



Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Protocol for national preventive mechanisms undertaking on-site visits during the coronavirus disease (COVID-19) pandemic*

I. Introduction

1. The present protocol was prepared taking into account that conditions surrounding the coronavirus disease (COVID-19) pandemic are evolving very quickly and that a flexible approach is needed. National preventive mechanisms are invited to send their comments and observations to the Subcommittee. The present protocol will be reviewed and updated, as appropriate.
2. Although national preventive mechanisms can enhance their activities that are not related to visits, such as advocacy work, they are advised not to halt monitoring altogether, but rather to adapt their approach.¹ The present protocol is aimed at encouraging national preventive mechanisms to continue or restart on-site, safe and effective visits during the pandemic, and is also aimed at facilitating such visits.
3. New detention sites, such as quarantine facilities, should be included in monitoring. In addition, new measures in place due to the pandemic should be assessed, and the methodology should be adapted.²
4. The present protocol is advisory in nature and meant to be part of the visiting preparations for national preventive mechanisms. It should not replace medical guidelines and advice from national authorities. National preventive mechanisms are invited to enrich the protocol further with their own expertise.
5. Apart from being a practical tool to help national preventive mechanism visiting teams, the present protocol is aimed at:
 - (a) Continuing to protect the right of persons deprived of liberty to live free of torture and ill-treatment by ensuring that torture prevention mechanisms continue to carry out on-site visits;
 - (b) Helping to protect national preventive mechanism visiting teams, persons deprived of their liberty and staff working in places of deprivation of liberty from becoming infected with the virus responsible for COVID-19.

* The present protocol was drafted in follow-up to a decision taken by the Subcommittee during its forty-third session and adopted on 26 May 2021, pursuant to article 11 (b) of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

¹ See CAT/OP/10, para. 11.

² Dignity – Danish Institute against Torture, “Synthesis of global guidance and recommendations on how to prevent and manage COVID-19 in prisons”, 26 March 2020 (updated on 16 July 2020).



II. Background and guiding principles³

6. Persons deprived of liberty, such as persons in prisons and other places of detention, are likely to be more vulnerable to becoming infected with the virus responsible for COVID-19 than the general population because of the confined conditions in which they live together for prolonged periods of time.⁴

7. Prison and other detention authorities need to ensure that the human rights of those in their custody are respected during the pandemic, that people are not cut off from the outside world and – most importantly – that they have access to information and the adequate provision of health care.⁵

8. The provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care that are available in the community, and they should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status.⁶

9. National preventive mechanisms should take every precaution to observe the “do no harm” principle. During a pandemic, monitoring experiences indicate that, in order to avoid causing harm, members of visiting teams should respect the established planning, management and methodology of protocols in place, and the guidelines in place in the State party, at all times.⁷

10. All measures taken to address the pandemic affect different groups of persons deprived of liberty differently, in particular, the most vulnerable categories in detention contexts, including women, children, older persons and lesbian, gay, bisexual, transgender and intersex persons. Keeping this in mind, adequate safeguards should be in place while addressing the COVID-19 emergency in prisons and other places of detention, including those safeguards that can ensure a gender-responsive approach.

III. Before the visit

A. Planning

11. All members of the national preventive mechanism must endeavour to be aware at all times of the standard protective measures recommended by the World Health Organization (WHO) for the COVID-19 pandemic. In consideration of the ever-evolving nature of the pandemic, national preventive mechanisms should remain informed of relevant guidance and instruments.

12. National preventive mechanisms are invited to set specific objectives for each visit in order to reduce time inside institutions, determine the scope of visit and minimize exposure to the virus for all involved.

³ See Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000); and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). See also OHCHR, “High Commissioner updates the Human Rights Council on human rights concerns, and progress, across the world”, 27 February 2020; and the advice provided by the Subcommittee to the National Preventive Mechanism of the United Kingdom of Great Britain and Northern Ireland regarding compulsory quarantine for COVID-19 (CAT/OP/9).

⁴ World Health Organization, Regional Office for Europe, “Preparedness, prevention and control of COVID-19 in prisons and other places of detention: interim guidance”, 8 February 2021.

⁵ Penal Reform International, “Coronavirus: healthcare and human rights of people in prison”, 16 March 2020.

⁶ United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), rule 24.

⁷ National Mechanism for the Prevention of Torture of Paraguay, “Propuesta metodológica: Trabajo de monitoreo frente a la emergencia sanitaria COVID-19”, April 2020 (in Spanish only). Available at www.mnp.gov.py/index.php/investigacion-social/2015-08-23-04-10-11/Documentos-de-trabajo/Propuesta-Metodologica-Trabajo-de-Monitoreo-frente-a-la-Emergencia-Sanitaria-COVID-19/.

B. Selection of members and risk assessment

13. Members of the visiting team should be selected carefully, taking into consideration risk factors for the disease as indicated by WHO,⁸ as well as their experience, availability, willingness and personal circumstances, including age and underlying medical conditions. Participation in visits should be on a voluntary basis only.

14. Participants are advised to see their family doctor to understand their personal risks in case they become infected. They are also advised to consult their insurance coverage.⁹

C. Vaccination

15. Current scientific knowledge indicates that vaccination is the best way to ensure protection from the most serious cases of COVID-19 and, in this sense, members of national preventive mechanisms are encouraged to consider vaccination, in addition to all already recommended protection measures.

D. Testing

16. Under the principle of “do no harm”, members of national preventive mechanism visiting teams should find a way to monitor the health of their visiting experts regularly to ensure that they are not bringing the virus into places of deprivation of liberty. This may include a polymerase chain reaction (PCR) test or a rapid test. It would be desirable to have a test prior to a visit. A negative test does not mean that a visiting team member should stop observing the protective measures. In addition, the national preventive mechanism must bear in mind that, with the current level of knowledge, it is not certain that vaccination or natural immunity will prevent an individual from contracting or transmitting the virus. Those participants with a positive result must refrain from participating in the visit.

E. Self-evaluation checks

17. On the day of the visit, members of the team are invited to monitor their health and well-being before the visit, including by taking their temperature.¹⁰ The self-evaluation questionnaire contained in the annex may be useful in this regard.

18. If any member feels any of the critical symptoms, that is, fever, dry cough, difficulty breathing or loss of sense of smell and taste,¹¹ they must then refrain from participating in the visit.

19. The national preventive mechanism should bear in mind that a participant may feel ill inside a place of deprivation of liberty, and it should be ready to act, allowing for self-isolation.

F. Training

20. All members of the national preventive mechanism are invited to familiarize themselves with WHO materials on COVID-19 in prisons and other places of detention.¹²

⁸ See www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public.

⁹ “Propuesta metodológica trabajo de monitoreo frente a la emergencia sanitaria COVID 19”, 28 April 2021.

¹⁰ Association for the Prevention of Torture and Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE/ODIHR), “Guidance: monitoring places of detention through the COVID-19 pandemic” (Warsaw, OSCE/ODIHR, May 2020).

¹¹ See www.who.int/health-topics/coronavirus#tab=tab_3.

¹² See www.euro.who.int/en/health-topics/health-determinants/prisons-and-health/focus-areas/prevention-and-control-of-covid-19-in-prisons-and-other-places-of-detention/faq-prevention-and-control-of-covid-19-in-prisons-and-other-places-of-detention.

G. Information

21. Before any visit, the national preventive mechanism should have information on:¹³
- (a) The pandemic situation in the country in general and in places of deprivation of liberty in particular, including the number of infections and trends;
 - (b) The measures in place to restrict transmission in the country or region;
 - (c) The measures in place in places of deprivation of liberty and screening measures upon entry in order to prepare and allow for unannounced visits.

H. Focal point

22. The national preventive mechanism may wish to identify a COVID-19 focal point in each visiting team or for the national preventive mechanism as a whole. If possible, the person selected should have a medical background. The task of the focal point is to help the visiting team to be aware of how it is complying with the present protocol and guide the visiting team in its approach regarding protective measures and personal protective equipment for the visit in question.

I. Meetings with the authorities

23. When there are no safe alternatives, preparatory meetings with the relevant authorities may be held online. Feedback to the authorities may also be given virtually, after the completion of the visit.

J. Protective measures and personal protective equipment

24. Three levels of protective measures are available for the national preventive mechanism's consideration.

25. Level 1 is the common approach and entails taking the general precautions recommended to prevent all people, including staff, visitors and detainees, from contracting and spreading the virus responsible for COVID-19 in places of deprivation of liberty. Levels 2 and 3 are used only in special circumstances. The use of personal protective equipment may be indicated in some cases. However, its use may affect the quality of the exchanges that national preventive mechanisms have during their visits.

1. Level 1: standard protection, barrier gestures

26. The following measures are recommended for level 1:
- (a) Surgical mask;
 - (b) Soap and water;
 - (c) Sanitizing gel;
 - (d) Physical distancing of 1.5 to 2 metres.

2. Level 2: intermediate protection, barrier gestures and complementary personal protective equipment

27. The following measures are complementary to those listed in level 1 and are used by health-care and custodial staff and by national preventive mechanism members or others dealing directly with a suspected or confirmed case of COVID-19 with whom they come into close contact (a distance of less than 1 metre):

- (a) FFP2 mask;

¹³ "Guidance: monitoring places of detention through the COVID-19 pandemic".

- (b) Fabric overcoat or gown;
- (c) Safety goggles or face shield;
- (d) Gloves;
- (e) Cap;
- (f) Overshoes.

3. Level 3: full personal protective equipment

28. The following measures are complementary to those listed in level 2 and are used by health-care staff only for aerosol-generating procedures:

- (a) Full romper;
- (b) Z87+ safety goggles;
- (c) Respirator.

29. The level selected will depend on the risk assessment made regarding the possibility of interacting with confirmed and/or suspected cases of COVID-19. All national preventive mechanism experts should learn to use personal protective equipment properly.

K. Informing the authorities

30. The authorities may receive information regarding the procedures put in place by the national preventive mechanism to ensure the safety of all involved, with adequate time for them to come back and comment. A handout with the procedures put in place may be sent by email to each place of deprivation of liberty and to its counterparts upon request. The national preventive mechanism may wish to communicate to the authorities that it will comply with the WHO guidelines for preventing the spread of the virus responsible for COVID-19 at all times and as appropriate if additional, reasonable and timely requests are presented to it. These communications should not, in principle, prevent national preventive mechanisms from carrying out unannounced visits.

IV. During the visit

A. Protective measures

31. The visiting team should follow the current WHO guidance at all times during its visit and whenever it interacts with prison staff and persons deprived of liberty. This guidance is reflected in level 1 described above. Members of the visiting teams should:

- (a) Maintain a physical distance of 1.5 to 2 metres;
- (b) Wash their hands regularly and/or use sanitizing gel;
- (c) Use soap and water, together with personal towels, as the first option for hand hygiene within a place of deprivation of liberty, given the possibility that some disinfectants, such as those containing alcohol, may be misused or forbidden in some settings;
- (d) Use surgical masks to cover the mouth and nose at all times;
- (e) Remain aware at all times that the use of a mask alone is insufficient to provide an adequate level of protection and that other equally relevant measures should also be adopted. Using a mask may create a false sense of security that can lead to neglecting other essential measures such as hand hygiene practices. Furthermore, using a mask incorrectly may hamper its effectiveness in reducing the risk of transmission;
- (f) Practise respiratory etiquette, including covering the mouth and nose using a disposable handkerchief or the inside of an elbow when one coughs or sneezes;

- (g) Avoid handshakes and other greetings that require physical contact with other people;
- (h) Avoid touching one's face, especially after touching high-traffic surfaces such as door handles;
- (i) Pay close attention to the personal items carried into a place of deprivation of liberty, as they may be a source of virus transmission;
- (j) Follow all environmental cleaning and disinfection procedures correctly, including those for surfaces and clothes.

B. Note

32. The visiting team may decide to upgrade this level of protective measures (see para. 9 above).

C. Travel

33. All participants in the visit should follow the required national guidelines during their travel to places of deprivation of liberty.

D. Auxiliary staff

34. Support staff should follow the same guidelines as the national preventive mechanism staff that will carry out the visit. The driver, if any, is tasked with cleaning the vehicle with disinfectant after every use.

E. Entering places of deprivation of liberty

35. For the duration of the pandemic, entering a place of deprivation of liberty may take longer than usual. The information collected beforehand should aid in the selection of places to visit. The visiting team must strictly respect the prevention and protection measures established by the institution to be monitored. It must arrive with all personal protective equipment required to enter, in order to avoid being turned away at the door. Any doubt regarding the measures in place should be clarified before entry.¹⁴

36. The visiting team is invited to explain, at the start of the visit, all the measures that they have taken to protect persons deprived of liberty from infection. In particular, it should explain the use of personal protective equipment, if it is being used.

F. Screening

37. The visiting team must comply with the screening process in place to enter the selected place of deprivation of liberty. Exceptionally, it should consider whether notifying the place to be visited in advance would comply with its requirements for admission during the pandemic and/or facilitate the visit, considering the protection measures that should be in place and the fact that the meeting with the director may be carried out virtually. The pandemic cannot be used as an excuse to impede a national preventive mechanism visit.

G. Performance of the visits

38. Once inside, the tour of the facilities should be carried out with the required protective measures in place. To the extent possible, the time of permanence inside the monitored

¹⁴ "Propuesta metodológica trabajo de monitoreo frente a la emergencia sanitaria COVID 19", 28 April 2021 (in Spanish only).

institution should be of short duration and be determined on the basis of what is strictly necessary, with a view to the team taking the precautionary, safety and hygiene measures necessary.¹⁵ Participants are invited to be mindful of the high-traffic surfaces with which they may come into contact.

H. Individual interviews

39. WHO has indicated that persons deprived of liberty are one of the most vulnerable populations with respect to the pandemic.¹⁶ In this regard, the members of the national preventive mechanism visiting team are invited to take all possible measures to ensure their protection during an exchange. In addition, given physical distancing requirements, individual interviews are preferable to group interviews, keeping in mind the following:

- (a) Individual interviews with persons deprived of liberty and possibly with staff should only take place in line with the level of protection selected. It is preferable to carry out the interviews outside or in a well-ventilated room;
- (b) When asking a person for an interview, the national preventive mechanism is invited to make sure that the individual understands the measures taken to prevent the transmission of the virus responsible for COVID-19, and agrees to have a conversation;
- (c) The national preventive mechanism should have additional masks on hand so that they may provide one to the interviewee, in case there are none available during the interview;¹⁷
- (d) The visiting team is invited to explore how to meet possible requirements for contact tracing during the pandemic, while at the same time ensuring confidentiality.

I. Special points to be observed

40. The pandemic has created new areas of interest for monitoring bodies. National preventive mechanisms may wish to include new topics in their reports in this regard.¹⁸ In addition, and in order to document State party responses to the COVID-19 pandemic, the national preventive mechanism may choose to:

- (a) Visit places of medical isolation or quarantine within the place of deprivation of liberty;
- (b) Visit new places of quarantine established in light of the pandemic;
- (c) Add new topics and new questions to their usual interviews that are related to the pandemic experience, e.g. in relation to restrictions for the detainees and mitigation measures, as well as the measures put in place to prevent and control the spread of the virus;¹⁹
- (d) Fill out the checklist created by WHO.²⁰

J. Leaving a place of deprivation of liberty

41. All participants in the visiting team must wash or sanitize their hands upon their departure from the visited institution. They should be careful to not leave anything behind upon completion of their visit that could be a vector for infection, including pens, sanitizers

¹⁵ Ibid.

¹⁶ See www.who.int/news/item/13-05-2020-unodc-who-unhcr-joint-statement-on-covid-19-in-prisons-and-other-closed-settings.

¹⁷ “Guidance: monitoring places of detention through the COVID-19 pandemic”.

¹⁸ Lisa Michaelson and Kalliopi Kambanella, “Global guidance on preventive monitoring of places of detention during the COVID-19 pandemic: a practical tool” (2020).

¹⁹ “Global guidance on preventive monitoring of places of detention during the COVID-19 pandemic: a practical tool”.

²⁰ WHO, “Checklist to evaluate preparedness, prevention and control of COVID-19 in prisons and other places of detention”, 9 April 2020.

and masks. All personal protective equipment used during a visit should be immediately discarded in an appropriate plastic bag in a separate part of the vehicle – e.g., the trunk – after leaving the place of deprivation of liberty and before entering the vehicle. All equipment, including thermometers and laser meters, used during the visit should be carefully cleaned once outside.

V. After the visit

A. Precautions

42. Visiting team members should continue to monitor their health and well-being for up to 14 days after the end of the visit in accordance with the current medical guidance, e.g., with the annexed questionnaire, and/or take a PCR test. If symptoms occur, they should seek medical assistance immediately²¹ and notify the other members of the team. If any member of the visiting team tests positive within 14 days after the visit, he or she should also notify the national preventive mechanism, which should inform the relevant authorities and others, as appropriate, so that suitable decisions can be taken.

B. Recommendation of self-isolation

43. A voluntary period of self-isolation, including working from home, may be advisable for those who participated in the visit.²² The duration of the self-isolation should follow the national guidelines.

²¹ “Guidance: monitoring places of detention through the COVID-19 pandemic”.

²² Ibid.

Annex

Self-evaluation questionnaire*

Name and surname:

Age:

Profession:

Date:

1. Do you have a fever? Critical symptom. yes () no ()
2. Do you have a dry cough? Critical symptom. yes () no ()
3. Do you feel tired? Complementary symptom. yes () no ()
4. Does your body ache? Complementary symptom. yes () no ()
5. Do you have a stuffy nose? Important symptom. yes () no ()
6. Do you have a runny nose? Important symptom. yes () no ()
7. Do you have a sore throat? Important symptom. yes () no ()
8. Do you have diarrhoea, vomiting or nausea?
Complementary symptom. yes () no ()
9. Do you have trouble breathing? Critical symptom. yes () no ()
10. Do you recognize odours without problems? New indicator. yes () no ()
11. Did you respect the quarantine regulations?
Complementary symptom. yes () no ()
12. Have you had a fever during the past 15 days? yes () no ()
13. Have you been in contact with anyone with COVID-19
during the past 15 days? yes () no ()
14. Have you been in contact with anyone suspected of having
COVID-19 during the past 15 days? yes () no ()
15. Have you visited a high-risk zone during the past 15 days? yes () no ()
16. Have you been abroad during the past 15 days? yes () no ()
17. Are you or have you been affected by any of the following risk factors?: diabetes,
chronic bronchitis, chronic asthma, myocardial infarction, arterial hypertension,
cirrhosis, cancer, transplants, use of corticosteroids, use of biological drugs for
treating rheumatoid arthritis, psoriasis, multiple sclerosis, inflammatory bowel
disease. yes () no ()
18. Are you pregnant? yes () no ()
19. If yes, please specify:

Signature:

* Based on work done by the National Mechanism for the Prevention of Torture of Paraguay. See "Propuesta metodológica: Trabajo de monitoreo frente a la emergencia sanitaria COVID-19", April 2020 (in Spanish only). Available at www.mnp.gov.py/index.php/investigacion-social/2015-08-23-04-10-11/Documentos-de-trabajo/Propuesta-Metodol%C3%B3gica-Trabajo-de-Monitoreo-frente-a-la-Emergencia-Sanitaria-COVID-19/.