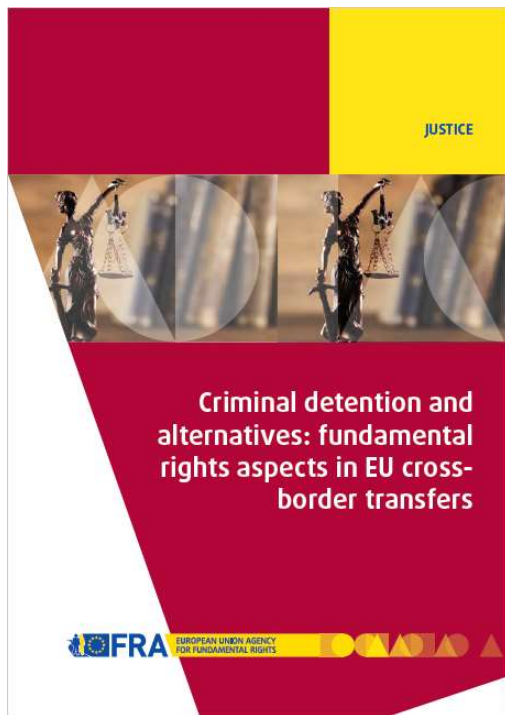


Criminal detention in the EU – FRA's ongoing project





- *In light of international human rights and EU fundamental rights standards and jurisprudence, EU Member States are prohibited from transferring people to places where their fundamental rights will be at risk, especially their right to dignity and to freedom from inhuman and degrading conditions. It is particularly important that individual situations are strictly evaluated. This is particularly true when there is objective evidence of systemic shortcomings in a given state's detention facilities.*
- *In this context, the EU – in cooperation with the Member States – should consider making much more easily available information on detention conditions (as well as on alternatives) in all EU Member States, drawing on existing international, European, and national monitoring reports. This would include a more objective, accessible and operational information system that could also be coupled with indicators on detention conditions and benchmarks for such conditions, allowing for greater clarity on when transfers could be made without fundamental rights concerns. This would be a useful tool for judges and others who need to make decisions about detention conditions in other Member States.*

Monitoring and redress
mechanisms

Trust

Mutual
recognition

European Arrest
Warrant
Transfer of Prisoners

Fundamental Rights

Aranyosi judgment

Aranyosi dilemma

- To execute or not to execute



- Mutual trust v. Risk factors

Aranyosi I-assessment

Initial assessment – real risk
Objective, reliable, specific, up to date

Judgments of int'l courts
(ECtHR)

Judgments of nat'l courts

Decisions, reports, etc
from UN or CoE mechan.

Further assessment –
substantial grounds
Exposed to risk is real or not real?

Requesting information
(Art. 15 (2) of the EAW)

Real risk

No real
risk

Real risk

Postponement (not
abandoned)

Proportionality of
detention while pending

Discontinuation of the
proceedings

No real risk

Execute the EAW

Possible to challenge
detention conditions in
issuing Member State

Criminal Detention in the EU

Aranyosi-assessment

Initial assessment –risk of systemic violations

Objective, reliable, specific, up to date

Judgments of int'l courts (ECtHR)

Judgments of nat'l courts

Decisions, reports, etc from UN or CoE mechan.

Individual assessment

Risk of violation is real or not real?

Standards and sources

Standard Minimum Rules / Nelson Mandela Rules

European Prison Rules

Standards by the European CPT

European Court of Human Rights

UN Treaty Bodies

SPACE (Council of Europe Annual Penal Statistics)

'Detention conditions'

National Standards

Living space

Sanitary conditions

Time out of cell

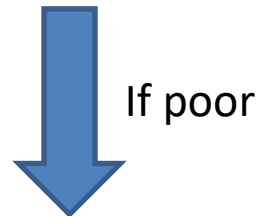
Solitary confinement

Access to healthcare

Protection of vulnerable individuals

Protection from violence

1 step – general conditions



2 step – individual assessment (specific and precise)

Request all information as to the conditions the person will be in



Obtain assurances



Exceptionally – if not satisfying

Assess using the ECtHR criteria (cell space, sanitary conditions, time out of cell)

Mutual trust and recognition must not prevail if the risk is genuine – Article 4 is absolute

Database

EU + intl instruments implemented / ratified

EAW (Council Framework Decision on the European Arrest Warrant)

TOP (Council Framework Decision on the Transfer of Prisoners)

ECPT (European Convention for the Prevention of Torture)

CAT (Convention against Torture)

OP CAT (Optional Protocol to the Convention against Torture)

Reports / statistics

CPT (European Committee for the Prevention of Torture)

NPM (National Preventive Mechanisms)

EuroPris / EPIS (European Organisation of Prison and Correctional Services / European Prison Information System)

SPACE (Council of Europe Annual Penal Statistics)

Case law

CJEU (Court of Justice of the European Union)

ECtHR (European Court of Human Rights)

Database

National standards

Living space

Sanitary conditions

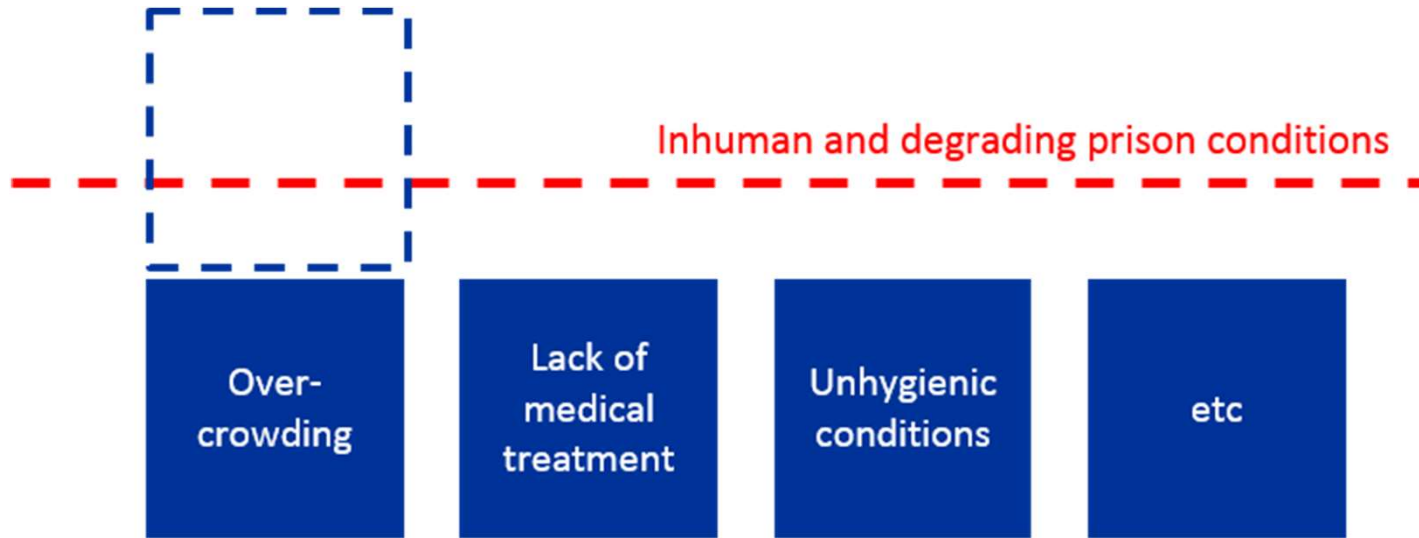
Time out of cell

Solitary confinement

Access to healthcare

Protection of vulnerable individuals

Protection from violence



Material + immaterial conditions

- Living area
- Access to sanitary facilities / shower
- Time outside the cell / meaningful activities
- Solitary confinement / isolation
- Health care

Other known factors

- Protection from abuse
- Vulnerability

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Access data per country

Austria	Belgium	Bulgaria	Croatia
Case law	Czech Republic	Denmark	Estonia
Monitoring reports & statements	France	Germany	Greece
FRA research findings	Ireland	Italy	Latvia
National standards	Luxembourg	Malta	Netherlands
International standards & tools	Lithuania	Malta	Netherlands
Poland	Portugal	Romania	Slovakia
Slovenia	Spain	Sweden	United Kingdom

Access data by keyword

- Cell space**
- Children
- Effective remedy
- Healthcare
- Juvenile prisoners
- Living conditions
- Multiple transfers
- Nutrition
- Positive obligations
- Responsible authorities
- Sanitary facilities
- Solitary confinement
- Time out of cell**
- Violence
- Vulnerability

National standards

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FILTERS

All countries ▾

All detention issues ▾

All NPM recommendation years ▾

SEARCH

Search by keywords

Apply Reset

Export Share

1 of 10 - next

COUNTRY	DETENTION ISSUES	LEGAL INSTRUMENTS	NPM RECOMMENDATION YEARS
	Cell space	Code of Conduct for Detention	2012 ...
	Sanitary facilities	Code of Conduct for Detention	2015 ...
	Time out of cell	Penal Code	2014 ...
	Sanitary conditions	Code of Conduct for Detention...	2014 ...
	Access to healthcare	Code of Conduct for Detention Penal Code	2012 2013 2014 2015 2016 2017
	Special measures - juvenile prisoners	Code of Conduct for Detention ...	2015 ...
	Protection from violence	Code of Conduct for Detention...	2015 ...
	Cell space	Custody Act	2017
	Sanitary facilities	Custody Act	2017
	Time out of cell	Custody Act	2017

DISCLAIMER
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Details




Export Share

COUNTRY  Austria	DETENTION ISSUE Access to healthcare	FRA RESEARCH FINDINGS View details
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LEGAL INSTRUMENTS & KEY PROVISIONS

LEGAL INSTRUMENT	KEY PROVISION
Code of Conduct for Detention	Necessary medical care for prisoners has to be provided by medical officers by making sure that a doctor can intervene without unnecessary delay. In minor cases paramedics may take care of prisoners. Prisoners are free to consult a doctor of their choice on their own costs, in the cell.
Penal Code	Necessary health and dental treatment must be available.

NPM RECOMMENDATIONS

YEAR	RECOMMENDATION	REPORT
2015	It must be guaranteed that the medical care of detainees is on the same level as that of persons who are at liberty.	
2016	Prisoners who suffer from psychiatric (pre-existing)-illnesses have to be brought to a psychiatric doctor in short time after admittance to the prison and are to be cared for by regular contact to the doctor.	
2017	Inmates with substance abuse problems are entitled that their special treatment, care and advise necessities are taken into account. Individual therapeutic treatments for accomodateddetained persons have to be forseen as well as specific rooms. Therapy has to start soon after accomodation. Months of inactivity are not acceptable.	

Focus Paper

Short report with focus on some key findings from the desk research in all 28 MSs and fieldwork in 8 MSs



Thank you!

matylda.pogorzelska@fra.europa.eu

fra.europa.eu