

Ministry of Justice  
[info@just.ee](mailto:info@just.ee)

Tallinn Prison  
[talv.info@just.ee](mailto:talv.info@just.ee)

Tartu Prison  
[tartu.vangla@just.ee](mailto:tartu.vangla@just.ee)

Our 06.04.2020 No. 7-7/200489/2001899

Viru Prison  
[viruv.info@just.ee](mailto:viruv.info@just.ee)

## Measures for the prevention of the virus causing the COVID-19 disease

Dear Minister of Justice and governors of the prisons,

By its [order](#) dated 12 March 2020, the Government of the Republic declared an emergency situation. Should the outbreak of the COVID-19 disease reach prisons, it would have tragic consequences for the people in custody and convicts (hereinafter *imprisoned persons*), prison staff and people close to them. Due to the spread of the SARS-CoV-2 virus, which causes the COVID-19 disease, Estonian prisons have taken measures<sup>1</sup> to stop the spread of the virus and protect the health and life of staff and imprisoned persons. The prisons and the Ministry of Justice deserve recognition for being able to prevent, until the present, the spreading of the virus to imprisoned persons owing to the measures taken in prisons. The virus should not reach prisons via visitors or contaminated surfaces or spread among imprisoned persons.

Prison staff's contacts with the virus infection during off-work time outside custodial institutions cannot be precluded. Therefore, it must be ensured that imprisoned persons have contacts solely with healthy employees not suspected of an infection who use personal protective equipment in accordance with the requirements. Prison staff meet imprisoned persons at the count times, distribution of food, delivery of newspapers/books/letters to cells, using the telephone, etc. It appears from the responses to inquiries that the staff always use personal protective equipment when coming into contact with an imprisoned person: surgical masks or, where necessary, respirators and gloves. Disinfecting agents are used and the required distance is kept. The prison has instructed the staff in detail on how to use personal protective equipment. The prisons have assured us that they have enough personal protective equipment and keep replenishing their supplies.

---

<sup>1</sup> Decree No. 1-1/20/11 of the Governor of Tallinn Prison, Decree No. 1-1/54 of the Governor of Tartu Prison, Decree No. 1-1/46 of the Governor of Viru Prison.

In such a situation it is reasonable and necessary to lock the imprisoned persons into cells and prohibit the use of the prison shop, joint activities and meetings. A certain delay in delivering correspondence and newspapers/books is also justified. Daily news can be consumed by the imprisoned person via the cell's built-in radio. The prison must provide people with proper food and it does not need to be compensated with food purchased from the prison shop.

The prohibition to daily walk in an open air and the reduction of the opportunities to call those closest to the imprisoned person to once a week are, however, 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 the Protection of Human Rights and Fundamental Freedoms. When it is possible to arrange outdoor walks and the calling of those closest to the person without giving rise to a risk of infection, it should be done. The prohibition on torturing and degrading treatment of people is absolute and applies also during an emergency situation without exceptions.

The imprisonment regime of the nearly 2,400 persons imprisoned in Estonia is at the moment similar to solitary confinement. Therefore, it is important to, besides the risks arising from the SARS-CoV-2 virus, acknowledge the adverse effects arising from such isolation.<sup>2</sup> Extensive restrictions without solutions to alleviate their impact may also lead to consequences threatening the life and health of imprisoned persons and prison security (e.g. [riots](#), [more instances of self-harm and suicides](#)). These would make prevention of the spread of the virus more difficult.

Upon preventing the spread of the SARS-CoV-2 virus, prisons should follow the WHO [guidelines](#) of 15 March 2020, the CPT [principles](#) of 20 March 2020 and the SPT [recommendations](#) of 25 March 2020. These documents contain guidelines for prisons on which rights should be ensured to imprisoned persons in an emergency situation.

According to clause 6.4 of the WHO guidelines, clause 9.13 of the SPT recommendations and clause 7 of the CPT principles, prisoners have the right to be outdoors once a day. Regular disinfection of the rooms (incl. walking facilities) should be ensured.

With foresight, the 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.

In wards where the imprisoned persons of one cell block have walked in one walking facility at once, such outdoor stay could indeed increase the risk that the imprisoned persons get infected. However, walks can be arranged cell by cell or in smaller groups. It is possible to arrange walks in a larger yard area (e.g. the prison's sports field).

---

<sup>2</sup> J. Lobel, P. Scharff Smith (Eds.) *Solitary Confinement: Effects, Practices, and Pathways Towards Reform*. Oxford University Press 2020, pp 129–243; C. Haney. [Restricting the Use of Solitary Confinement](#). *Annual Review of Criminology*, 2018, pp 285–310.

According to clause 9.10 of the SPT recommendations and clause 7 of the CPT principles, imprisoned persons should be able to take care of their hygiene to a proper extent (i.e. free soap and access to hot water should be ensured). Special attention should be paid to the needs of female prisoners.

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.).<sup>3</sup> 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 the people closest to them still remain in spite of the emergency situation.

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 those closest to them more frequently in difficult times. In an emergency situation, imprisoned persons are 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 calls to the family more often than once a week.

I ask the prisons to apply restrictions that take into account the WHO guidelines, the SPT recommendations and the CPT principles when preventing the spread of the SARS-CoV-2 virus.

I kindly ask you to give your feedback to these recommendations by 15 April 2020 the latest.

Sincerely yours,

*/electronically signed/*

Ülle Madise

Ksenia Žurakovskaja-Aru 693 8404  
[Ksenia.Zurakovskaja-Aru@oiguskantsler.ee](mailto:Ksenia.Zurakovskaja-Aru@oiguskantsler.ee)

---

<sup>3</sup> See, for instance, the measures taken by the Norwegian Prison Service on 26 March 2020: <https://www.kriminalomsorgen.no/tiltak-som-gjelder-innsatte.525465.no.html>.