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INSTITUTION FOR THE EXECUTION OF CRIMINAL SANCTIONS

A SHORT GUIDE TO THE RIGHTS AND RESPONSIBILITIES OF PRISONERS



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A SHORT GUIDE
TO THE RIGHTS AND
RESPONSIBILITIES
OF PRISONERS

A short guide to the rights and responsibilities of prisoners

The purpose of this guide is to introduce you to your basic rights and responsibilities. The term prisoner includes persons who have been convicted, punished for a misdemeanour offence or detained, therefore, all persons deprived of their liberty and placed in prison on the basis of a decision of a state agency.

Basic rights and responsibilities of prisoners are determined by following regulations:

- the Law on the Execution of Criminal Sanctions and the House Rules for the enforcement of prison sentences at the Institution for the Execution of Criminal Sanctions (IECS) - *for convicted persons*;
- the Criminal Procedure Code and the Rules on a detailed manner of the enforcement of custody - *for detained persons*;

- The Law on the Treatment of Juveniles in Criminal Proceedings.

These regulations, as well as the Criminal Code, the Law on the Protector of Human Rights and Freedoms of Montenegro and the Rules of Procedure of the Protector of Human Rights and Freedoms of Montenegro must be made available to all persons deprived of liberty.

IMPORTANT: Prisoners have the right to request assistance of a lawyer in relation with the exercise of their rights in prison. The prison is obliged to provide them with legal assistance in terms of taking the necessary actions to protect their rights, especially if related to the treatment and living conditions in prison. Therefore, all inmates may address prison legal department in order to obtain legal assistance.

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The rights of prisoners

Every person in prison has the right to be treated humanely and with respect for human dignity.

✓ ***Prohibition of ill-treatment***

Any physical or psychological ill-treatment of prisoners is prohibited. Prison staff shall not abuse prisoners in any way, or allow the prisoners to be abuse by others. Security officers must provide the necessary protection to everyone. In the case of ill-treatment you can address the head of shift, seek an appointment with the prison chief, anonymously address Prison Administration via mailboxes or through a person in charge of the treatment, submit a criminal complaint, write to the Ministry of Justice or directly to the Protector of Human Rights and Freedoms (Ombudsman) via mailboxes that an officer of that institution opens every Sunday. See section Protection of the rights of prisoners (p. 34-38) for more detail.

✓ *Use of the means of coercion*

Security service personnel may resort to the use of force only when the statutory requirements have been met. In other words, the means of coercion can be used only when necessary to prevent:

- escape;
- physical assault on an officer or asentenced person;
- injury to another person;
- self-injury;
- material damage;
- resistance by lawful order of a prison official.

Legally permitted means of coercion include: physical strength, fixation, segregation, rubber truncheons, water hoses, specially trained dogs, chemical agents and firearms.

If you sustain an injury due to the use of means of coercion by prison officers, you are entitled to medical examination and assistance. Medical doctor is required to record your statement about the origin of these in-

juries and enter a detailed description of the types of injuries in your medical record. In the case of suspected ill-treatment, the prison administration is obliged to inform the police and the state prosecutor.

✓ ***Admission to the Institution***

Each person must be examined by a physician immediately upon the admission to prison.

A person admitted to prison is required to impart accurate information about themselves and immediate family members, with accurate and complete addresses and phone numbers, if any, for entry into their personal record and a visits record, and to report the name of their legal representative.

Following the admission to prison, prisoners are placed in the Section for personality examination (so-called "quarantine"), separated from other prisoners, where they can stay up to 30 days.

Staff of the mentioned Section carries out the testing of convicted persons' personality from a social, medical, criminological, psychological, pedagogical and security standpoint.

Based on the results of a test of personality, depending on the length of the sentence, type of the criminal offense, prior convictions, individual characteristics, manner of arrival at the prison and other circumstances, a program of treatment of the convicted person is established, containing the following information:

- classification group;
- accommodation (closed or semi-open unit) and housing unit title;
- treatment group;
- workplace;
- method of acquiring compulsory primary education and the possibility of vocational training;
- sports, cultural, artistic and leisure activities;
- intensity of individual and group work and other treatment measures.

At the end of their stay at the Section for personality examination ("quarantine"), prisoners are classified into one of the four classification groups.

Reclassification, i.e. decision whether a convicted person should change or stay in the same classification group is made every four months.

The classification and reclassification procedures are regulated by the House Rules.

✓ ***Living conditions in the Institution***

Every person in prison has the right to reside in conditions worthy of human beings.

Each prisoner must be provided a bed with clean linen.

You are also allowed to use your own personal linen. Rooms where prisoners reside must have adequate lighting, both natural and artificial, strong enough to read by without impairing one's vision. Rooms must be ventilated and heated.

Prisoners must be allowed to maintain personal hygiene.

✓ *Items you can possess*

Upon admission to prison you can keep certain items specified in the House Rules, namely:

- personal hygiene products (soap, toothbrush, toothpaste, shampoo, plastic cup, comb and nail clipper); hand and face cream of cosmetics products, while female prisoners may also keep sanitary pads;
- shaving products, except razors and razor blades; female prisoners can keep a nail file up to 3 cm long, tweezers, hairbrush and hair dryer;
- clothes cleaning and maintenance kit (brush, thread and needle);
- cigarettes and smoking accessories;
- stationery;
- orthopedic aids, glasses;
- sports equipment (T-shirt, shorts, tracksuit and sneakers);
- family photographs, files and documentation regarding the judgment;
- food commodities, under the conditions prescribed by the House Rules.

✓ **Hygiene**

You are required to maintain general and personal hygiene in prison on a daily basis. There is also a laundry room in the prison. Manner of the maintenance of hygiene is prescribed by the House Rules and Rules on a detailed manner of the enforcement of custody.

If you are unemployed and you lack financial resources, you will be provided with supplies for personal hygiene (soap, toothbrush, toothpaste and shaving products).

✓ **Health care**

Within 24 hours upon admission to prison every prisoner is examined by a doctor, who opens prisoner's medical record and enters all important data in the record. It is in your best interest to give doctor accurate information about your health history.

All inmates are entitled to health care. In principle, it must be equal to health care that persons who are at liberty are entitled to. You

have the right to require to be examined by a doctor.

For medical examination you have to report to a security officer in the unit where you are located during the evening count, or to a nurse during the evening therapy. Medical examination shall be carried out on the next working day or immediately, in case of an emergency.

Examination is performed by a physician in the presence of a nurse. Security sector staff is present during the examination only if a physician determines that their presence is necessary.

Health care costs are borne by the government. However, if you have the possibility to use the services of a doctor of your own choice, you shall pay for that service.

At the proposal or with the permission of a prison doctor, you can obtain medications at your own expense. Medications are kept in an organizational unit infirmary and administered

to convicted persons under the supervision and guidance of a prison doctor.

Further information on health care is set forth in the Law on the Execution of Criminal Sanctions and the House Rules.

✓ ***Stay in the fresh air***

All incarcerated persons, without exception, have the right to daily stay in the fresh air.

Convicted persons and misdemeanour offenders have the right to stay in the open air for at least one hour a day.

Remand prisoners have the right to spend at least two hours a day outdoors, in an open area intended for walking.

✓ ***Daily schedule***

Daily schedule for convicted persons and persons sentenced for a misdemeanour is prescribed by the House Rules, and for detained persons by the Rules on a detailed manner of the enforcement of custody.

✓ *Visits*

Convicts and misdemeanour offenders can receive visits from close relatives, and with the approval of the prison director from other persons as well. They can receive visits twice a month, each lasting an hour.

With the approval of the competent judge, and if necessary under his/her supervision or supervision of a person designated by him/her, detainees can receive visits from a spouse or unmarried partner, close relatives, or a doctor or other persons at their request. Visits to remand prisoners are organized once a week, for a period of thirty minutes. The investigating judge or a person designated by him/her may determine longer duration of a visit.

The rules on visits are regulated by the Law on the Execution of Criminal Sanctions and the House Rules for convicts and misdemeanour offenders, i.e. the Criminal Procedure Code and the Rules on a detailed manner of the enforcement of custody for detained persons.

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✓ ***Correspondence***

All prisoners have the right to correspondence, which is, as a rule, exercised at their own expense.

Prisoners who are unemployed through no fault of their own and do not have the resources can send two letters a month at the expense of the prison.

The rules on correspondence are regulated by the Law on the Execution of Criminal Sanctions and the House Rules for convicts and misdemeanour offenders, i.e. the Criminal Procedure Code and the Rules on a detailed manner of the enforcement of custody for detained persons.

✓ ***Receipt of packages***

Imprisoned persons have the right to receive packages.

The rules on the receipt of packages - types of packages, their content, manner and frequency of their receipt - are prescribed by

the Law on the Execution of Criminal Sanctions and the House Rules for convicts and misdemeanour offenders, i.e. by the Rules on a detailed manner of the enforcement of custody for detained persons.

✓ ***Telephone calls***

Persons in prison can make telephone calls at their own expense.

The conditions under which one can make telephone calls are regulated by the House Rules for convicts and misdemeanour offenders and the Rules on a detailed manner of the enforcement of custody for detained persons.

✓ ***Marital life***

Sentenced persons are entitled to a visit from their spouse once a month for four hours.

Conjugal visits are conducted in a special room ensuring privacy, from 8 a.m. to 4 p.m. on weekdays.

✓ **Work and remuneration**

Under the conditions specified by the House Rules, convicted persons may be employed if they wish so.

Employed prisoners are entitled to fair remuneration in accordance with the law.

Rights and responsibilities related to work engagement are regulated by the House Rules.

Detained persons may be employed at their own request, with the consent of the investigating judge or president of the trial panel and the consent of prison director.

✓ **Education**

At the Institution inmates can take a literacy course, complete primary education at the expense of IECS Administration and obtain vocational education at their own expense. Also, inmates are enabled to take exams outside the premises of the Institution, in accordance with the Law on the Execution of Criminal Sanctions and the House Rules.

✓ **Library**

IECS has a library where you can borrow legislation, regulations, various books and textbooks, reports on the respect for human rights of inmates, etc. Ask the security or treatment officer to provide you with a list of books and publications available in the library.

Accommodation of specific groups of prisoners and their treatment

✓ *Persons with disabilities*

Persons with disabilities should be accommodated in premises adapted to their needs, i.e. their state of health. This applies particularly to people with high mobility limitation and wheelchair users, as well as to the blind and visually impaired people.

Persons with disabilities who have difficulties performing specific types of tasks should address prison staff members, who are obliged to help them.

People with disabilities can find more information about the life in prison and help they can obtain there in a separate brochure with information for prisoners with disabilities.

✓ *Juveniles*

Convicted juveniles are placed in a separate unit for juveniles.

Juveniles serve their prison sentence under the conditions which differ from those applying to adult convicts.

Conditions under which juveniles serve their sentence are regulated by the House Rules.

✓ **Women**

Women serve their prison sentence in the special unit in IECS (Female Unit).

Pregnant women and mothers with children are allowed to stay in separate rooms within the Female Unit, which meet the requirements for the care and upbringing of children.

A child born to a convicted woman is permitted to stay in these premises until one year of age.

Convicted women can participate together with convicted men in occupational, sports, cultural, artistic and recreational activities, with the approval of the chief of the Institution for sentenced prisoners, under the control and supervision of staff of the treatment and security sectors.

Special measures

✓ *Isolation*

If a prisoner, against whom standard disciplinary sanctions proved to be ineffective, persistently obstructs regular activities and life in prison and poses a serious threat to other prisoners and prison security, IECS director may order isolation against him/her during the free hours, which can last from one month to a year.

The decision on isolation must be in writing, must include the reasoning and must be submitted to the person concerned with an advice on legal remedy.

Decision on isolation can be appealed. Persons in isolation must be segregated from other prisoners and must be allowed to stay in the fresh air for an hour a day.

A person in isolation has the right to visits and telephone calls.

Isolation is terminated as soon as the reasons for the imposition of the measure are re-

solved. IECS Administration is required to periodically assess whether the reasons for isolation have ceased to exist.

Isolation shall also be terminated if a medical doctor determines that the physical and mental condition of the convicted person does not allow further isolation.

✓ *Transfer*

A sentenced person may be transferred from one organizational unit to other when necessary for the implementation of the prescribed treatment, for health or security reasons or the maintenance of order and discipline.

Director of the Institution adopts the decision on transfer, which must contain an advice on legal remedy. This decision can be appealed.

Disciplinary proceedings

✓ *Disciplinary proceedings against convicted persons*

For the breach of the House Rules, i.e. disciplinary violation, a prisoner can be imposed a disciplinary sanction.

Disciplinary violations are defined by the House Rules.

Prisoners may be imposed the following disciplinary sanctions:

- reprimand;
- ban on the receipt of packages up to three months;
- solitary confinement up to 30 days upon the completion of work duties;
- solitary confinement up to 30 days.

Disciplinary sanctions are determined in disciplinary proceedings.

Disciplinary procedure begins by filing a disciplinary report and calling the prisoner in question to report to the prison chief.

Person against whom the proceedings have been initiated must be heard during a disciplinary procedure and must be familiar with the allegations in the disciplinary report before making a statement of their responsibility.

If the proceedings against a convicted person are conducted for a breach punishable by the measure of solitary confinement, they may at their own expense engage an attorney of their choice within 24 hours of the submission of disciplinary report.

If a convict does not ensure a legal representative from among attorneys, he/she may request to be represented in the disciplinary procedure by an official of the prison authorized to provide legal assistance.

Decision to impose disciplinary punishment must be in writing and reasoned and must be delivered to the person concerned.

Prisoner can file a complaint with the director of the Institution against the decision on disciplinary sanction. The complaint is lodged within three days of receiving the decision.

Finally, if the prisoner is not satisfied with the director's decision on the complaint, he/she may file a lawsuit before the Administrative Court of Montenegro.

✓ ***Disciplinary proceedings in custody***

For a disciplinary violation committed by a detained person, prison director or person authorized by him may impose a disciplinary measure of restriction of visits or solitary confinement up to 15 days.

Disciplinary violations are specified in the Rules on a detailed manner of the enforcement of custody.

Decision to impose disciplinary punishment may be appealed to the investigating judge within 24 hours of the receipt of the decision.

✓ ***Solitary confinement***

Disciplinary punishment of solitary confinement implies continuous stay of the pris-

oner in a designated room, with at least one hour stay in the fresh air daily.

While in solitary confinement, educator and physician visit the convicted person at least once a day.

Disciplinary measure of solitary confinement can not be enforced if it endangers the prisoner's health.

Enforcement of disciplinary punishment of solitary confinement shall cease if determined that the purpose of disciplinary sanction has been achieved or in the case of illness of the convicted person.

The right of a person in solitary confinement to receive visitors must not be abolished or limited.

While in solitary confinement, you have the right to read books and other materials.

Protection of the rights of prisoners

✓ *Complaints within the Institution*

If you believe that your rights relating to the enforcement of the sentence have been violated, or due to other irregularities, you have the right to file a complaint with the director of the Institution.

The complaint must be in writing and include a description of facts and actions due to which you feel that your rights have been violated or that you have been mistreated.

Complaint is inserted in the mailbox intended specifically for this purpose, located in the prison corridor, or it can be submitted to an authorized security, treatment or occupational officer.

If a person who wishes to file a complaint is illiterate, an authorized officer from the Treatment Sector helps them write the complaint or takes the complaint on record.

In order to explain more precisely the subject of the complaint or to address the complaint directly, the convicted person may require to be heard by competent prison officials.

At the hearing prisoners must present themselves and present and explain their complaint.

After the hearing, head of the organizational unit shall immediately, if possible, announce his decision on the complaint, or no later than 48 hours, immediately informing the convicted person about it.

✓ ***Complaints to the Ministry of Justice***

The Ministry of Justice supervises the legality of the execution of prison sentences.

If you have been convicted, you can file a complaint to an authorized officer of the Directorate for the Execution of Criminal Sanctions of the Ministry of Justice regarding violation of law, relating to the legality of operations of the Institution.

✓ ***Complaints to the court president or judge who supervises the execution of custody***

President of the competent court or a judge designated by him/her supervises the execution of custody. If you are a detained person, you can file a complaint for violation of rights that occurred in custody to the afore-said officials.

✓ ***Safeguards in the proceedings before the Administrative Court***

If a prisoner believes that the decision of IECS director has unlawfully restricted or violated any of his/her legal rights, the prisoner has the right to file a complaint before the Administrative Court. The complaint is filed shortly after the receipt of the decision. The Administrative Court shall decide on the complaint also shortly after receiving the complaint. Complaint delays the execution of the decision, except in cases when the safety of the convicted person or prison security is compromised.

✓ ***Safeguards in the procedure conducted by the Protector of Human Rights and Freedoms of Montenegro***

Prisoners can also submit a complaint to the Protector of Human Rights and Freedoms (Ombudsman), via the mailbox located in the prison corridor. Only the Ombudsman has the key to this mailbox, or his/her authorized officer.

The complaint must be in writing and include the name of the authority that is the subject of the complaint, description of the violation of human rights and freedoms and evidence supporting the complaint, information about the legal remedies used, the name and address of the complainant and an indication as to whether the complainant agrees to disclose his name in the procedure.

The complaint must be filed within six months from the date the prisoner has learned about the violation of human rights, and no later than one year after the violation occurred.

The procedure conducted by the Protector of Human Rights and Freedoms is precisely

defined by the Law on the Protector of Human Rights and Freedoms of Montenegro.

✓ ***Judicial safeguards***

If you believe that a breach of a specific right occurred in relation to you or another prisoner, whereas the breach constitutes a criminal offense, you can file a criminal complaint with the state prosecutor through IECS Administration, i.e. prison security officer or officer in charge of the treatment.

Criminal complaint may also be filed through another person. For example, you can inform your relatives or your legal representative of a criminal offense during a visit, and they can notify the prosecutor's office.

The criminal complaint must state all the facts and evidence.

Criminal complaint can be filed to the police or the Ombudsman, who are then required to forward it to the relevant prosecutor's office.



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