guidance paper contains key messages and actions for other UN agencies, governments and relevant authorities, national human rights institutions, and civil society, including the necessity to engage with NPMs.



COVID-19: COVID-19 and its human rights dimensions

In the context of the COVID-19 crisis, OHCHR set up a [dedicated website](#) on COVID-19 and its human rights dimensions, available in the official UN languages. This website contains the [COVID-19 Guidance](#), which also includes advice on people in detention and institutions, as well as a new [policy guidance](#) on emergency and exceptional measures, which includes advice on the use of force by law enforcement officers. UN High Commissioner for Human Rights, Michelle Bachelet, [called](#) on governments to take urgent action to protect the health and safety of people in detention and other closed facilities, as part of overall efforts to contain

the COVID-19 pandemic. She warned that COVID-19 has begun striking places of deprivation of liberty and risks “rampaging” such institutions’ extremely vulnerable populations and urged states to work quickly to reduce the number of people in detention. She also [called](#) on Governments to ensure that human rights are not violated under the guise of exceptional or emergency measures and recalled that the right to life, the prohibition of torture and other ill-treatment, and the right not to be arbitrarily detained continue to apply in all circumstances.

2.5 Human Rights Committee

Human Rights Committee discusses the implementation of the ICCPR by Portugal and Tunisia

As of 2 March 2020, the Human Rights Committee started holding its [128th session](#) during which it considered several periodic reports on the implementation of the International Covenant on Civil and Political Rights, including State party reports submitted by [Portugal](#) and [Tunisia](#) (see [Annex](#)), which also contain information on the Articles of the Covenant relevant for the work of NPMs, including on torture and other forms of ill-treatment. The CCPR adopted concluding observations with regard to [Portugal](#) and [Tunisia](#) (see also the press releases on [Portugal](#) and [Tunisia](#)). As regards Portugal, the Committee notably flagged a “culture of abuse” amongst police forces and raised concern about racially motivated instances of police violence. On 13 March, the Committee suspended its ongoing session, with two weeks outstanding.

2.6 Human Rights Council

Universal Periodic Review (UPR): Forthcoming reports and postponement of review

During its 43rd session, which started on 24 February and which was suspended on 13 March 2020 due to COVID-19, the UN Human Rights Council *inter alia* adopted the UPR outcome of **Italy** (see [report](#) and [addendum](#), in [French](#)) and **Slovenia** (see [report](#) and [addendum](#), in [French](#)). Italy accepted 292 out of 306 recommendations and noted 12 more. It is noteworthy that Italy did not accept recommendations regarding prison conditions, alternative measures to detention, and the special detention regime. Slovenia accepted 182 out of 215 recommendations and noted 33 more. See also the UPR outcome of **Bosnia and Herzegovina** (see [report](#) and [addendum](#), in [French](#)), **San Marino** (see [report](#) and [addendum](#), in [French](#)), and **Kazakhstan** (see [report](#) and [addendum](#), in [Russian](#) ([addendum](#)) in [French](#)).

Given the current situation, the Bureau of the Human Rights Council, on 20 March 2020, [decided](#) to postpone the 36th session of the UPR Working Group (4-15 May 2020) – which includes the review of reports on **Andorra, Bulgaria and Croatia** – to the dates envisaged for the 37th session (2-13 November 2020). All subsequent sessions will also be postponed accordingly.

The next deadline for submitting written contributions is **9 July 2020** for **Belgium, Denmark, Estonia, and Latvia** which will be reviewed during the 38th UPR Working Group session (January-February 2021). Further information about submissions and the procedure for stakeholders who wish to participate can be found [here](#) and [here](#).

2.7 United Nations High Commissioner for Refugees (UNHCR)

COVID-19: Key legal considerations on access to territory

Respectively on 16 March and 15 April 2020, UNHCR published [key legal considerations](#) on access to territory for persons in need of international protection in the context of the COVID-19 response as well as [practical recommendations and good practice](#) to address protection concerns and ensure respect for international refugee law in the context of the COVID-19 pandemic. UNHCR recommends the increased use of medical screenings and testing, the use of quarantine implemented in a non-discriminatory and proportionate manner, and an exemption for asylum seekers to enter states where border closures have been introduced. Whereas states may put in place restrictive measures to address health concerns, such measures may not result in denying them an effective opportunity to seek asylum or result in *refoulement*.

2.8 United Nations International Children’s Emergency Fund (UNICEF)

COVID-19: Call for urgent release of detained children and note on children deprived of their liberty

On 13 April 2020, UNICEF [called](#) on governments and other authorities to urgently release all detained children who can safely return to their families, or an appropriate alternative, particularly from juvenile justice institutions or immigration detention facilities during the COVID-19 crisis. UNICEF, together with the Alliance for Child Protection in Humanitarian Action, also produced a [technical note](#) (further language versions are available [here](#)) on COVID-19 and children deprived of their liberty, endorsed by several organisations. Due to their particular vulnerability in the current circumstances and their specific protection needs, the note calls for instituting a memorandum on detaining further children, releasing all children who can be safely released, and protecting the health and well-being of any children who continue to be detained.



2.9 United Nations Office on Drugs and Crime (UNODC)

COVID-19: Position paper on COVID-19 preparedness and responses in prisons



On 31 March 2020, UNODC issued a [position paper](#) on COVID-19 preparedness and responses in prisons. Prisoners and prison staff should not be forgotten during the COVID-19 pandemic and countries should recognise the particular risks which COVID-19 and the virus that causes it pose to prison populations. In addition to infection prevention and control measures, COVID-19 preparedness in prisons should include efforts to reduce the prison population. For further documentation, please see the dedicated UNODC [webpage](#) with updates on COVID-19, such as a [guidance note](#) on protecting children deprived of liberty during the COVID-19 outbreak.

2.10 World Health Organisation (WHO)

COVID-19: Interim guidance on preventing COVID-19 outbreak in prisons

On 23 March 2020, the WHO Regional Office for Europe has [published interim guidance](#) on how to deal with COVID-19 in prisons and other places of detention (see also [FAQ](#) on COVID-19 response: prisons). The guidance, entitled “Preparedness, prevention and control of COVID-19 in prisons and places of detention”, adopted on 15 March, provides useful information to staff and health care providers working in prisons, and to prison authorities. Minimising the risk of introducing COVID-19 into prisons and other places of detention and controlling the spread of infection in these settings is essential for preventing large outbreaks of the COVID-19 disease, as people deprived of their liberty are likely to be more vulnerable. The guidance explains how to prevent and address a potential disease outbreak and stresses important human rights elements that must be respected in the response to COVID-19, such as access to information and adequate health care provision, including for mental disorders. It also presents the latest evidence about the signs and symptoms of COVID-19 and the prevention and management measures that should be implemented in suspect, probable and confirmed cases of infection, considering a prison’s specificities.



Training courses

- ➔ UNITAR and DPO [developed](#) an [information package](#) (see [here](#) and [here](#) for further language versions) intended to **support prison administrators and staff** and ensure their safety and security in the efforts **to prevent COVID-19** from entering the prison **and mitigate the impact** in cases of an outbreak. The package provides communication tools with clear and concise information and visuals, including posters and a preparedness checklist.

- UNODC proposes a free of charge scenario-based [e-learning course on the Nelson Mandela Rules \(2019\) for prison and correction officers](#), *Translating international minimum standards on the treatment of prisoners into practical guidance for prison and correction officers*. For more information, please see [here](#) and [here](#).
- WHO offers a great number of **Coronavirus disease (COVID-19) [online training courses](#)**, ranging from standard precautions, to the use of protective equipment, to infection prevention and control, etc. The courses are available in the official UN and additional languages.

Call for submission:

- The UN Special Rapporteur on the human rights of migrants has issued a call for submission on **ending immigration detention of children** and seeking adequate reception and care for them for his next thematic report to be presented at the 75th session of the General Assembly. To inform his work on the topic he seeks contributions, notably on relevant legislation and policies, existing non-custodial alternatives and challenges/obstacles in implementing them, and good practices. The deadline is **15 Mai 2020**. Further information can be found [here](#) and [here](#).

III. Council of Europe

3.1 European Committee for the Prevention of Torture (CPT)

COVID-19: Statement of principles

On 20 March 2020, the CPT [issued](#) a [statement of principles](#) relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic. “Whilst acknowledging the clear imperative to take firm action to combat COVID-19, the CPT must remind all actors of the absolute nature of the prohibition of torture and inhuman or degrading treatment. Protective measures must never result in inhuman or degrading treatment of persons deprived of their liberty.” Monitoring by independent bodies remains an essential safeguard against ill-treatment. The statement is [available](#) in 26 languages. It was sent to all Council of Europe member states with a call for these principles to be applied strictly by all relevant authorities and a request to provide the CPT with an account of the concrete measures taken by these authorities to fight COVID-19 with respect to the treatment of persons deprived of their liberty.

Visits carried out

- **Greece** (13-17 March 2020): [“rapid reaction” visit](#), with focus on the treatment and conditions of detention of migrants in police and border guard establishments in the Evros region at the Greek-Turkish border. It also went to certain “quasi-official places of detention” and examined allegations of push backs across the Evros River by certain Greek forces. The CPT further visited the Coastguard premises on Samos island and an immigration detention facility in the Attica region to speak to a large number of detained persons, including vulnerable and those who were kept aboard a vessel for two weeks in Mytilini Harbour.

Reports published

- **France:** On 24 March 2020, the CPT published the [report](#) (in French only) on its 2018 ad hoc visit (23-30 November 2018) together with the [response](#) of the French authorities (in French only). The report examines the treatment and conditions of detention of immigration detainees.

Key findings: some allegations of physical ill-treatment of immigration detainees by the police in all administrative detention centres (CRAs) visited as well as verbal/racist abuse; carceral environment in the CRAs; near-total absence of organised activities in all facilities; continued lack of medical screening on admission and of psychological support of detained persons; need to increase efforts to use alternatives to detention for minors accompanying adults and, particularly, for

unaccompanied minors; insufficient staff-detainee contacts and continued lack of specialised training for immigration detention staff; the practice of handcuffing of persons to fixed objects in isolation rooms at a CRA should be ended; the CPT expresses serious reservations as regards the authorities' plans to use electrical discharge weapons (EDW) in immigration detention; very poor and degrading material conditions in the border guard premises at the Franco-Italian border and lack of information on rights of persons refused access to the French territory.

- **Greece:** On 9 April 2020, the CPT [published](#) the [report \(executive summary, in Greek\)](#) on its 2019 periodic visit (29 March – 9 April 2019) together with the [response](#) of the Greek authorities. The report highlights the CPT's findings as regards the treatment and conditions in which persons are detained in prisons and police establishments, including transfer centres.

Key findings: the CPT remains deeply concerned about the dire state and crisis of the Greek prison system, and that the infliction of police ill-treatment remains a frequent practice throughout Greece with ineffective investigations into such allegations requiring concrete action – inaction might prompt the CPT to consider opening a procedure which might lead to a public statement; a total of seven immediate observations, mainly on the situation in prisons, a transfer centre and the provision of healthcare services; the Ombudsman's Office requires adequate to enable it to fulfil its **NPM** mandate; prison overcrowding and chronic shortage of prison staff remain structural problems; the situation at Korydallos Men's Prison remains alarming with staff no longer being able to exercise effective control; high levels of inter-prisoner violence and intimidation in all prisons visited, also including fatal injuries; credible allegations of physical ill-treatment of foreign national prisoners by staff in one prison; some living conditions in several prisons can easily be considered to amount to inhuman and degrading treatment; lack of organised activities; the widespread deficiencies of health care services and shortage of health care staff in prison persist; poor conditions and shortcomings at the prison health centre persist and the treatment of two patients could be considered as inhuman and degrading; many credible allegations of excessive use of force upon apprehension and some allegations of physical ill-treatment during police interviews; the establishment of the "National Mechanism for the Investigation of Arbitrary Incidents" is positive but insufficient; procedural safeguards against ill-treatment do mostly not apply from the outset of custody requiring legislative change; most police establishments were unsuitable for holding detainees for over 24 hours; repeated call to put an end to holding unaccompanied minors under "protective custody"; poor to appalling material conditions in the transfer centres visited; need to urgently review the current arrangements and very poor conditions for transferring prisoners.

- **Hungary:** On 17 March 2020, the CPT published the [report](#) (including an executive summary) on its 2018 periodic visit (20-29 November 2018) together with the [response](#) (in [Hungarian](#)) of the Hungarian authorities. The report assesses the situation of persons in police custody, juvenile prisoners, adult male prisoners serving (whole) life sentences or very long terms and persons placed in social care homes. During the visit, the delegation also discussed immigration issues.

Key findings: outright refusal to put in place effective safeguards against ill-treatment of migrants and effective protection against their forced removal and/or *refoulement* may prompt the CPT to open a procedure which may lead to a public statement; some accounts of excessive use of force, physical ill-treatment, and racist abuse by police officers; need to guarantee legal safeguards against police ill-treatment in practice as from the outset of custody and to adopt investigative interviewing techniques; positive steps taken to address prison overcrowding; a few allegations of physical ill-treatment of juveniles; inter-prisoner violence remains a serious problem in one juvenile prison, with insufficient activities and psychotherapeutic interventions for all juveniles; need to abolish the disciplinary sanction of solitary confinement for juvenile prisoners; a few isolated allegations of excessive use of force by staff in two prisons; need for a meaningful review procedure for prisoners serving (whole) life sentences; need to stamp out the systematic handcuffing of inmates during outdoor exercise or medical examinations and to review restrictions imposed on prisoners in special units for prisoners serving lengthy sentences (HSR Units); need to strengthen safeguards surrounding placement in solitary confinement or segregation; so-called "raging cells" to temporarily segregate aggressive or agitated prisoners do not respect human dignity; provision with mobile phones to

ensure prisoners' contact with the outside world a major innovation and good practice; efforts being made to de-institutionalise social care home residents; need to take out of service one home for psychiatric patients; poor material conditions, lack of organised activities and insufficient access to the outdoors, and insufficient staffing levels in these homes; need to stop immediately the undifferentiated use of sedating medication; need to put in place a framework governing the involuntary placement and stay of residents in social care homes with appropriate safeguards.

- **United Kingdom:** On 30 April 2020, the CPT published the [report \(executive summary\)](#) on its 2019 targeted follow-up (ad hoc) visit (13-23 May 2019) to England together with the [response](#) of the UK authorities. The report analyses the persistent high levels of violence in male adult prisons and juvenile detention centres, as well as on broader concerns regarding regimes, the use of force, segregation and use of means of restraint in line with its previous 2016 periodic visit report. The findings were discussed with Ministers during [high-level talks](#) in June 2019. The UK NPM also issued a [statement](#), in which it welcomed the report and the CPT's recommendation as regards the UK NPM.

Key findings: need to ensure that the **NPM** is fully in compliance with OPCAT requirements, notably for the statutory recognition of the NPM; the prison system remained in deep crisis, despite some progress of the prison reform programme; further steps required to tackle the root causes of the lack of safety in prisons and to implement plans to structurally overhaul the youth justice detention framework; male prisons remained violent and unsafe, with inter-prisoner violence, prisoner-on-staff assaults and staff-on-prisoner violence having reached "record highs"; concern about the practice of "preventive" strikes against compliant prisoners considered by staff as a potential threat; existence of a climate of fear; need to reform safeguards and accountability procedures, including complaints and reporting procedures, as well as oversight and governance systems; need to invest in smaller community-facing prisons; restricted and isolated regimes and/or long periods of segregation for many inmates, with insufficient out-of-cell time/outside exercise, purposeful activities or psycho-social support; need to strengthen health-care provision, including more effective self-harm and suicide prevention strategies and measures to address the alarmingly high levels of substance use in prison; a similar state of crisis at the young offenders institutions visited, with an alarmingly high level of violence, widespread resort to physical force, including alleged use of excessive force; reiterated call for abolishing in law and ending in practice the use of pain-inducing techniques to control young persons; an impoverished regime for separated or segregated young persons, with totally insufficient access to outdoor exercise, sometimes akin to solitary confinement, and for prolonged periods; need to radically reduce the numbers of young people held at both establishments and implement a new socio-educative welfare approach, with smaller and better suited institutions.

Responses published

- **Denmark:** On 3 March 2020, the CPT [published](#) a [partial response](#) from the Danish authorities to the January 2020 [report](#) on its 2019 periodic visit (3-12 April 2019). The response concerns the CPT's comments and recommendations on the issue of migration detention (paragraph 117), which was one aspect examined in the report. A full response will be published later.
- **Ukraine:** On 2 April 2020, the CPT published the [response](#) from the Ukrainian authorities to the January 2020 [report](#) on its 2019 ad hoc visit (2-11 April 2019). In the report, the CPT made recommendations on the treatment of residents in psycho-neurological institutions ("internats").

CPT held its March 2020 plenary meeting

From 2 to 6 March 2020, the CPT [held](#) its 101st plenary meeting. It adopted the reports on its periodic visit to **Ireland** (September/October 2019), and on its ad hoc visits to **Poland** (September 2019), the **Russian Federation** (October 2019) and to the **United Kingdom** (October 2019). The Committee also held an exchange of views with judges of the European Court of Human Rights on the definition of "deprivation of liberty" and on procedural obligations under Article 3 of the ECHR.

3.2 Prisons and Community Sanctions and Measures

Publication of 2019 Annual Penal Statistics (SPACE I)

On 7 April 2020, the Council of Europe has [issued](#) its [2019 Annual Penal Statistics](#) (SPACE I), which is conducted by the University of Lausanne (see also the [key findings](#)). According to the statistical data published, the overall imprisonment rate remained stable in Europe, with a total of 1,540,000 inmates in the 50 prison administrations (out of 52) of the member states for which these data are available as of 31 January 2019 (see [infographic](#)). The proportion of pre-trial detainees also remained stable (22%). 15 countries observed prison overcrowding, the situation being particularly serious in **Turkey** (123%), **Belgium** (121%), **Italy** (119%), **France** (117%), **Hungary** (115%), **Romania** (113%), **Malta** (107%), **Greece** (107%), **Austria** (106%) and **Serbia** (106%) (see [infographic](#)). Among the countries with the highest incarceration rates were **Russia** (386 inmates per 100,000 inhabitants), **Turkey** (329, +13%), **Georgia** (270), **Lithuania** (232), **Azerbaijan** (218) and **Czech Republic** (203) (see [infographic](#)). While women continued to present 5% of the total prison population, the proportion of foreign prisoners slightly increased to 16.6% and that of prisoners serving drug-related offences grew significantly (+5.3%) to 18% (see also [infographic](#) on countries with the most inmates aged 65 or over). In the context of the COVID-19 pandemic, Council of Europe Secretary General, Marija Pejčinović Burić, called on states to take into account the CPT's Statement of principles, to resort to alternatives to deprivation of liberty and to protect both the prison population and prison staff. For further information, please see the full [press release](#), [video](#) and [interview](#).



COVID-19: COVID-19 related statement

On 17 April 2020, the Council for Penological Co-operation Working Group, in co-operation with the European Organisation of Prison and Correctional Services (EuroPris) and the Confederation of European Probation (CEP) [issued](#) a [statement](#), in which it draws the attention to some important texts issued by the Council of Europe in recent days. The statement also highlights standards and practices (see [Compendium](#) of all relevant texts) which may assist the prison and probation services and other criminal justice agencies of the Council of Europe member states in dealing with the COVID-19 pandemic, respecting the principles of the rule of law and of human rights.

3.3 Committee of Ministers

Postponement of adoption of revised European Prison Rules

On 8 April 2020, the Council of Europe Committee of Ministers decided to postpone the debate on and adoption of the revised European Prison Rules.

COVID-19: Council of Europe values and standards must be upheld when fighting COVID-19

On 22 April 2020, the Committee of Ministers [adopted](#) a [declaration](#) on the COVID-19 pandemic, in which Council of Europe members states agreed on the need to continue to co-operate to fight the pandemic together, without ever losing sight of the Organisation's values and standards.

2019 annual report on supervision of the execution of Court judgments

On 1 April 2020, the Committee of Ministers [published](#) its [2019 annual report](#) (in [French](#)), on its supervision of the execution of judgments of the European Court of Human Rights. The report notably provides concrete examples of main achievements and reforms implemented by states in 2019, including following violations of Article 3 of the ECHR. The statistics illustrate a substantive progress in the execution process achieved over the last decade, with more "leading cases" highlighting structural and/or systemic problems closed than new cases introduced. However, a number of difficulties persist in the execution of certain judgments by respondent states – notably linked to the capacity of domestic actors, insufficient resources or political will or even clear disagreement with a specific Court ruling – requiring a further



strengthening of the supervisory system and framework. As of 31 December 2019, a total of 5,231 judgments and decisions were pending before the Committee of Ministers at different stages of execution, including 1,245 leading cases. 9% of cases concerned the right to life and protection against ill-treatment, 10% the lawfulness of detention, and 8% conditions of detention and medical care. States with most cases under enhanced supervision were respectively **Russia** (19%), **Ukraine** (17%) and **Turkey** (11%). For the first time, infringement proceedings under Article 46 (4) of the ECHR were triggered against **Azerbaijan**, and the Strasbourg Court found that the country had failed to fulfil its obligations relating to the execution.

Execution of Court judgments

On 3-5 March 2020, the Committee of Ministers held its quarterly meeting to oversee the **execution of judgments** and decisions from the European Court of Human Rights. The following cases of relevance have been examined:

- **Armenia:** [Virabyan group](#): concerning torture in police custody and killing during the arrest operation and ineffective investigations, including into allegations that the ill-treatment was politically motivated. → [decision](#) adopted
- **Azerbaijan:** [Ilqar Mammadov group](#): concerning the arrest and pre-trial detention to punish the applicants for having criticised the government in breach of Article 18 taken together with Article 5 of the ECHR. → The Committee adopted its first [interim resolution](#) under Article 46 (5) of the ECHR, see also [Azerbaijani Supreme Court acquits human rights defenders to execute the European Court's judgment](#) (28 April 2020)
- **Italy:** [Sharifi and Others](#): concerning collective expulsion of irregular migrants to Greece, which exposed them to risks of ill-treatment and excluded them from access to the asylum procedure or to another effective remedy. → [decision](#) adopted
- **Lithuania:** [Abu Zubaydah](#): concerning various violations related to the secret detention and "extraordinary rendition" of the applicant. As a result, the applicant is exposed to continued arbitrary detention and ill-treatment at the United States Naval Base in Guantanamo Bay. → [decision](#) adopted
- **Poland:** [Al Nashiri group](#): concerning various violations related to the secret detention and "extraordinary rendition" of the applicant. As a result, the applicant was exposed to a serious risk of further ill-treatment and conditions of detention in breach of Article 3 as well as of further secret detention. He faces a risk of capital punishment in a trial before a United States military commission in which, according to the European Court's judgment, evidence obtained under torture might be used. → [decision](#) adopted
- **Romania:** [Al Nashiri](#): *idem*. → [decision](#) adopted
- **Romania:** [Rezmiveş and Others and Braşadireanu group](#): concerning overcrowding and poor conditions of detention in prisons and police detention facilities, the lack of an effective remedy in that regard and the inadequacy of medical care and several other dysfunctions regarding the protection of prisoners' rights. → [decision](#) adopted
- **Russian Federation:** [Buntov](#): concerning torture inflicted in a correctional colony and lack of an effective investigation into the applicant's allegations of ill-treatment. → [decision](#) adopted
- **Russian Federation:** [Tomov and Others group](#): concerning transport of detained persons in poor conditions and the lack of an effective remedy in this respect. → [decision](#) adopted

The Committee also adopted the [indicative list of cases](#) proposed for examination at its next "Human Rights" meeting which will take place in June 2020. Further information for NHRIs and NGOs regarding submissions under Rule 9 of the Rules of the Committee of Ministers for the Supervision of the Execution of Judgments and of the Terms of Friendly Settlements can be found [here](#) (in [French](#)).

3.4 Secretary General

COVID-19: Toolkit on respecting democracy, rule of law and human rights during COVID-19 sanitary crisis

On 8 April 2020, Council of Europe Secretary General, Marija Pejčinović Burić, [provided](#) member states with a coronavirus [toolkit](#) for dealing with the unprecedented and massive sanitary crisis in a way that respects the fundamental values of democracy, rule of law and human rights. The toolkit is designed to help ensure that measures taken during the current crisis remain proportional to the threat posed by the spread of the virus and are limited in time. It notably covers derogations from the European Convention on Human Rights in times of emergency, respect for the rule of law, democratic principles and fundamental human rights standards (including as regards Articles 3 and 5 of the ECHR), and protection from gender-based violence.

See also:

- Dedicated Council of Europe [webpage](#) gathering all actions taken by the organisation in the context of the COVID-19 pandemic.
- Dedicated [webpage](#) of the Council of Europe Directorate General of Human Rights and Rule of Law on the impact of the COVID-19 pandemic on human rights and the rule of law.
- [Human Rights under quarantine: Council of Europe takes part in online debate of the Saint-Petersburg Legal Forum on 10 April 2020](#) (2 April 2020)
- As regards derogations from the ECHR, see the [Guide](#) on Article 15 of the ECHR, as well as [here](#), [here](#) and [here](#).

3.5 Parliamentary Assembly (PACE)

COVID-19: Committee chairs discuss the pandemic, human rights and the rule of law with Council of Europe experts, including CPT President

On 30 April 2020, the PACE [released](#) two videos (see [here](#) and [here](#)), in which the chairs of the PACE Committee on Legal Affairs and Human Rights and its Sub-committee on Human Rights discuss the impact of COVID-19 on human rights and the rule of law with representatives of select Council of Europe bodies. With Mykola Gnatovskyy, President of the CPT, they [discuss](#) the situation of persons deprived of their liberty, measures to reduce prison populations and reduce the risk of infection, and how the CPT and NPM were adapting to the current situation.

COVID-19: Migrant children behind bars face added threats during the pandemic

On 27 March 2020, the PACE rapporteur on stopping violence against and exploitation of migrant children [highlighted](#) the risk to expose detained migrant children to additional threats to their health and safety and to further human rights violations. She called for releasing all migrant children from detention, in line with the recommendations of the [PACE Campaign](#) to End Immigration Detention of Children.

3.6 Commissioner for Human Rights

COVID-19: Statement calling for urgent steps to protect the rights of prisoners in Europe

On 6 April 2020, the Commissioner issued a [statement](#), in which she called on states to safeguard the rights and health of all persons in prison during the COVID-19 pandemic and urged them to make use of all available alternatives to detention whenever possible and without discrimination, including by immediately and unconditionally releasing all those who are detained in violation of human rights standards. The absolute nature of the prohibition of torture and ill-treatment should never be compromised by measures taken in prisons including in the case of isolation for health reasons. Prison monitoring mechanisms should be able to continue to oversee the situation and be consulted by state authorities who should urgently adopt and implement a humane and comprehensive crisis plan supported by adequate human and financial resources.

COVID-19: Statement calling for release of immigration detainees while COVID-19 crisis continues

On 26 March 2020, the Commissioner issued another [statement](#), in which she called on all Council of Europe member states to review the situation of rejected asylum seekers and irregular migrants in immigration

detention, and to them to the maximum extent possible. In the context of the global COVID-19 pandemic, many member states have had to suspend forced returns of persons no longer authorised to stay on their territories, including so-called Dublin returns, and it is unclear when these might be resumed. Thus, there is no realistic prospect for their return in many cases for the moment. The release of the most vulnerable, in particular children, should be prioritised.

See also:

- [2019 Annual Activity Report: Challenges to human rights have intensified in Europe](#) (21 April 2020)
- Statement: [New EU Pact on Migration and Asylum should be firmly underpinned by human rights, effective solidarity and responsibility sharing](#) (17 March 2020) and [letter to European Commission Vice-President Schinas and Commissioner Johansson](#) (9 March 2020)

3.7 European Court of Human Rights (ECtHR)

Election of a new President

On 20 April 2020, the ECtHR [elected](#) Robert Spano (Iceland) as its new President. He will take office on 18 May 2020 and succeed Linos-Alexandre Sicilianos (Greece).

The functioning of the Court during the period of confinement

Respectively on 9 and 15 April 2020, the Strasbourg Court [decided](#), in addition to the [extension](#) of certain procedural time limits until 15 June, to take several additional steps designed to reduce to the minimum the physical presence of staff in the Human Rights Building. Certain tasks had to be deferred during the confinement period (see also [press release](#) of 27 March).

3.8 Directorate General for Human Rights and Rule of Law

New Council of Europe Torture Prevention Unit established

As of 1 April 2020, the Council of Europe Independent Human Rights Bodies Division has established a new Torture Prevention Unit aimed at supporting NPMs. The unit currently comprises three projects, including the European NPM Forum project and two projects to support the Tunisian and the Moroccan NPM.

Updated Council of Europe HELP course Introduction to the ECHR and the ECtHR with module on execution of judgments

On 31 March 2020, the Council of Europe Programme on Human Rights Education for Legal Professionals (HELP) has made [available](#) an updated version of the most popular Council of Europe HELP course Introduction to the European Convention on Human Rights and the European Court of Human Rights on the [HELP online platform](#). This course aims at providing knowledge about the human rights protection system under the Convention. For the first time, this course includes an entirely new Module on the Execution of the Judgments of the ECtHR.



COVID-19: Council of Europe donates protective material and consumables for Moldovan and Montenegrin prisons

Respectively on 2 and 27 April 2020, the Council of Europe donated a first lot of personal protective equipment (PPE) and consumables (i.e. masks and disinfectant) for the National Administration of Penitentiaries of the Republic of [Moldova](#) and the Institution for the execution of criminal sanctions in [Montenegro](#), aiming to support their preparedness to respond to the COVID-19 pandemic. The delivery of further equipment is under way. This initiative is part of Council of Europe specific bilateral Action or Programme in the context of the Council of Europe's [Criminal law cooperation](#).

3.9 Special Representative of the Secretary General on Migration and Refugees

Note on fundamental rights of refugees and migrants at European borders

On 27 March 2020, the Special Representative of the Secretary General on Migration and Refugees of the Council of Europe, together with the EU Agency for Fundamental Rights (FRA), [published](#) a [note](#) on the main fundamental rights safeguards applicable at their member states' external borders. In particular, the note briefly highlights the principles applicable as regards the use of force, bars to removal and the principle of *non-refoulement*, collective expulsion, suspending asylum in case of large numbers of arrivals and special measures in case of pandemic as well as deprivation of liberty and vulnerable persons and children.

Training courses:

- The Council of Europe [HELP Programme](#), amongst many other courses, proposes the following free-of-charge online courses on its [HELP online platform](#):
- **CPT Standards**
 - **Prohibition of ill-treatment**
 - **Managing foreign national prisoners (EuroPris)**
 - **Radicalisation prevention**
 - **Alternative measures to detention**
 - **Introduction to the European Convention on Human Rights and the European Court of Human Rights**

IV. European Union

4.1 European Commission

COVID-19: Guidance on return procedures

On 16 April 2020, the European Commission [published guidance](#) for member states on the implementation of relevant EU rules on asylum and return procedures and on resettlement in the context of the coronavirus pandemic. This responds to member states' request for advice on ways to ensure the continuity of procedures and the respect of, at a minimum, basic rights. The document underlines that, whereas any measure taken in the area of asylum, resettlement and return should also take full account of the health protection measures introduced by the EU member states to prevent the spread of coronavirus, they must guarantee access to asylum to persons in need of international protection who shall be exempt from border restrictions. However, as regards detention for the purpose of return, the guidance notes that temporary restrictions introduced by EU member states and third countries to prevent and contain the spread of COVID-19 "should not be interpreted as automatically leading to the conclusion that a reasonable prospect of removal no longer exists in all cases" but require an individual assessment.

EU Action Plan on Human Rights and Democracy for 2020-2024 aims to eradicate torture globally

On 25 March 2020, the European Commission and the High Representative set out the priorities and way ahead on human rights and democracy, [adopting](#) a [Joint Communication and the EU Action Plan on Human Rights and Democracy for 2020-2024](#). The document notably states that the EU should "strive to eradicate torture globally through prevention, prohibition, accountability and redress for victims, including by promoting the Global Alliance for Torture-Free Trade". To this end, "EU approaches to ensuring accountability for serious human rights violations and abuses" should be developed, including on the fight against torture and other ill-treatment.

4.2 European Union Agency for Fundamental Rights (FRA)

COVID-19: Report on fundamental rights implications of the coronavirus pandemic in the EU

On 7 April 2020, the FRA [published](#) a [report](#) on the wide-ranging impact of Government measures to combat COVID-19 on fundamental rights. Government responses to stop the virus particularly affect the rights of already vulnerable or at-risk people, such as people in institutional settings, including prisoners, notably by restricting visits. This bulletin is the first in a series of three-monthly reports on the impact of the COVID-19 across the 27 EU Member States and covers the period of 1 February – 20 March 2020.



Report on children in migration

On 30 March 2020, the FRA [published](#) a [report](#) on children in migration. Children in migration are more vulnerable than adults, particularly when they are unaccompanied. Their vulnerability makes them more exposed to violence, exploitation, trafficking and abuse. This report looks into challenges to the fundamental rights of children in migration in 2019. Among the main challenges migrant children face are the risk of push backs and detention to ensure their return. They may also be forcibly returned, either unaccompanied or together with their parents which can lead to traumatic experiences.



See also:

- [Fundamental rights of refugees and migrants at European borders](#) (27 March 2020) (see above)

V. Civil society and other stakeholders

Special feature:

- ➔ On 20 April 2020, the [External Prison Oversight and Human Rights Network](#), a global initiative aimed at sharing information, best practices and lessons learned on effective external prison oversight and enhancing openness, transparency and accountability among prison authorities, coordinated by the International Corrections and Prisons Association (ICPA), has [produced](#) a Special Issue of its network newsletter on [Adapting to COVID-19: Prison oversight and monitoring during a pandemic](#).
- ➔ On 17 April 2020, some 50 persons from several countries working in the field of torture prevention or human rights have signed an [open letter](#) to the presidents of the institutions of the European Union demanding them to call on EU member states to adopt broad and immediate amnesty measures for persons deprived of their liberty.

5.1 Amnesty International (AI)

COVID-19: Human rights priorities for state responses to COVID-19

On 1 April 2020, AI [published](#) recommendations for states in Europe urging them to ensure that their responses to COVID-19 are in line with their international and regional human rights obligations. [Europe at a Crossroads](#) sets out clear guidance on states' obligations, including ensuring people's right to health and ensuring protection for the most vulnerable who face a greater risk of infection, such as people deprived of liberty in prisons, immigration detention centres and other types of institutions. On 12 March 2020, AI issued a [public statement](#) on its preliminary observations regarding responses to COVID-19 and State's human rights obligations under international human rights law and standards.

See also:

- [Europe: Mass protests provide hope as rights and judicial independence eroded](#) concerning the publication of AI's [annual review of human rights](#) in the region (16 April 2020)

5.2 Association for the Prevention of Torture (APT)

The APT has led on several initiatives to help NPMs and other oversight bodies implement their mandate effectively in the context of the Covid-19 outbreak.

Mapping how Covid-19 is addressed in all contexts of deprivation of liberty worldwide

The APT launched an [Information Hub](#) mapping verified news and resources related to COVID-19 and deprivation of liberty worldwide, to foster dissemination of initiatives and practices from all corners of the world and help identifying patterns. The hub includes a range of resources, from legislation to news reports. It is designed to be, in the near future, a collaborative tool so that information can be fed into directly by APT partners, in particular NPMs.

Oversight in the context of COVID-19: regional and thematic webinars

The APT convened a series of regional [webinars](#) with NPMs and other national and international oversight bodies, and facilitated their exchanges on their challenges, practices and solutions regarding their mandate's implementation in this context of public health emergency. These sessions held in English, Spanish and French brought together over 110 participants from 40 different countries, in all regions of the world.

The APT then kicked off a series of thematic panel discussions with a webinar on health considerations and monitoring, held on 23 April. Further thematic webinars are planned in the coming weeks, on issues of particular relevance or interest to NPMs worldwide.

Disseminating promising monitoring practices: upcoming Guidance Note for NPMs

With the support of the OSCE/ODIHR, the APT is now developing a practical guidance note on monitoring in times of COVID-19, based on the wealth of practice shared by NPMs in the webinar series and on existing guidance by international and regional expert bodies. An advance draft is expected by end of April and will be shared with NPMs for their comments.

Fostering practical exchange of experience between monitoring bodies: APT's online platform for NPMs

The APT has launched a Slack platform dedicated to NPM monitoring in the context of COVID-19. Opened to NPM members worldwide, and animated by the APT team, the channel provides a practical, quick and easy way for NPMs to share experience, concerns and practices on the challenges they meet in the current context.

5.3 Arab Reform Initiative

COVID-19: Call on MENA governments to take urgent measures to protect the prison population

On 24 March 2020, the Arab Reform Initiative, undersigned by 40 human rights organisations including DIGNITY and the World Organisation against Torture (OMC), issued a [call](#) on MENA governments regarding "COVID-19: Urgent Measures Must Be Taken by MENA Governments to Protect the Prison Population". While restrictions, including on prison visits, may be imposed to curb the spread of infectious diseases like COVID-19, they must abide by the principles of proportionality and transparency. Any measure, including prison releases, must be taken in accordance with clear and transparent criteria, and without discrimination.

5.4 Centre for Civil and Political Rights (CCPR)

COVID-19: Global tracking tool on COVID-19 state of emergency data

The CCPR has launched a useful [global tracking tool](#) on state of emergency measures taken by states in response to the global COVID-19 pandemic that may influence the state's ability to ensure the rights and obligations protected by the International Covenant on Civil and Political Rights.

5.5 Changing Correctional Culture (AMEND – University of California San Francisco)

The AMEND team of the University of California San Francisco has developed [resources and guidance](#) for correctional facilities grappling with the life-threatening challenges of COVID-19. This includes guidance for correctional leaders, correctional officers and correctional health care staff, such as a COVID-19 correctional health care policy checklist.

5.6 Changing the Way We Care

COVID-19: guidelines for virtual monitoring of children, their families and residential care facilities during the COVID-19 pandemic

The association Changing the Way We Care issued [Guidelines](#), which offer advice on adapting and/or developing services and programming to continue to best serve children and families throughout the rapidly changing times of the COVID-19 pandemic, particularly on conducting virtual monitoring of children, families, alternative care placements and residential care facilities, including by way of regular phone calls.

5.7 Children of Prisoners Europe



Child friendly version of Council of Europe recommendation on children with imprisoned parents

Children of Prisoners Europe [published](#) a [child friendly version](#) of [Recommendation CM/Rec\(2018\)5](#) of the Council of Europe Committee of Ministers to member states on children with imprisoned parents. Following its adoption in April 2018, organisations across Europe worked with children, including their voices to make this document more accessible. This set of European guidelines is designed to help encourage action, as well as being a useful resource for children, parents and professionals, to better support children with a parent in prison, advocate for and promote their rights. The document is currently translated into Dutch, French, Polish and Bulgarian.

5.8 Convention against Torture Initiative (CTI)

Publication of CTI's 2019 annual report, new strategic plan and new tool on excluding torture evidence

On 11 March 2020, CTI [published](#) its [2019 annual report](#). 2019 marked the 35th anniversary of the adoption of UNCAT, and CTI's half-way stage since its establishment in 2014, catalysing important energy towards reaching CTI's dual goals of universal UNCAT ratification and effective implementation. 4 new states became parties to UNCAT in 2019, increasing the list of state parties to the Convention to 169. On 23 March, CTI [released](#) its updated and extended [2020-2022 strategic plan](#) designed to help strengthening institutions, policies and practices towards reducing risks and incidences of torture and ill-treatment through the application of UNCAT.



The strategy emphasises CTI's support for governments working to overcome obstacles that inhibit the full implementation of UNCAT, such as gaps in critical resources, institutions, human capacity and technical expertise. On 27 April 2020, CTI [issued](#) its 8th [tool](#) in its series of implementation tools providing guidance for states on procedures and best practices regarding the non-admission of evidence obtained by torture and ill-treatment.

5.9 COVID-19 Prison project

COVID-19: COVID-19 prison project launched

A new [website](#), entitled "Las prisiones ante el COVID-19", has been launched by a team of academics. The aim of the website is to compile the measures taken by prison administrations around the world to respond

to the difficulties posed by the new coronavirus. The website contains a section with links to news articles on [measures by country](#) and a compilation of [resources](#), including reports, websites and recommendations by international or region-specific associations and organisations on information regarding responses to COVID-19 in prison settings around the world.

5.10 Danish Institute against Torture (DIGNITY)

COVID-19: synthesis of guidance and recommendations on preventing and managing COVID-19 in prisons

On 26 March 2020, DIGNITY issued a [synthesis](#) of guidance and recommendations issued by a variety of international organizations on the prevention and control of COVID-19 in prisons. The purpose of this document is to streamline the copious amount of information generated daily on this subject in order to assist partners to make sense of it all and take quick action to prevent and control COVID-19 in their prisons. Useful information sources are listed at the end of the document. The synthesis is available in six languages.

5.11 European Organisation of Prison and Correctional Services (EuroPris)

COVID-19: prevention measures in European prisons

EuroPris launched a dedicated [webpage](#) with information gathered from national administrations on preventive measures regarding the COVID-19 virus in European prisons, which is collecting protocols, regulations and other steps taken by European prison services in order to deal with the COVID-19 virus. EuroPris is also providing [daily updates](#) with a feedback collection from a European mailing group consisting of 83 prison experts on COVID-19 related questions and responses.

5.12 European Prison Observatory (EPO)

COVID-19: what is happening in European prisons?

On 26 March 2020, the European Prison Observatory (EPO), a network of European NGOs coordinated by Antigone (Italy), has collected information on how European countries are dealing with the Coronavirus pandemic in the prison setting. This information is available on its dedicated [webpage](#) entitled "COVID-19: what is happening in European prisons?", which includes a [report](#) dated 25 March, an regular updates of [3 April](#), [10 April](#), [17 April](#), [24 April](#) and [30 April](#), as well as an interactive [map](#) with brief information for each country. In addition, Antigone has developed a campaign regarding the monitoring of prisons in Italy and the situation regarding the COVID-19 pandemic in the country. Useful information in this regard can be found on the organisation's [website](#) and on a dedicated [webpage](#), including specific information and a dossier on the situation in Italian prisons, as well as Antigone's proposals on how to deal with the emergency.

5.13 Fair Trials

COVID-19: launch of COVID-19 Justice Project

Fair Trials has launched its [COVID-19 Justice Project](#). The project is tracking by means of a [COVID-19 Justice Map](#) how criminal justice systems and fair trial rights in many countries around the world are being affected by the COVID-19 outbreak and responses to it. It aims at highlighting unjustified curtailments of rights and sharing global lessons on how states can pursue fair, workable responses to the many challenges that justice systems are facing. The rights of suspects and prisoners must not be forgotten in this time of crisis.

Publication a guide on remote criminal justice proceedings and practical guidance on the public health need to keep people out of detention

Respectively on 21 March and 3 April 2020, Fair Trials [issued](#) a [guide](#) (also available in [German](#) and [Czech](#)) on remote criminal justice proceedings and [published practical guidance](#) (also available in [German](#) and [French](#)) on the public health need to keep people out of detention. The guide summarises human rights concerns related to the use of remote justice procedures and provides practical recommendations for states. In its practical guidance, Fair Trials urges all judicial authorities and criminal justice actors to take urgent action to

reduce the number of people being held in pre-trial detention immediately as a matter of public health and safety, and to place arrested persons in pre-trial detention only as a measure of last resort.

5.14 Global Detention Project (GDP)

COVID-19: COVID-19 global immigration detention platform

The Global Detention Project (GDP) has launched the [COVID-19 global immigration detention platform](#) to share regular updates on how governments are responding to the COVID-19 pandemic in their treatment of immigration detainees. The platform also reports calls by independent monitoring bodies, NGOs, and human rights institutions demanding measures to safeguard the wellbeing of migrants and asylum seekers.

5.15 Human Rights Watch (HRW)

COVID-19: human rights checklist

On 14 April 2020, HRW issued a [human rights checklist](#) with 40 questions to guide a rights respecting response to the COVID-19 pandemic. HRW's research of 19 March 2020 on the [human rights dimensions](#) of the COVID-19 response has particularly focussed on the needs of groups most at risk. One dimension of this response concerns reducing risks in detention facilities and jails to protect people in custody and institutions. On 27 March 2020, HRW [called](#) on authorities across Europe to take measures to protect the health and rights of detainees and staff in immigration detention centres notably by releasing people and find alternatives to detention amid the COVID-19 pandemic.

5.16 Independent Inquiry into Child Sexual Abuse (IICSA) – United Kingdom

Truth Project thematic report on child sexual abuse in custodial institutions in England and Wales

On 23 April 2020, the Truth Project, which enquires about child sexual abuse in custodial institutions in England and Wales, has [published](#) a new thematic [report](#) on this matter. The research explores the experiences of survivors of child sexual abuse from the 1950s – 2010s in custodial institutions who shared their accounts with the Inquiry's Truth Project. The report finds children faced exceptionally sadistic treatment. Often, they were left completely isolated and had no way to escape the sexual abuse and violence.

5.17 Innovative Prison Systems (IPS)

COVID-19: Guide for criminal justice decision-makers on worldwide practices and recommendations

IPS issued a [guide](#) on worldwide practices and recommendations to address COVID-19. This guide aims to support decision-makers working in the criminal justice sector in taking (and justifying) the necessary decisions to prevent and mitigate the risks of the COVID-19 pandemic in correctional settings.



5.18 International Committee of the Red Cross (ICRC)

COVID-19: ICRC's response, note on preventing SGBV in quarantine and training videos on COVID-19

ICRC has published a dedicated [webpage](#) which highlights information on ICRC's response to the COVID-19 pandemic. It notably includes a [note](#) on prevention and response to sexual and gender-based violence (SGBV) in COVID-19 quarantine centres aimed at assisting people in charge of COVID-19 quarantine centres to manage them effectively without increasing the risks and consequences of SGBV. ICRC also published three sensitisation and training [videos](#) and supporting documents for use by detaining authorities.

5.19 International Corrections and Prisons Association (ICPA)

COVID-19: measures by prison administrations on COVID-19 response in prisons

The ICPA is providing information and useful resources collected from their members, including those from several European countries, regarding measures taken to respond to COVID-19 in prisons on a dedicated [webpage](#). The webpage also contains the video of a webinar on the response to COVID-19 in Prisons.

5.20 Ludwig Boltzmann Institute for Human Rights (BIM)

NPM online workshop on complaint procedures in prisons

On 27 and 30 April, representatives of 10 European NPMs held online meetings organised by the Hungarian Helsinki Committee and BIM in the framework of the EU-funded project „Improving Judicial cooperation across the EU through harmonised detention standards – the role of National Preventive Mechanism”. The meeting provided a forum for exchange about recurring problems, international standards and good practices of monitoring related to complaint procedures in prisons. Experts from various organisations (e.g. the OSCE/ODIHR and the APT) contributed and one of the discussions was facilitated by Prof. Nora Sveaass, Vice-Chairperson of the SPT.

5.21 Penal Reform International (PRI)

Publication of Global Prison Trends 2020 report

On 22 April 2020, PRI – alongside the Thailand Institute of Justice – [issued](#) its [Global Prison Trends 2020 report](#), which contains a special section on alternatives to imprisonment. Global Prison Trends 2020 documents the chronic issues that have led to the present human rights and public health crisis and the challenges facing criminal justice systems in responding to the global COVID-19 pandemic. PRI recommends that governments urgently reduce their prison populations and begin a long-term shift towards alternatives to detention. The report documents a record 11 million people in prison worldwide, with over 124 countries exceeding their maximum occupancy rate, driven by a punitive approach. The overcrowding and underfunding of prisons, alongside the overuse of imprisonment, mainly for non-violent offences, has resulted in poor health services and sanitary conditions for prisoners that make people in prison and prison staff acutely vulnerable to COVID-19.



COVID-19: briefing note on healthcare and human rights of people in prison

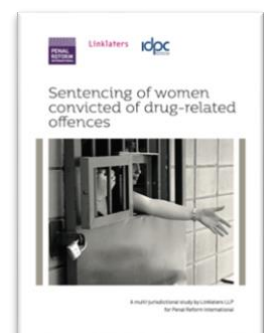


On 16 March 2020, PRI [published](#) a [briefing note](#) on healthcare and human rights of people in prison in relation to the spread of COVID-19. The briefing assesses the current situation of COVID-19 outbreaks and prevention measures in prisons and wider impacts of responses to governments on people in criminal justice systems. The briefing notably looks into the right to hygiene and adequate healthcare provision – equal to that available in the community –, contacts with the outside world, risks associated to quarantine, isolation or limitation of movement within detention facilities, as well as access to places of detention for monitoring bodies. It also highlights the need for all

jurisdictions to take emergency measures to reduce prison populations. The briefing is [available](#) in six languages.

Study on sentencing of women convicted for drug-related offences

On 3 March 2020, Linklaters LLP [published](#) a [study](#) for PRI together with the International Drug Policy Consortium, analysing the sentencing of women convicted for drug-related offences across criminal justice systems in 18 jurisdictions (see also overview of [key findings](#)). It shows that the number of women and girls in prison globally increased by more than 50% since the start of the century. Over-



incarceration of women due to drug-related offences is not the result of an increase of criminal activities. Harsh drug policies disproportionately impact on women because such policies are blind to the factors behind women's involvement in drug crime, such as poverty, vulnerability to violence and coercion.

Factsheet on Staff working conditions

PRI, in partnership with the APT, issued an updated [factsheet](#) on staff working conditions which focuses on addressing risk factors to prevent torture and ill-treatment. The factsheet, in its second edition, incorporates the standards of the Nelson Mandela Rules and is part of PRI/APT's [Detention Monitoring Tool](#), which aims to provide analysis and practical guidance to help monitoring bodies, including NPMs, to fulfil their preventive mandate as effectively as possible when visiting police facilities or prisons.

5.22 Prison Insider (PI)

COVID-19: Collection of COVID-19 measures relating to prisons and map of coronavirus in prison

Since 18 March 2020, PI has been documenting measures taken by the authorities and events observed on the basis of information available on its dedicated webpages [Coronavirus: Prison Fever](#) (in [French](#) and [Spanish](#)), which contains a list of useful links and includes a collection of information of the [situation in European countries](#) (in [French](#) and [Spanish](#)) as well as globally. In addition, PI is partnering with the Justice Project Pakistan on its [collaborative map](#) to report the number of confirmed and officially validated cases of infected prisoners and deaths among prisoners worldwide.

5.23 Terre des Hommes (TdH)

COVID-19: statement calling to accelerate the release of children from detention

On 27 March 2020, TdH issued a [statement](#) in which it calls on states to release all children from immigration detention and accelerate the release of children deprived of liberty in criminal justice or protection facilities. Urgent attention should be given to the implementation of non-custodial measures to ensure children's safe reintegration into families and communities. In rare cases where children cannot be released, states should implement measures to safeguard children's health.

5.24 World Prison Brief (WPB)

COVID-19: Collection of news and guidance on COVID-19 and prisons

The WPB has started [compiling](#) a list of news articles, guidance and other resources from around the world on COVID-19 and prisons, which will be updated regularly.

5.25 World Organisation against Torture (OMCT)

COVID-19: Guidance brief on response to COVID-19 and detention

On 30 April 2020, OMCT has issued a [guidance brief](#) to its members of the global SOS-Torture Network and partner organisations aimed at providing evidence-based support and good practices for their advocacy and engagement regarding the protection of persons deprived of their liberty. The document outlines a number of core protection strategies on COVID-19 and detention, including calls to reduce the detention and prison population or ensure effective monitoring of detention as key safeguards against torture, in line with the protective mandate of NPMs.



5.26 Worldwide Prison Health Research and Engagement Network (WPHREN)

COVID-19: Collection of news and guidance on COVID-19 and prisons

WPHREN has started [collecting](#) guidance and other resources on managing COVID-19 in prisons and places of detention from various countries and organisations.

VI. Jurisprudence

6.1 European Court of Human Rights (ECtHR)

Belgium: the placement in an isolation cell as a disciplinary measure following a suicide attempt of a detainee suffering from a psychological disorder constitutes degrading treatment

On 31 March 2020, the Court [delivered](#) (press release in [French](#)) a judgment in the case of [Jeanty v. Belgium](#) (application no. 82284/17, in French only), concerning the applicant's placement in an isolation cell as a disciplinary measure following a suicide attempt. The applicant, who was suffering from a psychological disorder, had made several suicide attempts while in pre-trial detention. While the Court, by a majority, was satisfied that the authorities had taken appropriate measures to prevent the detainee's death, thus avoiding a breach of Article 2 of the European Convention on Human Rights, the Chamber held however, unanimously, that there had been a **violation** of Article 3, as the applicant had suffered distress or hardship resulting from the lack of medical supervision and treatment during his detention and his placement in an isolation cell for three days as a disciplinary sanction. It also held that the investigation in that regard had been ineffective.

Further relevant Court judgments and decisions:

- **COVID-19:** According to [media reports](#), the Court has received a great number of Rule 39 applications concerning a possible risk of COVID-19 infection introduced notably by prisoners and immigration detainees in France, Italy, Greece, Turkey and the United Kingdom. Applications for interim measures concerning France and Italy have been rejected by the Court. More recently, the Court requested for a clarification from the Italian authorities about the situation of a prisoner who tested positive to coronavirus and is still in prison.
- **Azerbaijan:** On 27 February 2020, the Court [delivered](#) (press release in [French](#)) a judgment in the case of [Khadija Ismayilova v. Azerbaijan \(no. 2\)](#) (application no. 30778/15), concerning the retaliatory arrest and subsequent detention of an investigative journalist who publicly exposed Government involvement in corruption. The Court also referred to the previously identified pattern of arbitrary arrest and unlawful detention used by the Government to silence critics and intimidate dissident voices: violation of Articles 5, 6 and 18.
- **Bulgaria:** On 20 February 2020, the Court handed down a judgment in the case of [M.A. and Others v. Bulgaria](#) (application no. 5115/18), concerning the lack of effective guarantees against *refoulement* to China of Muslim Uighurs at risk of arbitrary detention, ill-treatment and death: deportation would constitute a violation of Articles 2 and 3 (see also [legal summary](#)).
- **France:** On 30 April 2020, the Court [issued](#) (press release in [French](#)) a judgment in the case of [Castellani v. France](#) (application no. 43207/16, in French only), concerning the excessive use of force by the GIPN, a special armed police unit, during the arrest of a suspect at his home: violation of Article 3.
- **Georgia:** On 2 April 2020, the Court [delivered](#) a judgment in the case of [Kukhalashvili and Others v. Georgia](#) (application nos. 8938/07 and 41891/07), concerning the death of the applicants' relative during a police operation to quell a riot in a prison where they were being held and the lack of an effective investigation: violation of Article 2.
- **Moldova:** On 24 March 2020, the Court issued a judgment in the case of [Cantaragiu v. the Republic of Moldova](#) (application no. 13013/11), concerning the ill-treatment and subsequent death of the applicant's brother in police custody and the lack of an effective investigation: violation of Articles 2, and 13 together with 3.
- **Netherlands:** On 20 February 2020, the Court delivered a judgment in the case of [A.S.N. and Others v. the Netherlands](#) (application nos. 68377/17 and 530/18), concerning the absence of a risk of ill-

treatment in case of removal of Afghan Sikhs to Afghanistan: deportation would not constitute a breach of Article 3.

- **Poland:** On 26 March 2020, the Court issued a judgment in the case of [Bilalova and Others v. Poland](#) (application no. 23685/14, in French only), concerning the placement in immigration detention of the applicant along with her five children: violation of Article 5.
- **Russia:** On 31 March 2020, the Court delivered a judgment in the case of [Murdalovy v. Russia](#) (application no. 51933/08), concerning the abduction, torture and enforced disappearance of the applicants' relative at the hands of the police and the lack of an effective investigation in the applicant's presumed death: violation of Articles 2 and 3.
- **Russia:** On 15 April 2020, the Court [decided](#) to refer to the Grand Chamber the case of [T.K. and S.R. v. Russia](#) (application nos. 28492/15 and 49975/15, see also [legal summary](#)), concerning the applicants' allegation that they risked ill-treatment if extradited to Kyrgyzstan because they belonged to the persecuted Uzbek ethnic minority.
- **Russia:** On 4 April 2020, the Court [issued](#) an inadmissibility decision in the case of [Shmelev and Others v. Russia](#) (application nos. 41743/17, 60185/17, 66806/17 et al., see also [legal summary](#)), concerning a new compensation scheme for inadequate conditions of past detention introduced in Russia at the end of 2019 in response of the Court's leading judgments on improper conditions of detention, which the Court deemed effective, but remedies to improve the situation still need to be assessed: inadmissible concerning six of the case's 17 applications, based on Article 35 (1) (non-exhaustion of domestic remedies); adjourned for the remaining 11 applications.
- **Turkey:** On 3 March 2020, the Court [handed down](#) a judgment in the case of [Baş v. Turkey](#) (application no. 66448/17), concerning the pre-trial detention of the applicant, a judge at the time, following the attempted coup of 15 July 2016: several violations of Article 5.

6.2 Court of Justice of the European Union (CJEU)

Belgium (leading Grand Chamber judgment): clarification of rules on European Arrest Warrant regarding double criminality

On 3 March 2020, the Court [handed down](#) a judgment in [Case C-717/18](#), concerning a European Arrest Warrant issued by Spain in 2018 against a person living in Belgium for charges of glorification of terrorism allegedly committed earlier. The Grand Chamber of the Court ruled that in order to ascertain whether the offence for which a European arrest warrant has been issued is punishable in the issuing Member State by a custodial sentence or a detention order for a maximum period of least three years, the executing judicial authority must consider the law of that Member State in the version applicable at the time the facts giving rise to the case happened, not the version in force at the time the arrest warrant was issued.

Croatia (leading Grand Chamber judgment): member states must verify risk of death penalty, torture, or other ill-treatment prior to executing extradition request of EFTA national to a third country (Russia)

On 2 April 2020, the CJEU [delivered](#) a leading judgment in an urgent preliminary reference procedure in [Case C-897/19 PPU](#), requested by a Croatian court. The Grand Chamber of the Court ruled that in order to extradite to Russia, following his arrest in Croatia, a former Russian national who had been granted asylum in Iceland and who had meanwhile acquired Icelandic nationality, Croatia must first verify, in accordance with Article 19(2) of the EU Charter of Fundamental Rights, that, in the event of extradition, the person concerned would not run a risk of being subjected to the death penalty, torture, or other ill-treatment.

Hungary (Advocate General Opinion): accommodation of asylum seekers in Hungary's Röszke transit zone must be classified as 'detention'

On 23 April 2020, Advocate General Pikamäe [issued](#) an [Opinion](#) in Joined Cases C-924/19 and C-925/19 PPU concerning the accommodation of asylum seekers in Hungary's Röszke transit zone and the refusal to examine the asylum applications of third country nationals from Afghanistan and Iran coming from Serbia based on the 'safe transit country' clause under Hungarian law. In his opinion, the placement of the asylum

seekers in the Röszke transit zone must be classified as ‘detention’ within the scope of Article 2 of the Reception Conditions Directive (2013/33/EU) – in contrast to the recent ECtHR Grand Chamber judgment in [Ilias and Ahmed v. Hungary](#) (application no. 47287/15, see also [legal summary](#)) – and has been unlawful. He also concluded that the Asylum Procedure Directive, which exhaustively lists the grounds of inadmissibility for applications for international protection, precludes Hungarian legislation from providing for a ‘safe transit country’ ground. Importantly, he called on the Court to offer, on the basis of EU law, a higher level of protection than that guaranteed by the European Convention on Human Rights, by emphasising that the CJEU is empowered to interpret the provisions of the EU Charter of Fundamental Rights independently but in a manner to ensure that the rights enshrined in the ECHR are protected.

VII. Thematic discussion

7.1 NPMs’ responses to the COVID-19 pandemic

The COVID-19 pandemic presents a great challenge to our daily life and routine, regularly with dramatic consequences, and has made the task of NPMs of external and independent monitoring more complex. The fact that global and regional monitoring bodies had to temporarily cease their visit programmes due to travel restrictions and border closures and the increased risk of COVID-19 infection in places of deprivation of liberty and potential human rights abuses in these closed environments, places an even greater responsibility on NPMs to monitor the situation of persons deprived of their liberty within their country. Moreover, NPMs retain their formal mandate to prevent torture and other forms of ill-treatment from occurring and to protect persons deprived of their liberty who are at risk of being subject to such abuse.

That said, the current public health crisis has forced NPMs to adapt their monitoring work to the quarantine and other restrictive measures imposed by the authorities in an attempt to limit the spread of the pandemic – in many countries under conditions of a state of emergency. The strategies adopted by the different NPMs to respond to the current situation vary, as you will be able to see from the different contributions received. While most mechanisms have decided to suspend physical visits to places of deprivation of liberty, some NPMs continue visiting detention and quarantine facilities, while taking the necessary precautionary measures. All NPMs adapted to the situation by adjusting their activities and methodologies or are in the course of doing so. Many mechanisms have put in place remote monitoring strategies or are exploring new techniques to monitor the situation of persons under their mandate. This overview on the different responses by NPMs to the COVID-19 pandemic hopefully provides further food for thought on NPMs can adapt to the current situation to be able to continue carrying out effectively their mandate under OPCAT.

SPT

The UN Subcommittee on Prevention of Torture (SPT) has sent letters to all designated NPMs inviting them to share their views how they have been responding to the challenge of tackling the coronavirus in places where persons are deprived of liberty, including those in places of quarantine. Please see above for more information about the [Advice](#) to State Parties and NPMs relating to the coronavirus disease (COVID-19) pandemic.

The SPT has also requested the NPMs to inform it about the challenges they might be facing concerning their work, in particular their access to places of deprivation of liberty. Finally, we have also invited the NPMs to share with us their practices how to combat the threat posed by the coronavirus in places of deprivation of liberty, so that the other NPMs could also benefit from these good practices.

The SPT has also written to all state parties requesting for information concerning their response to the measures set out in Parts II and III of the SPT Advice and the challenges they may face in fulfilling their OPCAT obligations during the pandemic.

Feedback from NPMs and state parties is awaited until 30 April 2020.

Albanian NPM

The NPM, as part of the Albanian People's Advocate started teleworking on 11 March 2020 and suspended its planned periodic inspections, in line with the "do not harm" principle, for as long as the restrictive lockdown measures imposed by the Ministry of Health and Social Welfare would continue. Despite this, it was decided to guarantee inspections in emergency situations.

The NPM continues its monitoring activities by means of electronic communication and continuously monitors online the situation in penitentiary institutions (including the juvenile institute and the prison hospital), the immigration detention and the asylum seekers centres, the anti-trafficking centre, border police detention facilities, psychiatric hospitals and social care homes for the elderly. We also contacted the above-mentioned institutions by phone and electronically and requested regular and detailed information from the authorities regarding conditions and concrete measures taken to cope with the spread of the virus. It seems that important measures were adopted in a timely manner in this respect, taking into account the limited resources available.

All 24 penitentiary institutions were disinfected, and a strict protocol is being followed regarding hygiene and personal hygiene of convicts and detainees. All staff are systematically checked by the health care team upon entry and provided with the necessary protective equipment (masks, gloves, sanitisers, etc.). All family visits and permits are currently suspended. In compensation, the time for inmates' telephone communication with their families has been increased and computers were installed and connected in 24 institutions to enable "Skype" communications. Lawyers can still visit inmates, but they must use protective equipment and keep physical distance.

By Governmental Act of 23 March 2020, about 600 prisoners (both convicted and pre-trial detainees) were temporarily granted a three-month leave, according to clearly defined criteria in law, to serve their sentences at home. The General Directorate of Prisons regularly informed the NPM about the measures taken to prevent COVID-19 in the Albanian Prison system and about the situation in specific penitentiary institutions. Relevant documents from international bodies, including the CPT's Statement of Principles and the SPT's Advice, were translated, [published](#) on the website of the People's Advocate, and forwarded to the Albanian Parliament, the Ministry of Justice and to the General Directorate of Prisons.

On 22 April, the first case of a COVID-19 infection of a prisoner was confirmed by the Ministry of Health and the day after, 13 new suspected cases within the same sector of the prison concerned were tested. All these inmates are isolated in individual cells. An epidemiological investigation is underway for all prisoners in this building and for all staff who have been in contact with them.

It is worth noting that, compared with the beginning of March, the quality of the food has been improved and measures have been taken to ensure sufficient stocks of medicine and medical/protective equipment. The health care provision for these prisoners is done in close cooperation with the Institute of Public Health and is run by special external epidemiologists.

We continued to complete the NPM's annual report and draft recommendations for the 2020 inspections. Some of the members of the NPM have been given the task of daily media monitoring. If concerns arise, the NPM addresses the public authorities responsible for the facilities concerned. The People's Advocate also gave interviews to the national media. Moreover, the institution continues to receive and to handle individual complaints from prisoners, which are not covered by the NPM, but by another section. Complainants, including persons deprived of their liberty, may still contact the People's Advocate by email, telephone (including via a green line) and by ordinary mail. The NPM is also working closely with international organisations such as UNHCR and various NGOs, and the two external experts in our team have monitored and reported on the dynamics of Albanian citizens entering from Greece. Further, the NPM participated in a series of webinars organised by the APT and in a virtual meeting as part of the EU-funded "B-Competent" project: Boosting competencies in Penitentiary Staff in Europe, during which a focus group was established on improving prison staff's skills to work with foreign national prisoners via a training programme for trainers.

In the next days, the possibility of resuming inspections, as soon as possible, will be discussed taking into account all security and protection concerns. Measures are being taken to supply staff with the necessary protective equipment to be ready to resume inspections.

Armenian NPM

Since the first COVID-19 case has been reported in Armenia, the whole process was under the direct attention of the Human Rights Defender of Armenia, including in his function as NPM. On 16 March 2020, the Government declared a State of Emergency by decree, which has been extended until 14 May 2020.

All legal initiatives and amendments related to the COVID-19 pandemic have been presented to the Human Rights Defender for legal opinion. One of the main observations of the Human Rights Defender concerns the legal status of isolation. In particular, it underlined that the compulsory isolation of a certain person based on the instruction of the state authority must be considered as deprivation of liberty and that the legal grounds and procedure for any deprivation of liberty should be regulated by law. With reference to the SPT's Advice, it stated that all persons held in quarantine facilities and who are *de facto* deprived of their liberty, should be able to benefit from fundamental safeguards against ill-treatment. Furthermore, restrictions should be based on precise legal proceedings and guarantees, which was not ensured in the initial stages. Consequently, the Government changed its approach.

All the legal regulations restricting human rights and freedoms were considered in the perspective of the rights of persons deprived of liberty, who comprise a particularly vulnerable group. This concerned, in particular, the prohibition – in police detention facilities and penitentiary institutions – to deliver parcels, to receive and send packages, to have visits (except video calls), and to organise and participate in religious rites, as well as the possible restriction of outdoor exercise, movement inside and outside of the penitentiary institution (including short-term leave) and other activities. The Human Rights Defender insisted that outdoor exercise cannot be completely prohibited and at least one-hour of outdoor exercise at the fresh air should be provided for every person deprived of liberty.

During the State of Emergency, the Office of the Human Rights Defender of Armenia (the HRDO) conducts its work in a 24/7 regime. The number of complaints and inquiries addressed to the Human Rights Defender has significantly increased in comparison with usual work periods. It has notably published a guide on frequently asked questions about the new Coronavirus and human rights in the State of Emergency, which presents essential information on the main restrictions in force, including those imposed in places of deprivation of liberty, and also provides information on how to apply to the Human Rights Defender during the State of Emergency and contact other competent State authorities. The guide is available in all national minority languages, in Braille and in an audio version.

From the very beginning and in the framework of rapid response and general monitoring, the Human Rights Defender effectively maintained the contact and cooperates with all relevant state authorities and competent bodies, including with the Commandant and its Office (a crisis management centre headed by the Deputy Prime Minister of Armenia set up to ensure a centralised management during the State of Emergency). As for places of deprivation of liberty, there are constant contacts with the Ministry of Justice, the Penitentiary Service, (medical) personnel working in the penitentiary institutions, administrations of the psychiatric establishments and the Police. According to the Ministry of Justice, at this point, there is no reported case of COVID-19 among persons deprived of liberty in Armenia. 5 security staff members of a penitentiary institution ("Vardashen") were infected by the disease (2 April), who were immediately isolated. 28 other security guards of the same institution were also placed in preventive isolation.

The HRDO also receives information and calls from persons deprived of liberty, their relatives, advocates, as well as from staff of penitentiary institutions and psychiatric organisations related to the situation caused by the COVID-19 pandemic. Issues raised mainly concern the restrictions imposed on contact with the outside world (granting visits and short leaves, etc.), provision of food and other supplies from relatives of persons deprived of liberty, review of pre-trial detention and early conditional release, etc. According to the information provided by the representatives of medical units of penitentiary institutions, in some cases there is a lack of personal protective equipment and means of personal hygiene. The HRDO collaborated with the competent representatives of the Ministry of Justice and international organisations to address this issue.

The CPT's Statement of principles and the SPT's Advice have been translated into Armenian by the HRDO and presented to all competent bodies. The Human Rights Defender addressed official letters on the prevention of COVID-19 in places of deprivation of liberty to the Prosecutor General's Office, the Ministry of Justice, the Ministry of Health, the Supreme Judicial Council and the Police. The letters reflect the CPT's and SPT's

statements and criteria and emphasise the need to pay special attention to the vulnerable or at-risk groups of persons deprived of liberty and to resort to alternatives to deprivation of liberty. In response to the Human Rights Defender's letter, the Prosecutor General has informed that following his instruction, the prosecutors have been examining the cases of at-risk persons deprived of liberty to consider the possibilities of implementing alternatives to deprivation of liberty. According to the Prosecutor General, until 16 April 2020, by the initiative of prosecutors, 21 persons were released from detention on remand and 2 persons from imprisonment.

Separate letters have been addressed to the Ministry of Health and Marz (region) governors concerning the situation on the prevention of COVID-19 in psychiatric establishments. These letters also point out essential international criteria on COVID-19, stressing that all recommendations should be considered with regard to patients, who are involuntarily admitted to psychiatric hospitals. Particularly, the Human Rights Defender addressed questionnaires on the medical and sanitary measures taken in special institutions in the context of prevention of the COVID-19 spread, the methods of detection of persons who may be contagious, frequency of measuring body temperature of persons deprived of liberty and staff, availability of personal protective equipment (PPE), disinfectants, etc. One of the psychiatric establishments raised an issue of financial shortage to hire additional medical personnel for working in the State of Emergency, an issue which is at the centre of the Human Rights Defender's attention.

The HRDO maintains an effective cooperation with international organisations. The representatives of the Human Rights Defender as NPM cooperate with the Delegations of the European Union, UN Agencies and ICRC in Armenia concerning the COVID-19 spread and its prevention in places of deprivation of liberty by keeping everyday contact and by sharing relevant information. In the frames of cooperation with the UN Agencies in Armenia (e.g. UNICEF, UNDP, UNFPA) PPE and disinfectants were provided to the HRDO. Also, a special training has been conducted for the relevant staff of the Human Rights Defender on proper exploitation of PPE. Moreover, the NPM unit maintains contact with the NPMs of different countries and international organisations discussing the effect of the new coronavirus disease and the state of emergency in the places of deprivation of liberty, sharing valuable experience. The European NPM Forum, a Slack platform (organised by APT), as well as different webinars also serve as effective mean for cooperation and information sharing among different NPMs and international actors of the field.

Austrian NPM

When first brought to a detention facility, the persons concerned have to wear face masks covering their mouth and nose. After a first medical exam, the newly admitted detainees are to be kept in the admission unit of the detention facility, i.e. separated from the other prisoners, for a period of 14 days and they will only be transferred to other units of the facility, once they have been tested.

Since March 2020 detainees can only be visited by their lawyers and these visits have to take place behind protective glass constructions. Family and friends are not allowed to visit detainees and day-releases have also been suspended at the moment. As a compensatory measure, detainees are offered the possibility of video calls (Skype) and the use of mobile phones which are not web-enabled, and which can be purchased at the expense of the detention facility.

In-prison workplaces considered necessary to "maintain the system" are still open and production there now puts a special focus on manufacturing face masks. Sports facilities are not available at the moment. Religious services and gatherings have also been suspended for the time being. In-prison supermarkets are closed, and consumer goods can only be purchased via "grocery lists". Dental treatment will be provided in urgent cases (e.g. if pain treatment becomes necessary).

Persons infected with COVID-19, or those who have been in contact with persons infected and are therefore quarantined, are to be considered unfit for detention (specific legal basis). Staff who have had direct (immediate) contact with a person tested positive for COVID-19, must inform the director of the facility right away and must not return to work.

Azerbaijani NPM

The following information was [published](#) on the website of the Commissioner for Human Rights of the Republic of Azerbaijan (Ombudsman) on 19 March 2020:

NPG members continue monitoring to evaluate the situation with preventive measures and sanitary and hygiene rules to prevent spread the COVID-19

At the request of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, Sabina Aliyeva, the members of the National Preventive Group (NPG), also the NPG staff from the Ombudsman's Ganja and Sheki regional centres carried out ad-hoc visits to Baku Pre-Trial Detention Facility, Penitentiary Facilities #10 and 17, Pre-Trial Detention Facility #2 and Sheki Penitentiary facility of the Penitentiary Service of the Ministry of Justice and Detention Centre for Administratively Arrested Persons.

In the course of the monitoring conducted with participation of a physician member of the NPG, this was observed that the medical staff member checked the body temperature of the persons bringing to the facility at the entrance, the persons also can clean their hands with special disinfectant solution, convicted and detained persons are provided daily with necessary information, and the persons are undergoing medical examination. At the same time, it was revealed that according to the rules approved by the Penitentiary Service, it was found that due to preventive measures, the sending of parcels and the meetings of persons from outside with convicts and detainees were restricted.

NPG members conducted interviews with the administration and medical staff of these institutions and inspected their approaches how to ensure the health rights of convicts and detainees, and the prices of food and daily necessities in the market desks at the penitentiaries. At the same time, a physician member of the NPG provided detailed information on the relevant recommendations of the World Health Organization and the Operational Headquarters under the Cabinet of Ministers.

The NPG members underlined the importance of continuing regular sanitary and disinfection measures, strengthening the control over using of protective masks and gloves of the staff, and following to the social isolation measures as prescribed by the Operational Headquarters.

During the meetings, administration of the facility was informed that the live reception of applicants by the Ombudsman Office and the regional centres was temporarily suspended to prevent the rapid spread of coronavirus (COVID-19) in the country, in accordance with the rules established by the Operational Headquarters. Taking these into account, it was recommended to the heads of the above-mentioned institutions to send the detainees' appeals to the Commissioner by post without delay.

The Commissioner pays special attention to the issues related to the detention conditions in the places, which persons cannot leave on their own will, and the monitoring will be continued.

Further information as regards the NPM's work in times of COVID-19 in the field of [child rights protection](#) and [migrants rights protection](#) and the Ombudsman's [message and recommendation](#) for the conditional release of prisoners with disabilities can be found on the Ombudsman's website.

Belgium – CCSP (not yet NPM)

Although Belgium has not yet deposited its instrument of ratification of the OPCAT nor designated its NPM, the federal State and the federated entities have all legally given their consent to the ratification of the OPCAT. In the meantime, the monitoring of places of deprivation of liberty is implemented by various bodies depending on the type of facilities and levels of authority on which they depend. The Central Council for Prison Monitoring (*Conseil Central de Surveillance Pénitentiaire* or *CCSP*) and the Monitoring Commissions set up in each of the 36 Belgian prisons carry out an independent monitoring mission on prisons and on the fundamental rights of the detainees.

In accordance with the Belgian government measures decided in the context of the corona crisis, the Central Council first suspended the visits of the Monitoring Commissions to prisons until 16 April before allowing their access again. The prison administration has always been in favour of granting access to prisons to monitoring bodies even at the peak of the crisis. The administration also ensured that all its instructions and measures relating to the management of the crisis were communicated regularly and transparently to the Central Council. A telephone hotline during weekday office hours has been set up for the benefit of detainees, who also have the opportunity to write to the Central Council by ordinary mail. In addition, the monitoring bodies continue to be reached by email or telephone by the families and relatives of detainees outside the prison. The monitoring commissions at a local level remained continuously in contact with prison

management and services. The Central Council, in a [statement](#), has called for urgent hygiene and humanitarian release measures.

The pandemic is relatively contained within Belgian prisons, with 14 prisoners tested positive, 11 of whom are hospitalised in prison, and 61 infected staff members, 25 of whom have recovered. The Belgian prison population has also decreased to 9603 inmates from 10,869 on 13 March.

Croatian NPM

The Croatian NPM temporarily suspended its visits, keeping in mind the principle of “do no harm”. At the same time, we continue to fulfil our mandate in times of COVID-19 through implementation of the additional measures suggested by the SPT, even though the conditions are difficult after the earthquake, which damaged the Ombudsman’s main office in Zagreb.

Until now information has been requested from the Ministry of Justice, Ministry of Interior, Ministry of Health and other state authorities responsible for people deprived of their liberty. Regarding the area of irregular migrants and asylum seekers, a letter has been sent to the MIA to get information on how to treat these groups in the current epidemiological situation. We also cooperate with NGOs and follow the situation through complaints that are submitted to the Ombudswoman of the Republic of Croatia.

In addition, we conducted telephone interviews with prisons authorities and were informed that correctional facilities disinfect detention spaces and take other protective health measures. According to the information gathered so far, the penal institutions are in constant contact with the regional Public Health Institutes and the Regional Civil Protection Authorities. In order to ensure the implementation of adequate measures, the Croatian Public Health Institute (HZJZ) published recommendations for the conduct of the judicial police officers and a Regulation Act for the Prevention and Suppression of the Coronavirus Epidemic (COVID-19) in the Prison System Bodies, and the Ministry of Justice has further elaborated certain measures. Since external visits are banned for inmates, they are given additional time for telephone conversations, and the possibility of video calls for all categories of people deprived of their liberty. Lawyers can still visit inmates, but they must use protective equipment and keep physical distance.

On the homepage of the Ombudswoman of the Republic of Croatia a dedicated [webpage](#) has been established about the coronavirus pandemic (COVID-19).

Cypriot NPM

On 26 March 2020, the Cyprus Ombudsman, in her capacity as NPM, addressed a letter/statement to the Ministry of Justice and Public Order, to the Ministry of Health and to the Ministry of Labour, Welfare and Social Insurance. The statement contained a list of guidelines and specific recommendations, in accordance with the CPT’s Statement of Principles and requested the ministries’ adherence to them. Following the Ombudsman’s letter/statement, the Ministry of Justice proceeded with amending the relevant Law and, as a result, 137 detainees obtained early release from the Nicosia Central Prison. A number of detainees were placed under the Open Prison Scheme, while others started serving the remainder of their sentence at home, under electronic surveillance/monitoring (bracelet). These measures contributed significantly to the decongestion of the overcrowded prison.

Other measures taken by the Prisons Department which were in line with the Ombudsman’s recommendations, the CPT’s Principles, the World Health Organisation’s guidelines and with the national health and clinical guidelines, included, but were not limited to, the following:

- Extension of phone hours and skype calls for the period that physical visits are cancelled;
- Training of the Prison’s medical officer and nurse on the performance of coronavirus tests;
- Installation of a thermal camera at the prison’s entrance to check the temperature/fever of all persons entering;
- Placement of antiseptic dispensers and informative material at the entrance and at other points around the prison and staff offices;
- Temporary closure of the Prison’s gym. Exercise is only allowed in open spaces;

- Checks for all persons who enter the prison or come in contact with prisoners for symptoms similar to those of COVID-19. Nobody can enter if he/she has come in contact with a confirmed case or has recently travelled abroad;
- New detainees from third countries or who are transferred to prison from police detention and show symptoms of the virus are isolated in an assigned space and do not come in contact with other prisoners;
- Prisoners on temporary release must sign a statement of responsibility stating they will avoid coming into contact with a person who has coronavirus symptoms or has come in contact with a person who was tested positive for COVID-19, or has recently travelled;
- All persons who exit the prison (e.g. for court hearings) must wear protective equipment;
- Clothes sent to the inmates must have been washed in 40 degrees Celsius. Relatives must sign a statement attesting to that;
- Temporary suspension of all projects within the prison to limit the number of people who come in contact with the inmates.

All measures apply to the inmates, new detainees, civilian personnel, mental health services staff, social welfare services, the department of public works, the department of electro-mechanical services, visitors, lawyers, suppliers, as well as to anyone who enters the department for work.

In addition to the above, in her capacity as the Independent Mechanism for the Promotion of the UN Convention on the Rights of Persons with Disabilities, the Ombudsman issued a statement dated 3 April 2020, regarding the access of persons with disabilities to information on the COVID-19 pandemic. The statement was forwarded to the relevant ministries, that also oversee psychiatric institutions and social care homes.

On 9 April 2020, the Cyprus NPM also conducted a visit to the Kokkinotrimithia Temporary Migrants Reception Center, to observe how the measures to contain the spread of the COVID-19 were being implemented and how the exercise of fundamental rights of persons deprived of their liberty was ensured under these circumstances. The NPM's visit, which adhered to the "do no harm" principle, was conducted with the full cooperation of the Reception Centres' management and employees while all requested information was provided. A relevant report has been sent to the competent authorities.

Lastly, following a written communication between the Cyprus NPM and the Director of Immigration Services, two persons who were arrested under the Alien's legislation, were released from custody, under specific terms.

The Cyprus NPM continues to cooperate with the competent authorities and requests information in writing and by way of electronic communication. Despite the fact that there was only one case of coronavirus reported in places of detention, the Cyprus Ombudsman, in her capacity as NPM, will continue monitoring the entire situation and propose to the relevant administration any measures that need to be taken.

Czech NPM

The Czech NPM has already introduced the following instruments to monitor the possible risk of ill-treatment in places of detention. The first measure consists of requests for information addressed to various facilities. These requests for information are focused on the current regime and treatment, especially how the quarantine areas are designed. Our particular interest is whether access to legal assistance is respected and whether sufficient means of communication with the outside world are provided. In the current situation, we consider these safeguards being most effective to prevent the risk of possible ill-treatment. We also communicate with NGOs, lawyers or experts who are in contact with a particular facility or who are aware of the local environment. The aim is to obtain further information and knowledge through this systematic enhanced co-operation. Finally, we also carefully monitor media reports.

There are also other means which come into consideration, but they haven't been introduced yet:

- Direct communication with patients/clients/detained persons and staff via video calls or phone calls. However, we fail to find a way how to secure privacy and confidentiality during interviews, which constitutes a serious obstacle. It would be difficult to verify particular statements as well.
- Places of detention may be required to provide a list of emergencies/incidents. Particular incidents may be examined retroactively by the NPM.

- Information leaflets about the NPM's work could be distributed to the facilities and to the detained persons. These leaflets should also contain our contact information.
- Visiting the facility without physically entering it. In such case it would be likely to define the main examination area of the visit, appropriately put into context.

The main obstacle we encounter is the legal basis, which presupposes that systematic visits are carried out in places of detention. This also brings a question how to mitigate possible breaches of confidentiality which all employees must respect. Last but not least, it is unclear what form the final outcome of our examination should take.

Please see [here](#) for further information on the situation in prisons during COVID-19.

Danish NPM

As of 12 March 2020, the NPM's preventive visits were put on hold. The main reason for doing so was that external visits to institutions taking care of persons deprived of their liberty could pose a greater risk of contagion to these persons who are in a vulnerable position due to their circumstances. On the same date, the Parliament decided to close down many activities in Denmark. The visits will recommence as soon as the situation allows.

Instead of carrying out preventive visits, we have monitored the development by collecting information and data. Our information concerning the Prison and Probation Service has shown – among other things – the following:

- The legal basis for COVID-19 restrictions in prisons is in place.
- Among other things, the prisoners are not allowed to receive visitors apart from lawyers and priests; the prisoners are not allowed to go on leave; when displaying any COVID-19 symptoms, the prisoners concerned can be isolated, and the prisoners' right to normal community is restricted to 10 persons or less if keeping a safe distance demands so.
- As a mitigating measures, prisoners are granted more telephone time – in open prisons access to their mobile phones in order to FaceTime; leave days can be accumulated for later use; a medical doctor is to be informed at once when a prisoner is isolated on the suspicion of COVID-19.
- The Prison and Probation Service decided not to receive new prisoners as of 12 March 2020.
- 20-25 prisoners have been isolated on the suspicion of COVID-19.
- Only one prisoner has been tested positive.
- The number of inmates in prisons has decreased, and the slight overcrowding has ended on 1 April 2020. Approx. 96-97 per cent of the capacity was in use on 14 April 2020.
- The Contingency Plan for the Prison and Probation Service, which is updated on a daily basis, has been received by the NPM.

As part of the parliamentary process, members of Parliament can ask questions to the Minister in writing, to which he is obliged to reply in writing. The Q's and A's are published on the Parliament's homepage. Members of parliament have asked many diligent questions – questions which might have been raised by the NPM. The NPM has followed this source of information closely.

In general, please be informed that no new places of detention have been established and no persons have been in quarantine without consent. Within psychiatric and social care institutions, the NPM has followed the media and made inquiries to specific institutions.

Apart from collecting information, the Ombudsman has received approx. 100 letters from inmates asking the Ombudsman to grant them postponement of their imprisonment. However, the Ombudsman does not have the power to do so which has been communicated to the inmates. The extensive correspondence activity is an indication that the prisoners are well aware of the possibility of informing the Ombudsman in regard to problems relevant for the NPM.

We are also in close contact with our collaborating partners (DIGNITY – Danish Institute Against Torture and DIHR – The Danish Institute for Human Rights) in carrying out our preventive visits. Both parties are following the situation closely. Among other things, DIGNITY – Danish Institute against Torture has made the following recommendation: ['Global guidance and recommendations on how to prevent and manage COVID-19 in](#)

[prisons](#)'. DIHR is in the process of analysing the various COVID-19 laws and regulations as to their coherence with Human Rights. The results of these analyses will be published on DIHR's homepage in due time. We will discuss with DIGNITY and DIHR possible further action in relation to our preventive work as NPM.

Estonian NPM

On 6 April 2020, the Estonian Chancellor of Justice sent [a letter to all prisons](#) drawing attention to the importance of preventing the spread of COVID-19 in these institutions and to the adverse effects that may arise from the complete isolation of detainees.

By [order](#) dated 12 March 2020, the Government declared an emergency situation due to the spread of the SARS-CoV-2 virus, which causes the COVID-19 disease. Besides, Estonian prisons have taken measures to stop the spread of the virus and protect the health and life of staff and imprisoned persons. In her letter, the Chancellor of Justice acknowledged the preventive measures taken by the prison administrations but drew attention to the possible side effects that the complete isolation of imprisoned persons could have.

Among other things, the Chancellor wrote that the prohibition to daily walk in an open air and the reduction of phone calls to their next of kin once a week are excessive and may qualify as unacceptable treatment of imprisoned persons within the meaning of § 18 of the Constitution and Article 3 of the European Convention on Human Rights.

With foresight, Estonian prisons have built up reserves of personal protective equipment and use these in day-to-day work. Thus, the prison staff can have as safe contacts with imprisoned persons as possible. Therefore, there is no reason to omit taking imprisoned persons for their daily walk cell by cell or in a smaller group while applying the same precautions. Locking imprisoned persons up in their cells for an unknown period without a chance to walk outdoors does not comply with Estonian or international requirements.

According to clause 9.10 of the SPT recommendations and clause 7 of the CPT principles, imprisoned persons should be given the opportunity to call their next of kin more frequently in difficult times. In an emergency situation, imprisoned persons are also allowed to call state authorities, local authorities, their defence counsels or the attorneys representing them. Thus, there is no convincing reason to why it is not possible to allow for family calls more often than once a week.

To prevent possible impact of the isolation (incl. riots, suicides and self-harming), imprisoned persons should be offered additional activities in their cells (e.g. they should be allowed more books, etc.). According to clauses 3 and 6.3 of the WHO's guidelines, the prison should recognise and take into account the needs arising from fears and uncertainty stemming from the spread of the SARS-CoV-2 virus. Imprisoned persons should be provided with trustworthy information on the prevention of the disease and it should be explained to them that the opportunities for communicating with their next of kin still remain in spite of the emergency situation.

French NPM

Since the beginning of the lockdown, the CGLPL maintained all of its activities except for its regular onsite visits. When deemed necessary, it paid visits to establishments for which the situation was particularly worrisome in the context of the pandemic. Thus, the French NPM could see that the sanitary situation was not properly ensured in two immigration detention centres, exposing the detained persons to a risk of contamination. In the context of the border shutdown and in the absence of a reasonable prospect of forced return, deprivation of liberty in immigration detention centres proves to be illegal and devoid of any purpose.

In addition, the CGLPL maintained a hotline as well as organised the processing of mails from persons deprived of their liberty, through telework with specific arrangements. To compensate for the absence of regular onsite visits, the CGLPL strengthened its contacts with the relevant ministries to obtain real time information regarding different issues in places of detention: changes in regulations, the number of persons deprived of their liberty – which greatly reduced during the period – as well as the progression of the pandemic, both for the detainee population and for the staff in charge of them. In order to cross-check the collected information, the CGLPL strengthened its relations with civil society organizations defending the rights of persons deprived of their liberty as well as other instances such as bar associations, in addition to

holding telephone interviews with large samples of officials and health care staff working in places of deprivation of liberty.

In France, the situation in places of deprivation of liberty during the pandemic has resulted in important legislative and jurisdictional work, with wide media coverage. Chronic overcrowding, promiscuity, poor hygiene conditions and lack of access to healthcare already prevailed before the pandemic, particularly in prisons and immigration detention centres. In line with long-standing recommendations addressed to the authorities, the CGLPL has developed an active strategy towards public authorities in order to speed up the reduction of the prison population, to trigger the closure of immigration detention centres and to promote out-patient care whenever possible for patients hospitalised in mental health establishments. In certain instances, the CGLPL acted jointly with the Defender of Rights (the French Ombudsman) and the National Consultative Commission for Human Rights (the NHRI), who share the same objectives. In this context, personal interventions of the Controller General vis-à-vis the Government, before Parliament and in public debate have multiplied and the work of the CGLPL has usefully informed court decisions. Despite a late reaction from the Ministry of Justice and insufficient measures, the prison population eventually decreased by some 10,000 persons.

Georgian NPM

The Public Defender of Georgia is designated National Preventive Mechanism (NPM) under OPCAT. The mandate of the NPM is implemented by the Special Preventive Group, which is set up under the auspices of the Public Defender of Georgia. For more information please visit our [website](#).

On 26 February 2020, the first case of COVID-19 was reported in Georgia (see [here](#) for further information). On 18 March, a full ban on foreign nationals entering Georgia was imposed (see Government [Resolution 8181](#) of 23 March 2020). On 21 March, Georgia declared a state of emergency and imposed restrictions on several human rights including the right to liberty and the freedom of movement and imposed fines for violating the rules of isolation or quarantine, in which case the police has the right to forcibly transfer a person to a quarantine facility.

No cases of COVID-19 infection have been reported in Georgian prisons. The authorities have introduced a special regime in penitentiary institutions and suspended short-term, long-term and family visits. A 15-minute free-of-charge phone call time was added for prisoners in compensation. Newly admitted prisoners are isolated from other inmates and have to undergo an observation for 21 days. As for court hearings, they are broadcasted electronically. Prison staff (as many as 780) have been placed inside prisons to avoid the spread of the virus.

At the outset of the COVID-19 outbreak, the Georgian NPM took immediate measures for refining its strategy in order to determine the best ways on how to respond to the challenges posed by the pandemic. On 17 March 2020, the Public Defender of Georgia [issued](#) public information on human rights standards during the pandemic/epidemic. The office also translated and actively disseminated the SPT's Advice related to the Coronavirus Pandemic. The Public Defender of Georgia closely cooperates with the Inter-Agency Coordination Council on COVID-19 led by the Prime Minister of Georgia, which gives the opportunity to obtain accurate information about different measures taken by national authorities in a timely manner.

The COVID-19 pandemic compelled countries to reconsider their public safety measures through enacting restrictions in almost all aspects of their daily lives and in certain cases responding to it by isolation and quarantine. The given situation created a new reality with non-traditional places of detention such as places of compulsory quarantine, which according to the SPT's Advice fall within the visiting mandate of an NPM for the purposes of the OPCAT.

Taking into consideration the given reality, the Georgian NPM came up with a new methodology for monitoring places of compulsory quarantine, which is based on relevant international standards, including the SPT's Advice. This new methodology is made up of four main chapters. Chapter I examines the issues which present grounds for application of quarantine and fundamental safeguards. Chapter II reflects on the quarantine conditions. Chapter III is focused on the Healthcare in quarantine. Chapter IV is dedicated to vulnerable groups such as mothers and children, persons with disabilities and elderly persons, as well as LGBTIQ, aliens, ethnic and linguistic groups and drug addicts.

Interviews are conducted remotely by different means of electronic communication (see also [here](#)). As for the additional information, including statistical data, it is collected by means of the written correspondence provided by the relevant state authorities.

As for the traditional places of deprivation of liberty, the Georgian NPM has suspended all systematic visits to closed institutions; however, it is planning to revise its decision. Therefore, the Georgian NPM has been working on adapting methodologies to the current challenges linked to the pandemic. The newly adapted methodologies and our work are guided by the “do no harm” principle and the SPT’s Advice, and the Georgian NPM has elaborated special safety rules for monitoring. Our work is also guided by the CPT’s standards and is enriched by the tools from different organisations working in the sphere of torture prevention.

It should be underlined that the representatives of the Public Defender (from the Criminal Justice Department) continue to undertake individual visits with all precautionary measures in place and by strictly following safety measures and the “do no harm” principle. Even though, individual visits have less coverage, they can offer certain opportunities for preventive engagement and are an important source of information for the NPM.

The hotline of the Public Defender of Georgia which is available 24/7 is another effective way of communication, which detainees have access to.

On top of that, Georgian NPM has requested and collected various information from the places of detention and other state bodies such as new regulations adopted in the places of detention in relation to COVID-19, as well as on preventive measures and staff working conditions. In addition, information was requested on the steps taken for reducing prison population by implementing schemes of early, provisional or temporary release.

German NPM

In accordance with the “do no harm” principle, the members of the German NPM decided to postpone all planned visits and to continuously adapt this decision to the situation and the ongoing restrictions in Germany. The main reason for this decision being the risk of infection for detainees and staff in places of detention. Visits will resume as soon as the situation allows it. The German NPM is also faced with the additional challenge that all its members are part of a vulnerable/at-risk group.

To fill this gap in monitoring, the German NPM is in the process of developing an adapted procedure. This includes virtual visits, which consist of sending questionnaires to the places of deprivation of liberty and to the persons deprived of their liberty, telephone and video interviews with all relevant parties, such as staff, doctor or representatives of the prisoners, and checking relevant documentation.

As a first step the German NPM is currently preparing so-called follow up visits (guided by its former observations and recommendations). In so doing the NPM will be able to select those places of detention, where the realisation of Covid-19 measures (like physical distancing) are particularly difficult to achieve (due to overcrowding, too small cells, critical medical situation etc.).

For these purposes, the German NPM is currently developing a methodology for inspection visits at places of detention under the actual circumstances and restrictions. It is essential to take every precaution to observe the do not harm principle while visiting places of detention. The adapted methodology aims at responding to the following questions: Which kind of places should be visited at the first place? How can visits be realised while keeping distance during the visit? What new approaches/electronic instruments can be used by the NPM delegation to minimise the risk of infection for detainees and staff of places of detention? Is it therefore necessary for the whole delegation to be tested?

Further, the following complementary measures are being taken: the NPM has enhanced the contacts with the authorities and ministries, by requesting information and collecting data regarding the special procedures they have established in relation to the COVID-19. Based on this data, the German NPM will also plan the next steps and visits and establish a kind of multi-step query system, i.e. collecting data on places of detention from persons deprived of their liberty, from lawyers and family of those persons, and from NGOs. This should allow the NPM to keep a close eye on developments and observe the situation from different angles. The NPM also expanded its visibility by means of public relations, to allow detainees and others to find and

contact the NPM. Further, contact with stakeholders like NGOs and other actors of civil society were enhanced to collect information, identify warning signs and take action if necessary. A media monitoring has also been established.

Greek NPM

Although Greece has performed quite well in preventing the spread of the coronavirus disease in the general population, the situation in various places of deprivation of liberty leaves little room for complacency mainly because of the congestion and conditions of overcrowding. Bearing particularly in mind the principles of 'do no harm' and 'equivalence of care', in line with the SPT's "Advice" and the CPT's "Statement of Principles", the Authority's annual plan of on-site visits and investigations has been suspended and in many instances replaced by alternatives and more innovative ways of intervention.

The Greek Ombudsman, in his capacity as NPM, addressed in late March a [letter](#) to the relevant Ministries with a list of guidelines and specific recommendations for each category of detention facility (including prisons, pre-removal detention centres, police custody, psychiatric establishments and welfare institutions), with a view to informing on possible measures aimed at reducing the risk of an eventual spread of the virus through both detainees and staff.

High among the set of recommendations we addressed were, on the one hand, the early, provisional or temporary release for those detainees for whom it is legally sound and when there are reasonable grounds to do so (placing particular emphasis on detention facilities where occupancy exceeds the official capacity) and, on the other hand, provision to ensure the same level of personal hygiene as is to be followed by the general population for all those who remain in detention and for the staff (i.e. health care services, precautionary measures, distribution of sanitary material, access to hot water, soap and the open air, etc.) with particular regard to vulnerable groups and/or at-risk groups, such as older persons and persons with pre-existing medical conditions.

Measures adopted by the authorities focused, mainly, at securing the provision of the necessary sanitary material and the scaling up of health care services. In addition, the temporary interruption or severe restriction of rights to leave and visiting hours for detainees as well as inmates in homes for the elderly and re-habilitation centres has been justified as being in line with the overall restrictions to movement applicable to the general population and the need for even stricter 'quarantine' rules for populations in detention, as a preventive measure against possible outbreaks of the virus. In the aforementioned public address, the Greek Ombudsman also proposed to the government the adoption of measures to facilitate video-communication for the population groups in confinement.

The Authority has been informed about isolated incidents of coronavirus positive tests, not in detention centres or hotspots but in open refugee camps in the mainland, under the management of IOM or NGOs. The Government took special precautionary measures for the border hotspots by a by-law on 22 March 2020. The transfer of vulnerable persons from the island hotspots was accelerated. The transfer of another 2000 people is expected to take place until mid-May. The Greek Ombudsman, in the aforementioned public address of late March requested extensive precautionary measures, not only for border hotspots but for all refugee camps and facilities in the mainland.

Notwithstanding the fact that, until this moment, reported cases of coronavirus in places of detention have been scarce, the Greek Ombudsman, in its capacity as NPM, will continue to monitor closely the situation and propose to the administration the relevant measures to be taken.

Hungarian NPM

The Hungarian NPM continues to fulfil its mandate during the COVID-19 crisis, keeping in mind the principle of "do no harm". The NPM requested information from several authorities (e.g. the Hungarian Prison Service HQ, the National Police HQ, ministries) with regard to the special procedures they have established in relation to the COVID-19 crisis, and the technical conditions for ensuring confidential remote communication between persons deprived of their liberty and the staff members of the NPM. The NPM requested the authorities to designate a contact person to be available on short notice, and to provide information about the setting up of new and temporary places of detention.

After conducting a risk analysis and purchasing the adequate personal protective equipment, Dr. Ákos Kozma, the Commissioner for Fundamental Rights of Hungary acting as the NPM in person has also performed thematic visits focused on COVID-19 protective measures and their impact on the rights of persons deprived of their liberty. As of 24 April 2020, the NPM has visited the Sátoraljaújhely Strict and Medium Regime Prison, the Kiskunhalas National Prison, and two units of the Veszprém County Children's Home Center, Elementary School, Vocational School and Regional Child Protection Service. The NPM also paid a visit to the Szentendre Police Headquarters with the purpose of inspecting the daily work of the police officers responsible for the control of the observation of the rules of the "home quarantines". In the course of the visit interviews had been made via telephone calls with two persons being in "home quarantine" under pandemic control.

On the homepage of the Office of the Commissioner for Fundamental Rights of Hungary a separate section has been established, where important and useful information (FAQs, links, etc.) with relevance to his mandate and received from national authorities, NGOs, international organizations (including OPCAT NPM) with regard to the COVID-19 crisis is available in [Hungarian](#) and in [English](#), the webpages being regularly updated.

Ireland – OIP (not yet NPM)

The Office of the Inspector of Prisons (OIP) is cognisant of the requirement for enhanced oversight during a pandemic when society in general is subject to restrictions on daily life and increased restrictions are placed on people in custody. Such restrictions must be the least intrusive necessary to achieve the desired public health objectives and also be in place for the minimum time necessary. Oversight is therefore essential in order to provide independent verification that the human rights of persons in custody are being respected and that national legislation is being adhered to.

Since the commencement of the COVID-19 pandemic, the Inspector of Prisons (IoP) has visited all prisons in Ireland. In order to minimise risk to prisoners and staff of the OIP, visits have been undertaken by the IoP herself. The regime in place in each prison was reviewed with particular emphasis on access to 'out of cell time' and provision of meaningful human contact. Appropriate PPE has been worn when meeting with persons in custody categorised as vulnerable by the Irish Prison Service, such as elderly persons and persons with chronic and other health conditions. The IoP spent full two days in a prison in which nearly half of the population were vulnerable. This afforded the IoP the opportunity to speak with and directly hear the experiences of prisoners and staff during this time.

The OIP issued a Journal to a total of 88 prisoners in custody in Midlands Prison, Cloverhill Prison, Wheatfield Prison, Arbour Hill Prison, Mountjoy Male Prison, Mountjoy Female Prison (Dóchas) and Castlerea Prison. The cohort of prisoners selected are those who were/are being 'cocooned' by the Irish Prison Service and the intent of the OIP is to capture their 'lived experiences' at this time. The Journal was left with the prisoners concerned for 14 days with the aid of the Irish Red Cross volunteers in each of the prisons concerned. Two researchers from Maynooth University will assist the IOP in analysing the Journals in mid-May 2020.

The OIP receives a daily update from the Irish Prison Service which provides information relating to the number of inmates and staff within Irish prisons, the number of confirmed COVID-19 cases among prisoners (0 to date) and staff, the number of suspected cases/quarantined prisoners, as well as ongoing actions (includes information regarding the initiatives undertaken by the IPS to mitigate the impact of the temporary cessation of visits in prisons). The OIP also receives a verbal update from the Director General of the IPS and from Governors in each prison every 7 to 10 days. Moreover, the OIP has received copies of the information leaflets provided to prisoners and staff, copies of the algorithms in use within the IPS that outline the steps to be taken with the various cohorts of prisoners within prisons. Other sources of information received by the OIP are promptly followed up directly with the prison concerned, e.g. phone calls or letters from family members, letters from prisoners or their legal representatives.

Italian NPM

The Italian NPM (namely the National Guarantor for the Rights of Persons Detained or Deprived of Liberty) has continued exercising its visiting mandate and conducted four visits to prisons (three in the Lazio region and one in Campania) and one visit to the Immigration Removal Centre in Rome. Another visit is planned for next week to a nursing home in the region of Lazio. They were carried out by the NPM's Board and were

conducted by taking into account the “do no harm principle” to people detained, to staff and to themselves. PPE guidance and local policies were attended. The methodology of visiting changed accordingly. The NPM was not prevented from accessing places and conducting interviews with detainees and staff. In these times, visits to prisons are much supported by the network of Guarantors/Ombudsmen, be present in all regions.

Targeted oversights were conducted by the National Guarantor to two prisons after receiving complaints from some prisoners’ relatives (and many other different sources, the same day and about the same incidents) for ill-treatment of inmates as a response to protests carried out during the emergency.

Another critical aspect entailed the National Guarantor’s intervention: in a prison, around 400 detainees were — and still are — prevented from accessing the exercise yards for outdoor activities and are locked in their cells all day long. The National Guarantor contacted the prison governor and made it clear that this situation is not acceptable and that it could lead to a possible breach of article 3 of the ECHR, if not properly and timely tackled.

Relevant to oversight activities to places of quarantine, the National Guarantor is considering creating a map to locate them nationwide in order to have an overview on a complex panorama. Then, eventually, it will draft a visiting plan in collaboration with the local Guarantors and start monitoring. For the time being, just one visit to places of quarantine was conducted that is the Army quarantine compound at Cecchignola/Pratica di Mare (Rome) where some Italian citizens arriving from China were held. The scenario is multi-faceted, as different are the solutions to the emergency employed by the Italian Government: vessels hired to become places of quarantine for third-country nationals rescued at sea; hotels for people tested positive and with no other place where to enforce precautionary self-isolation (14 days); people evacuated from their residences because infected and the residence itself transformed in a place of quarantine for those who remained at their “homes”.

Moreover, cooperation with the Authorities concerned has been paramount and enabled the National Guarantor to receive updated information, share strategies and recommendations and actively participate in drafting policies. Somehow, in time of lockdown, and with the local Guarantors/Ombudsmen employed on the field, cooperation with governmental institutions resulted in alternative ways of monitoring places of deprivation of liberty: the National Guarantor could, thus, ask questions about their responses to the health emergency or make recommendations and participate in decision-making processes. To this extent, it is part of the inter-ministerial task force on prison management; it is conducting a survey on nursing homes with the National Health Institute and is in the working group led by the Ministry of Health for the management of the epidemiological emergency in prisons, including Youth Offender Institutions and social enterprises. It could have access to confidential data on contagion in places of deprivation of liberty and on the impact of restrictive measures and provisions on people on detention. For instance, based on laws issued aiming at decreasing overcrowding in places of detention in order to ensure social distancing, the National Guarantor received the following information from authorities concerned: a) prisons recorded a decrease of around 6,500 prisoners due to the early release policies enacted by the recent decree on semi-liberty licenses and home detention regimes, and to the decrease in the numbers of people arrested and brought to prison or to house arrest (just to give you an idea on this last point, from a +45 of daily arrivals/releases to/from prisons in Jan 2020, to a -16 in April 2020); b) immigration removal centres: the decrease is up to 166 migrants, with regular capacity in all Centres, differently from hotspots where the situation is still critical.

The Italian NPM has been working hard on giving updated information to the community and stakeholders on how situations inside prisons, nursing homes for disabled people or the elderly, immigration removal centres and residences for the execution of security measures were evolving. It has realised a daily bulletin, translated into English, which is published on its [website](#). Since April 21, it has created its Twitter account [GarantePrivatiLibertà](#) (@GaranteLiberta).

Kazakh NPM

Last week we received very interesting and important documents from the UNICEF office: "Technical Note "Protection of the children rights during COVID-19 pandemic" and "Guidelines for Virtual Monitoring of Children, their Families and Residential Care Facilities during the COVID-19 Pandemic", developed by the Global Social Service Workforce Alliance (see above).

These documents were shared with the Kazakh Human Rights Ombudsperson in her function as Chair of the NPM Coordination Council and to all members of the Council with the suggestion to discuss possibilities of implementing this type of monitoring in all closed facilities, taking into account the current situation with COVID-19 pandemic in the country and occurred cases in Kazakhstan when there were mass infections and deaths of elderly people in a nursing home near Nur-Sultan, although though UNICEF and the Alliance suggested to use it only in child care facilities.

We also had an online meeting of the members of the NPM Coordination Council when we discussed the NPM consolidated report for 2019 and I again raised the issue of organising on-line meetings of NPM members with both, prisoners, children, and all vulnerable groups in closed facilities. My suggestion was supported by Ms Azimova, the Kazakh Human Rights Ombudsperson. In the very near future, we will try to launch on-line meetings with people in closed facilities of the Labour and Social Defence Ministry, Health Ministry and Education Ministry. A first such meeting with imprisoned persons has already been carried out by the Director of the Human Rights Bureau's East-Kazakhstan Branch in that region.

Kosovar¹ NPM

The Kosovar NPM has suspended its monitoring activities to all places of deprivation of liberty until a future decision to the contrary, based on the "do no harm" principle.

However, the Kosovo NPM is continuing its online monitoring through permanent contacts with relevant authorities on the situation of persons deprived of their liberty.

Also, all persons deprived of their liberty, including those at the administrative detention centre, asylum reception centre, social and psychiatric care centres, as well as quarantines, may contact the NPM via phone every day, including during weekends.

Being unable to contact directly persons deprived of their liberty is one of the main challenges to conduct our NPM mission. The authorities in the Republic of Kosovo continue to provide to NPM full access and cooperation.

Lithuanian NPM

Following the decisions of the Government of the Republic of Lithuania to prevent the spread of coronavirus (COVID-19), starting from 13 March 2020 until further notice, citizens at the Seimas Ombudsmen's Office are consulted only remotely.

As NHRI and NPM, the Seimas Ombudsmen have to prevent situations that lead to violations of human rights, as well as to promote respect for human rights and freedoms.

The Seimas Ombudsmen drew the attention of the Government of the Republic of Lithuania that any restrictions on human rights, even in an emergency, must be carried out in compliance with the rule of law, the Constitution, the laws applicable in Lithuania and international obligations in the sphere of human rights. Legal acts regulating measures for the prevention and control of infectious diseases, which require updated emergency plans and regular information of employees, must be strictly adhered to. When providing information about potentially infected persons, they recalled the need to respect confidentiality of personal health information and patients' right to privacy.

The Ombudsmen also called on various state and municipal agencies and institutions to follow the recommendations of the WHO, the SPT, as well as the CPT principles for action to be taken in places of detention during the coronavirus (COVID-19) pandemic and to ensure the respect for dignity, human rights and freedoms. In a separate letter addressed to the Ministry of Social Security and Labour and Lithuanian municipalities, it [drew attention](#) to the high risk that the virus poses for residents and employees of social care institutions, requiring awareness of special precautionary measures among care staff. The Ombudsmen also noted the importance of providing the necessary hygiene and protection measures to residents and the

¹ All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

staff in line with general hygiene requirements, the need to avoid overcrowding, and the availability of isolation rooms.

The Seimas Ombudsmen has [started](#) monitoring nursery homes for the elderly and people with disabilities, as well as childcare homes, through social media. Two private Facebook groups were established to assist caregivers, collect information on challenges that the institutions face, and share views and experiences on protective and preventive measures, which is a first. There is a regular update of information on issues related to the COVID-19 pandemic and protection of human rights via the website of the Seimas Ombudsmen's Office, Facebook page and Twitter account. The head of Human Rights Division of the Seimas Ombudsmen's Office and the Lithuanian Human Rights Center (NGO) also took part in a radio broadcast, to discuss human rights challenges during the pandemic and raise awareness of the society of human rights. Moreover, the representatives of the Seimas Ombudsman's Office participated in an online training session, organised by the APT on precautionary measures and health considerations for monitors in line with the 'do not harm' principle while continuing visits to places of detention during the pandemic.

Finally, the Seimas Ombudsmen launched an investigation concerning measures taken by the Government during the quarantine. It seeks to examine whether specific actions and decisions taken by the Government were in compliance with national legislation, international human rights standards, proportionate and necessary in a demarcated society. The investigation also covers the evaluation of the performance of officials in implementing government decisions.

Moldovan NPM

Information on the action taken by the Moldovan NPM can be found [here](#) (call for emergency release measures for certain categories of detainees) and [here](#).

Montenegrin NPM

On 17 March 2020, Montenegro confirmed its first two cases of COVID-19. The Montenegrin NPM has suspended implementing its scheduled visit plan already as of mid-March. This decision was taken for the entire institution (Protector of human rights and freedoms of Montenegro), after having analysed the situation and carried out a risk assessment, and in line with the authorities' and medical advice. The NPM organised its activities accordingly. We adopted our working methods in accordance with the health recommendations. Part of our team is teleworking from home.

The NPM requested information on plans and health care measures for persons deprived of their liberty and recommended state budget rescue measures. The NPM also sent translated versions of the guidance published by the WHO, the SPT and the CPT to all institutions in our focus, as well as to the judicial councils dealing with penalties and detention. These documents are also available on the official website of our institution. Preventive work has been organised through various means of communication – by email, telephone, and official correspondence, all with the aim of collecting and exchanging information.

The official information provided to our NPM refers to the measures taken by the authorities in prisons. The authorities informed us about the measures taken in prisons, in close coordination with the Institute of Public Health and the Ministry of Health, as well as the measures and actions taken in accordance with the recommendations of the National Coordination Body for Communicable Diseases. Although the number of prisoners has not been reduced during the pandemic, the Montenegrin Parliament is currently considering the Amnesty Act proposed by the Government with the proposal to reduce penalties by 10-15%. As regards prison overcrowding, the authorities urgently ordered the Police academy to be transformed into a temporary custody facility.

The Government has also set up temporary quarantine facilities in different towns. As of early-April, the NPM visited all of these places (i.e. Rožaje, hotel „Wahels“, Podgorica, hotel-type student dorm, Podgorica, hotel „Voco“, Ulcinj, hotel Holiday Village Montenegro by Karisma, Sutomore, "Dom solidarnosti" - Red Cross training center, Danilovgrad, „RESPA“, Danilovgrad, Police academy; Igalo, Institut „Dr Simo Milošević“, Igalo, hotel "Light house", Nikšić, and Ski Center „Vučje“) and spoke with the authorities. Part of our visiting team were epidemiologists from the Institute of Public Health. We checked the implementation of all health and hygiene recommendations. In this regard, we may give a generally positive assessment of the current situation in the field. Our focus has also been on the experiences of citizens who were placed in quarantine.

We also interviewed citizens who were placed in these quarantine facilities by phone asking them about their experience, including conditions, food, health care provision (some of them had chronic health problems), hygienic conditions and supplies, linen and laundry. We can already say that the accommodation and health conditions were really good, consumables were used as much as possible and subsequently destroyed under medical waste regulations. The only problem we noticed was that quarantined persons could not walk in the open air. But of course, the final evaluation of all details will be given in our official report, which will soon be prepared in accordance with the established methodology.

On 14 April, the Deputy Ombudsman in charge of the NPM also visited UIKS Prison near Podgorica, the only major prison in the country, together with an epidemiology expert. The authorities informed us, among other things, that persons who have disregarded or violated the orders of the Ministry of Health/National Coordination Body were accommodated separately in two facilities outside of the prison complex, one of which has a larger capacity. It was very positive to note that inmates continued to enjoy access to outdoor exercise, in a slightly reduced regime. They also informed us that they provided extra hygiene packages for the needs of persons deprived of their liberty.

We must emphasize that none of the institutions in our usual focus: the prison, elderly homes, institution for children and youth in conflict with the law "Ljubovic", and institution for the care of adults with serious limitations in social functioning due to intellectual disabilities and other disabilities related to intellectual disability, known as "Komanski most", have registered any case of coronavirus infection yet and we hope that this will remain the case. For further information, see also [here](#).

Norwegian NPM

On 11 March 2020, the Norwegian NPM decided to suspend all visits planned for March and April. The decision was later reviewed, and it was concluded to suspend all planned visits in spring 2020, reviewing this decision on an ongoing basis. This was done to reduce concerns that NPM staff might put individuals deprived of their liberty and staff at risk. Our office implemented teleworking as of 12 March, in line with recommendations from the Government.

While physical visits have been put on hold so far, we have initiated several mapping and monitoring activities relating to the special measures introduced to prevent the spread of the coronavirus to persons deprived of their liberty. We have asked for information via email and conducted phone meetings with members of our Advisory Committee, including civil society organisations working on the rights of persons with disabilities, and the rights of prison detainees. We have also conducted phone meetings with relevant departments in the Norwegian Directorate of Health, the Correctional Services and management of the Trandum Immigration Detention Centre. We have asked for written information from the Ministry of Health and Care Services and the Ministry Justice and Public Security on the consequences of the Covid-19 pandemic for persons deprived of their liberty. We have also conducted phone interviews with municipal health authorities on the situation of persons living in municipal housing facilities or receiving care services in their own home, on the suspicion that measures to reduce the spread of the coronavirus to these places resulted in unlawful or disproportional isolation.

Additionally, we have started a larger mapping of the situation for prison detainees during the COVID-19 pandemic. This includes conducting interviews and collecting written information from prison managers and the Prison Health Services in eight different institutions and circulating a survey to detainees in two different prisons. Results of this monitoring exercise will be available within the next month.

On 7 April, we updated our website with information about the decision to [suspend](#) physical visits and the about mappings we are conducting relative to the measures specific to the Coronavirus pandemic in various places of detention. The Parliamentary Ombudsman, as head of the NPM, has publicly [expressed](#) concern about the situation of persons deprived of their liberty during the COVID-19 pandemic in national media, as well as in a livestreamed seminar organised by Norway's National Human Rights Institution. The Norwegian NPM has also participated in international information sharing on prevention efforts during the COVID-19 pandemic, most notably through our established cooperation with the Nordic NPMs and through webinars and information sharing organised by APT.

Polish NPM

Since the beginning of the year, NMPT members carried out eight visits among which four were focused on checking the level of implementation of recommendations mentioned in SPT's and CPT's reports after visiting Poland in 2017 and 2018. Unfortunately, NMPT suspended its preventive visits until the end of April. Despite the suspension, the monitoring of the situation of the persons deprived of the liberty is being constantly performed, as well as other regular tasks in accordance to its mandate.

NMPT stays in touch with all the authorities responsible for each type of place of deprivation of liberty in Poland asking for detailed information on how the places of detention are prepared for the possible threat of spreading of the disease. According to the responses received, it appears that appropriate procedures have been implemented for persons with suspected COVID-19 infection. Due to the risk of spreading coronavirus in detention centres for juveniles, both visits and leaves are currently forbidden. In all prisons and remand prisons in Poland, the meetings of prisoners with their families are suspended. The inmates are only allowed to work in producing personal protective equipment and in preparing food. Additionally, a prison hospital was set up in Potulice Prison for persons deprived of their liberty whose infection with the SARS-CoV-2 virus has been confirmed; however, there are any indications for hospitalisation of inmates in this prison hospital.

On 27 March, NMPT issued an official [statement](#) to the Polish Prime Minister, containing recommendations created by institutions and organisations dealing with the protection of health and human rights. They have been developed by NMPT in a way that precludes the risk of limiting the rights of persons deprived of liberty and provides protection against any form of ill-treatment. On 10 April 2020, the Commissioner for Human Rights submitted a request to the General Director of the Prison Service regarding the possibility for the NMPT to contact prisoners via Skype. A consent for such a form of contact has been given, therefore from the following week on NMPT will start interviewing inmates in various detention centres in Poland.

A few members of NMPT have been given a task of daily researching for any mentions of a situation in places of deprivation of liberty in media. There is also one person designated to contacting those places that have been affected by the pandemic asking about detail information about the problems they are struggling with the most. After gathering the above-mentioned information, NMPT reaches out to the public authorities responsible for the facility (i.e. Self-governmental authorities or National Health Fund of Poland) asking about what steps have been taken to solve the problem.

It is also worth to mention that quarantine facilities have been created in Poland. As it is a completely new concept, numerous doubts as regards potential human rights violations appeared. On April 20th, NMPT asked the voivodes for a list of such facilities in their voivodships and along with the names of persons responsible for the facilities.

On 3 April 2020, the 6th meeting of the NMPT Expert Committee took place online. NMPT members discussed with the Experts the action taken so far and the problems discovered in places of detention during the coronavirus pandemic. The participants discussed also the additional actions which both the Commissioner for Human Rights and NMPT may take to support persons deprived of their liberty. NMPT also strictly cooperates with Polish NGOs, providing each other with all information regarding persons staying in places of deprivation of liberty. In addition, NMPT took part in a number of webinars organised by the Association for the Prevention of Torture and Penal Reform International on the issue of COVID-19.

In the following days NMPT will keep on working on providing the best solutions for the places of deprivation of liberty. NMPT is willing to restart its preventive visits as soon as it is possible considering all the safety matters for both the members of NMPT and the persons working or living in the visited places.

Portuguese NPM:

The Portuguese NPM continues its efforts of monitoring at distance, maintaining close contact with the authorities and with those deprived of their liberty. The response of the authorities to the COVID-19 pandemic, as in other countries, has been gradual and resulted in major changes in places of detention - namely in prisons and immigration detention centres. Besides contingency plans, two changes ought to be highlighted. In prisons, a law was enacted on 10 April 2020 with measures that are leading to the progressive release of over 2,000 out of under 13,000 inmates from our prisons. These measures include, inter alia,

pardons of prison sentences of up to two years and the special extension of releases on temporary licenses, from a maximum of three days every three months to renewable periods of up to 45 days, under certain conditions – in line with a [recommendation](#) of the Ombudsman. In addition, the airport immigrant detention centres are not detaining asylum seekers at this point, who are now being granted a special temporary visa that allows them to enter the country. Given that the conditions in these centres have been object of repeated criticism by the NPM, this is a positive change.

Romanian NPM:

Romania continues to be in a state of emergency, which has been extended for a further period of 30 days until 16 May 2020. On 15 April, the Ministry of Health reported a number of 7,200 people infected with coronavirus and a number of 362 deaths. The numbers are growing.

In this context, the Romanian NPM has initiated a wide-ranging action to monitor all places of detention according to the NPM mandate, by requesting information from the relevant ministries, central and local authorities and the management of places of detention (about 828 letters were sent by post and email). Information was requested regarding the protection of health and safety of persons deprived of liberty and of staff, against the spread of the coronavirus; contact with families in the context in which the right to visits was suspended; the situation of psychiatric patients following the discharge of non-emergency cases; access to justice of involuntary hospitalized patients; difficulties occurring in the provision of medical care, etc.

A [Statement of principles](#) was prepared and published on the website of the People's Advocate Institution.

The NPM collaborates constantly with the other departments within the People's Advocate institution and is aware that individual complaints were received regarding the insufficiency of disinfectants and masks, as well as overcrowding. At the same time, the NPM checks the websites of the competent national authorities every day. It is also informed through the daily Press Review, prepared at the level of the institution, about possible cases of violation of the fundamental rights of persons deprived of liberty or situations with potential risk of ill-treatment. The NPM maintains liaison with NGOs and bar associations in order to identify situations of ill-treatment in places of detention.

At the end of the state of emergency, a report will be drawn up, which will include the findings of the monitoring action.

Serbian NPM

Immediately after the declaration of the state of emergency, the NPM contacted the Director of the Administration for Enforcement of Penal Sanctions to be updated on the measures taken to contain the spread of the COVID-19 virus and on the impact these measures have on the exercise of the rights of persons deprived of their liberty during a state of emergency and this communication is regularly maintained.

Letters, in which the NPM reiterated that the prohibition of torture and inhuman or degrading treatment or punishment is absolute and that protective measures taken by the state to contain COVID-19 must never result in any form of ill-treatment of persons deprived of their liberty, were sent to all competent administrative bodies. The CPT's statement of principles of 20 March 2020 was forwarded to these bodies, which were called upon to adhere to these principles. The CPT's statement and the SPT's advice of 25 March 2020, are posted on the website of the National Preventive Mechanism and are available in both English and Serbian language.

The Administration for the Enforcement of Penal Sanctions was asked to provide information on how and to what extent the CPT principles were acted upon (particularly regarding measures taken to reduce prison population since the declaration of state of emergency; measures to protect the health of persons deprived of their liberty, especially those who are at particular risk of infection – persons older than 65, with underlying health conditions etc.); to what extent the possibility of other forms of contact with the outside world was augmented (telephone, electronic communication...), etc. The Administration provided the data promptly. In this regard, by implementing the measures of parole, early release and abolishing custody, the number of persons deprived of their liberty was reduced by 534 persons from 15 March to 13 April 2020. Furthermore, in consultation with the judges assigned to particular cases, an order was issued to allow both the convicted and the detained persons to maximize the use of telephone booths. Increased health surveillance measures

are applied to persons at particular risk of infection. The Protector of Citizens also issued an Opinion to the Ministry of Justice calling on the need to ensure the exercise of the right to a fair trial.

The Commissariat for Refugees and Migration was also requested to inform us on the measures taken regarding the reception and treatment of migrants and asylum seekers, the current situation in individual centers, as well as to provide information on possible extraordinary events recorded in individual centers. The NPM maintains contact with the ENNHRI Asylum and Migration Working Group with the aim of exchanging information on the situation on field and the impact of COVID on migrants' rights, identifying good practices, etc.

The NPM continued to visit the institutions for the enforcement of penal sanctions to check how the measures to contain the spread of the corona virus (COVID-19) were being implemented and how the exercise of fundamental rights of persons deprived of their liberty was ensured in these circumstances. The visits were conducted with the full cooperation of management and employees, all requested information was provided and unsupervised interviews with persons deprived of their liberty (in detention and in imprisonment) were conducted. These institutions are regularly supplied with protective equipment, so the continuous delivery of protective masks, gloves, disinfectants and equipment is carried out, and in several institutions protective masks and suits are manufactured. The Shelter for Foreigners in Padinska Skela and the Asylum Center in Krnjača were visited as well. In addition, the Protector of Citizens monitored the conditions of patients' accommodation in temporary hospitals, quarantines and facilities for safe health care during the corona virus epidemic. In the coming period, the NPM plans to continue visiting places where persons deprived of liberty are accommodated.

To date, the presence of the corona virus has not been confirmed in any convicted person in institutions for the enforcement of penal sanctions in the Republic of Serbia, nor among asylum seekers and migrants in asylum centers and reception centers. Unfortunately, a certain number of beneficiaries and employees at some gerontology centers and psychiatric hospitals have contracted the virus, which is why the NPM did not conduct visits to social welfare institutions and psychiatric hospitals during the period, in order to observe the 'do not harm' principle.

The NPM has opened a special telephone number, available 7 days a week from 8am to 10pm. In addition to conversations with persons deprived of liberty calling this phone number, the collection and verification of data related to places accommodating persons deprived of liberty increased, and third parties (attorneys and family members of persons deprived of their liberty) were contacted. In this way, the manner how they are treated is monitored and data are collected on the basis of which future NPM visits are planned or control procedures are initiated upon filed complaints.

Slovenian NPM

As of 12 March 2020, the Slovenian NPM temporarily suspended its visits to closed institutions, mainly in line with the "do not harm" principle and due to insufficient protective equipment (masks, etc.). The NPM plans to resume its regular visits to closed institutions shortly and, on 11 April, already carried out a (partial) monitoring of the transfer of three aliens (one of them later proved to be infected with the coronavirus) prior to their forced return.

The Ombudsman continues to actively and closely monitor the developments in the country and promptly points out the dangers and possibilities of human rights violations. The Ombudsman underlined that the approach to the prevention of the spread of the epidemic should be such as to respect human rights and freedoms. The NPM also called for particular attention to the unacceptable stigmatisation of persons on the basis of health. The number of communications received (by phone, email and ordinary mail) and of motions submitted for the institution of proceedings with the Ombudsman (including from closed institutions) have increased significantly during this period. The Ombudsman is also in constant contact with the Government and representatives of institutions, trying to facilitate their work by providing consultations. In order to improve the flow of information, a special sub-site was opened on the Ombudsman's website, publishing relevant information on the measures taken, the Ombudsman's activities, communications from international organisations, etc.

The NPM's attention and special care is (also) devoted to all persons who are in closed institutions during this time of crisis, as they are especially vulnerable and helpless. With regard to prisons, as of 14 April 2020, there were two COVID-19 infections recorded (out of over 1,100 imprisoned persons and for a total of 1,330 confirmed infections countrywide as of 18 April). It is encouraging that restrictive measures adopted to contain and control the coronavirus disease in closed institutions (such as a ban on visits) were accompanied by measures to alleviate the distress of prisoners (the distribution of telephone cards, delivery of additional TV sets, allowing suspension of the serving of a sentence of imprisonment, making video calls and others); on the other hand, some decisions have been adopted without a clear legal basis (such as the ban on visits to prisons). The Ombudsman is therefore examining this issue in detail. The findings concerning the situation of imprisoned persons were also [published](#) on the NPM website, and the current situation in prisons was checked again a few days ago by telephone inquiries to all their managements.

The NPM is particularly concerned by the news of the spread of infections among the elderly, especially in homes for the elderly and called on the authorities to respect their human rights and ensure that restrictions are lawful, necessary and proportionate. In this regard, the NPM has been considering several unresolved issues (e.g. people not being allowed to leave homes for the elderly, the manner in which court hearings in detention cases are conducted, the refusal of entry of a resident to a home for the elderly upon return, citing a state of emergency, etc.). Moreover, special attention was devoted to the containment and management of the COVID-19 epidemic in educational institutions for children and youths with emotional and behavioural disorders (residential treatment institutions).

Finally, it should be noted that certain measures of the authorities (e.g. the requirement that, during the temporary implementation of the budget, assuming liabilities requires the approval of the Ministry of Finance and the reduction of the salaries of the Ombudsman's public office holders (including the Deputy Ombudsman heading the NPM) by 30%, disturbing the internal relations in the Ombudsman employees' salaries) represent unacceptable interference in the Ombudsman's financial independence, which is in contravention of the Paris Principles relating to the Status of National Institutions (1993) and the relevant constitutional and legal framework.

Spanish NPM

The current Covid-19 pandemic presents enormous challenges and I wish to express my sincere hope that all countries overcomes and recovers from it quickly.

The Spanish NPM is monitoring the situation in the different places of deprivation of liberty by making virtual visits. New working methods have been explored respecting the principle of "do no harm" established by international organisations. Thus, specific questionnaires have been prepared for the different types of centres and the NPM advisers are holding telephone interviews with those responsible for these places. In addition, video interviews with inmates are being held, using the mobile phones that have been provided by the General Secretariat of Penitentiary Institutions.

For further details, please see the Ombudsman's general [communication](#) on COVID-19, the [communication](#) on concerns of citizens, and the [communication](#) on actions taken during the COVID-19 crisis, which contain information on social care homes, immigration detention centres (including in Ceuta and Melilla), prisons, and on the preventive work of the NPM, video calls conducted with inmates and virtual visits carried out.

Swedish NPM

The Swedish NPM has suspended implementation of scheduled visits from middle of March to the end of June. Our priority under the OPCAT mandate is looking into what measures the various government agencies responsible for persons deprived of their liberty have taken to prevent the spread of Covid-19 and the consequences for inmates. At the time of writing, we have started two special inquiries covering the situation in prisons and remand prisons and compulsory care homes for young persons and adults with substance abuse. The first step in both inquiries have been meetings with the head offices of the respective agencies to present our priorities and get a general perspective on the measures taken. The aim is to finalise these inquiries in the summer of 2020. (As far as we are aware, there have not yet been any placement of individuals in quarantine or forced isolation for reasons of them carrying or being suspected of carrying the coronavirus that would amount to a deprivation of liberty.)

Since we determined that the possibility to conduct physical visits to places where deprivation of liberty in a normal way is out of the question for the time being, we are using some new methods to carry out our preventive mandate. On 8 April we distributed 200 surveys to inmates in six prisons and remand prisons in the Stockholm region (the epicentre of the outbreak in Sweden) to get the perspective from inmates on e.g. health care and restrictions on visits. More than 70 % of the inmates responded to the survey. We have also been conducting video interviews with staff in some of these establishments, using a secure link provided by the local Stockholm office of the Prison and Probation Service. For the other inquiries, we are considering other methods of monitoring, including video interviews with inmates and, possibly, open air interviews with inmates in e.g. exercise yards.

Swiss NPM

For the time being, the Swiss NPM will refrain from monitoring places under quarantine for two reasons: Monitoring such places might make sense if these measures were to last over a certain period of time and if allegations of excessive duration would become substantial. In the context of emergency and public health authorities' attempts to contain the Coronavirus, we feel that it would be inadequate to put additional pressure on public health institutions.

That being said, we are closely monitoring any decision that imposes serious restrictions on the liberty of movement in places of deprivation, such as restricting or even prohibiting social contacts and family visits in institutions for elderly people. These measures should not exceed what is strictly necessary from a public health point of view. Given that Switzerland, and other countries, are facing an unprecedented public health emergency, we have opted for a rather prudent approach based on the 'do no harm principle'. We therefore currently consider postponing some inspection visits to places of detention because there are certain fears of 'importing' the virus. It goes without saying that this would have disastrous effects in terms of image and severely undermine our credibility. We are however continuously assessing the situation and will have to adapt rapidly to any new developments. Further information on the action taken by the Swiss NPM can be found [here](#).

Tunisian NPM

The National Authority for the Prevention of Torture in Tunisia (*Instance Nationale de Prévention de la Torture or INPT*), which is the Tunisian NPM, monitors that instances of torture and other ill-treatment do not occur in places of detention and that the living conditions of persons deprived of their liberty comply with international human rights standards and national legal provisions in force. It also oversees the protection of persons deprived of their liberty during the pandemic.

In the current circumstances of general measures adopted to restrict the movement of persons, the NPM continues its mission of preventive visits to prison establishments, places of police custody, and social care homes for people in situations of vulnerability (such as children, elderly persons or people with disabilities). To this end, it has maintained continuous correspondence with the authorities concerned in order to ensure that preventive measures are being taken to counter the spread of the pandemic notably regarding overcrowding in places of detention and especially in prisons. It also asked the authorities concerned to take exceptional and courageous decisions with a view to releasing non-dangerous prisoners by using the measures of provisional and early release.

The NPM has published a [Statement of Principles](#) concerning the treatment of persons deprived of their liberty in the context of the measures taken to respond to the current Coronavirus pandemic (COVID-19), with a view to combating its spread inside places of detention, in which it called on the supervisory authorities and those responsible for places of detention to take all necessary measures to protect the health of persons deprived of their liberty, including medical measures relating to the prevention of the pandemic, and to mobilise adequate human, financial and material resources.

The NPM has been carrying out a new and unprecedented experience in recent times by implementing a program of visits to places of compulsory quarantine according to an innovative approach. It aims to check the accommodation and living conditions of people placed in compulsory quarantine upon their return from a stay abroad, in various places with various logistics. The NPM deploys its resources and means to implement

its action plan. It will soon publish all of its findings, observations and recommendations regarding its monitoring visits.

Turkish NPM

The recommendations or statements of both international and regional organisations are followed by the Turkish NPM since the first day of their publication. In this context, the documents of the SPT, CPT, WHO and other persons or organisations related to COVID-19 have been translated into Turkish by our Institution and we made them a whole set of [recommendations](#). They were shared with the institutions responsible for places of detention and places where people are under protection and were published on our website. To collect data, we also requested information about measures taken and the current status for both detainees and staff. Current developments are followed closely, and we request information to be given to us.

In recent days, the Turkish Parliament ratified a bill consisting of 70 Articles amending the law on execution of sentences. This reform will reduce the sentences of nearly 90.000 prisoners and release them. Nearly one-third of the prisons will be vacated. Sex crimes that offend the public's conscience, as well as drug crimes, first-degree murder, crimes of violence against women and terrorist crimes were excluded from the amendments. Some convicts in open prisons will be sent to their homes and considered as being on leave until the end of May to reduce the risks in the process of combating the COVID-19 outbreak. If the outbreak persists, the period of leave can be extended three times by a maximum of two months each. 15.000 prisoners from closed penal institutions, 30.000 prisoners from open institutions are expected to be released and also approximately 45.000 prisoners in open penal institutions are expected to be on leave within the scope of coronavirus measures. These arrangements are thought to contribute to the creation of environments that allow social distancing in prisons and protect detainees from a potential outbreak of the coronavirus in prisons.

The Turkish NPM, which carries out its duties and mandate as a unit as part of the Human Rights and Equality Institution of Turkey, also receives individual applications from people deprived of their liberty. While applications are still being received by mail, an online application system has been put into use to facilitate the process. Thus, the access of these persons and their relatives was also facilitated.

UK NPM

The UK National Preventive Mechanism (NPM) is made up of 21 bodies who monitor and inspect places of detention in the UK to prevent torture and ill-treatment for those deprived of their liberty. Given the necessary limitations on members' capacity to conduct visits to places of detention during COVID-19, action is being taken across the NPM to ensure independent oversight is maintained and the NPM's crucial role in preventing ill-treatment in detention continues.

There are different approaches to monitoring in the context of COVID-19 being taken across the NPM that ensures members are able to fulfil their statutory functions and international responsibilities to report on the situation in places of detention and prevent ill-treatment. For example, Her Majesty's Inspectorate of Prisons for Scotland have developed a [Remote Monitoring Framework](#) for prison inspectors and volunteer monitors to use. The Independent Monitoring Boards have also launched a confidential helpline for use in prisons to maintain contact with prisoners and check on their conditions and treatment. The NPM have [published a factsheet](#) with specific examples from across the NPM on different approaches to preventing ill-treatment in the context of COVID-19. NPM members will continue to review their approaches in light of the issues they identify as well as the measures implemented by government to contain the virus.

We have also written to [UK Secretary of State for Justice Robert Buckland QC MP](#), [the Scottish Cabinet Secretary, Humza Yousaf MSP](#), and [Northern Ireland Justice Minister Naomi Long MLA](#). Our correspondence with governments has put forward the need for government to consider taking urgent action to protect the rights of people living and working in places of detention.

Ukrainian NPM

The Ombudsman of Ukraine held meetings with the deputy heads of Ministries responsible for places of detention on the provision of personal protective equipment for detainees, availability of medicines, protocols for responding to cases of infectious diseases and infectious diseases isolation of patients.

According to the results of the meetings, the Ministries and Heads of regional state administrations were provided with [recommendations](#), which notably concern the legal ground for restricting the rights of inmates, planned regulatory measures of the Ministry of Justice, the state of provision of medicines and equipment necessary for the timely detection and provision of medical care, the allocation of additional funds linked to the introduction of quarantine measures, and the state of recruitment of vacancies for doctors.

We have started carrying out a range of targeted monitoring visits to places of detention in order to study the state of preventive measures in places of detention. Between 7 and 22 April 2020, the Ombudsman's Office made visits to all 30 pre-trial detention facilities currently operating in Ukraine. Regulations have been developed for the visits (from dressing in special protective suits to a step-by-step scheme of movement to places of deprivation liberty), checklists with a list of questions for verification. As a result, the Ukrainian Parliament Commissioner for Human Rights, Liudmyla Denisova, has [sent a letter](#) to the Minister of Justice calling for urgent steps to exercising effective control on the implement of the preventive measures and quarantine rules issued by the Ministry on 12 March in all pre-trial detention centres and to determine the needs in terms of material resources, equipment and additional funding required for their implementation. In particular, she expressed concern regarding the absence of judicial hearings, the lack of personal protective equipment for both staff and detainees (PPE), lack of regular disinfection and medical screening (including measuring the body temperature of detainees) carried out, the need to observe detainees' right to contact with the outside world, the need to address local overcrowding in several units, the need for additional training of medical and custodial staff on protective measures (including the use of PPE). The Ministry has been requested to inform the Commissioner for Human Rights within one month on the steps taken to eliminate these violations. The next step is to visit other types of places of deprivation liberty.

In turn, we would like to ask: ***Does your country conduct some measures for parole of prisoners? If so, what are the criteria for release (age, sentence terms), and how many convicted persons may be released?***

Mary Amos

When scrolling through responses from NPMs on their response to the COVID-19 crisis, it became clear that most NPMs are currently not performing physical visits to places of detention. Generally, this is reasonable approach, in my view.

At the same time, there are many aspects that NPMs can look into and enquire without being physically present in places of detention. Even during the state of emergency, human rights instruments remain valid and restrictions can be imposed only in very specific circumstances; they have to be proportionate and clearly should have a solid legal basis. In this regard, attention should be paid to the work of the Armenian NPM that has done a proper enquiry into the legal grounds of emergency-related human rights restrictions. NPMs can also ask for information from places of detention, different supervisory authorities or other stakeholders for example about the following points:

1. Is there sufficient personal protective equipment (PPE) available in places of detention for both personnel and detainees? Is the PPE certified (quality of masks etc.)? Is the PPE used according to protocols (time limits for wearing masks, gloves etc.)? Is all PPE free-of-charge for detainees and personnel?
2. Is there the possibility to disinfect properly all premises (including vehicles, outdoor areas etc.), all the time? Are disinfectants made available for detainees and personnel free-of-charge?
3. Is COVID-19 testing available for all detainees and personnel? Are involuntary tests taken? Is testing for free? Who performs tests (taking the sample) – health care worker or member of personnel or detainee him/herself? Should visitors, if allowed, be tested as well?
4. What are the means applied in places where particularly vulnerable people are held, such as care homes, etc.? How are services guaranteed for old and fragile people or people with specific medical conditions, keeping in mind their need for increased protection?
5. How are movements inside places of detention or possible leaves organised? Can detainees go to the fresh air? If so – are they tested beforehand; how are surfaces cleaned after each detainee; how are walking shifts organised to minimise the spread of disease? How are detainees escorted inside and outside, paying attention to needs of security but at the same time avoiding close contacts?

6. How is health care organised? Is there a possibility of video/phone consultations? Can detainees be taken outside for services? What sort of health care services are available inside? Are detainees with diseases/health conditions monitored according to a protocol?
7. If means of communication, such as phones, Skype etc, are made available – are those means properly disinfected after each use? What is the protocol for using such means during the emergency situation? Are there restrictions imposed?
8. Are parcels and letters allowed? If so, what are the protocols for disinfecting? In case food is brought in from outside caterers (no kitchen in place of detention) – how is the delivery organised to avoid the spread of the disease?
9. How are shifts organised? Is staff taking shifts as normally (meaning that there is constant change and risk of infection) or are shifts reorganised and longer (for example 1 week)? If staff is taking long shifts, how does this affect the staff-detainee relationships?
10. Is there any judiciary oversight whatsoever over places of detention/detainees during the emergency situation?

These are just some questions that might need to be asked. This will allow you to gain at least a partial picture about what is going on and will (hopefully) alert the management of places of detention about issues they need to address.

7.2 Requests for contributions

All readers, and particularly colleagues from European NPMs, are kindly invited to contribute on the below issues. You are also invited to send your input as regards the two requests for contributions that were included in the previous edition of the newsletter: (1) **good practices and challenges faced by NPMs as regards forced return monitoring** and (2) **strategies to deal with the lack of implementation of the NPM's recommendations**). All contributions (or summaries) will be featured in one of the next issues of the newsletter. The aim is to have one thematic discussion per newsletter, with contributions by NPMs and possible external input. The next thematic discussion will most likely be dedicated to the issue of forced return monitoring.

Issue 1: Request for information by PRI on monitoring of older persons in prisons/jail facilities

Penal Reform International (PRI) is developing a tool (in addition to PRI/APT's [Detention Monitoring Tool](#)) on the monitoring of older persons in prison settings (i.e. in pre-trial detention or serving a sentence). The organisation is therefore seeking information on current approaches and key challenges faced by this population who are now exposed to even greater vulnerability with the global coronavirus (COVID-19) pandemic. Please send your response to the below questions on this issue (as well as any relevant documents, reports, etc.) both to npm.newsletter@coe.int and ORope@penalreform.org to ensure that your contribution will be taken into account when developing the tool.

Has your NPM paid any particular attention to older persons in your preventive monitoring activities (e.g. thematic monitoring visits)? If yes, were there any adaptations to your monitoring methodology required? Please provide details.

Has your NPM observed and/or reported specific issues for older persons in prisons or other criminal justice-related detention facilities? If yes, what were these issues? Have the authorities implemented any recommendations made by your NPM relating to older persons? Please specify.

Issue 2: Monitoring of private institutions

NPMs monitor all places of deprivation of liberty within the jurisdiction of a state. Often, this refers to state-run institutions such as prisons and police establishments. Many countries will also include private facilities, such as social care homes managed by charities or prisons sub-contracted to corporate enterprises. NPMs are invited to respond to the following questions:

Does your NPM see a difference between state and private institutions? How does your NPM fulfil its OPCAT mandate in respect of establishments run by private actors? For example, does your NPM adapt its visit methodology when monitoring private institutions or use different strategies for discussing the implementation of recommendations? What structural deficiencies has your NPM detected in this context?

VIII. In focus

8.1 HMI Prisons (UK NPM): COVID-19 monitoring methodology

Her Majesty's Inspectorate of Prisons (HMI Prisons) has developed a COVID-19 methodology to enable it to carry out its statutory duty to report on treatment and conditions in detention during the current challenging circumstances presented by COVID-19. The methodology was developed together with health and safety guidance and in line with the principle of 'do no harm'.

There are three parts to the methodology:

- Analysis of laws, policies and practices introduced in places of detention in response to COVID-19 and their impact on treatment and conditions.
- Seeking, collating and analysing information about treatment and conditions in places of detention in order to assess risks and identify possible problems in individual establishments or developing across establishment types. This includes making risk-based recommendations for further monitoring and/or short scrutiny visits.
- Taking a more active scrutiny approach informed by the above analysis, which may include undertaking short scrutiny visits to establishments based on risk or to a group of establishments based on establishment type.

Short scrutiny visits differ from inspections in a number of ways. They are announced one-day visits which focus on only those *Expectations*² which are essential to the safety, care and basic rights of those detained in the current circumstances. This includes: health care, nutrition and hygiene; contact with families, friends and the outside world; legal rights; use of time and the need for meaningful human contact; support for those at risk of self-harm and suicide; and support and risk management for those being released. Visits will consider whether the actions taken to manage COVID-19 are necessary and proportionate. Establishments will not be scored.

Currently, three establishments are being visited on one day (by different visits teams), chosen by establishment type, for example, immigration removal centres and establishments holding children. A report summarising the findings from all three establishments will be published within three weeks of each visit.

A full explanation of the methodology, including the checklist used on visits, and other related documents, including the health and safety guidance, are available on HMI Prisons' website at <https://www.justiceinspectorates.gov.uk/hmiprisons/2020/03/covid-19-update/>. The website will continue to be kept updated with any further changes and with reports from visits. Please direct any queries or comments to Jade Glenister, Senior Policy Officer, at Jade.Glenister@hmiprisons.gov.uk.

See also:

- Her Majesty's Inspectorate of Prisons for Scotland, [Remote Monitoring Framework](#) for prison inspectors and volunteer monitors.

² Expectations are the independent criteria by which HMI Prisons' assesses treatment and conditions during an inspection. All sets of Expectations and an explanation of how these are developed, are available at <https://www.justiceinspectorates.gov.uk/hmiprisons/our-expectations/>.