



## European Commission puts forward recommendations related to detention conditions

Brussels, 8 December 2022

Today, the European Commission adopted a [Recommendation on the procedural rights](#) of suspects and accused persons subject to pre-trial detention and on material detention conditions, following a request by the EU Ministers to propose non-legislative measures to improve detention conditions. It lays down **minimum standards measures**, a number of which are already presented in different instruments, such as using pre-trial detention as a measure of last resort and introducing periodic reviews where its use is justified; establishing minimum standards for cell sizes, outdoors time and nutrition and healthcare conditions; as well as initiatives with a view to reintegration and social rehabilitation.

The Recommendation also introduces specific measures to address the issue of **of radicalisation in prisons**, such as encouraging Member States to carry out an initial risk assessment to determine the appropriate regime applicable to detainees suspected or convicted of terrorist and violent extremist offences. For example, authorities could take the decision to prevent these same suspects from having direct contact with particularly vulnerable detainees. Other particular measures are also proposed for women and girls, LGBTIQ, foreign nationals, persons with disabilities and other vulnerable detainees, such as ensuring reasonable access to professional interpretation services.

Today, the Commission published also a [statistical overview](#) of the divergences in conditions among Member States. The findings show, for example, that eight Member States have a prison density of more than 100 inmates per 100 places, and five were experiencing overcrowding with rates of more than 105 inmates per 100 places. The overview also underlines significant diversity in pre-trial detention across the EU. In 2020, the average length varied from 2.4 months to 12.9 months. In addition, the findings show that the cost of pre-trial detention varies greatly between Member States across the European Union with a range from 6.50 euro per day per prisoner to 332.63 euro per day.

### Next steps

The Recommendation is effective from today and will be presented to ministers at the Justice Council meeting. Member States are urged to take the necessary steps at national level to align practices with the recommendations.

### Background

At the Justice and Home Affairs Council of October 2021, where detention was on the agenda, Ministers asked the Commission to opt for recommendations or guidelines aiming to improve detention conditions and to enhance the use of alternative measures instead of EU legislation.

Today's Recommendation complements the procedural rights set by the Directives on the right to [interpretation and translation](#); [to information](#); [access to a lawyer](#); [presumption of innocence](#); [procedural safeguards for children](#) and on [legal aid](#). Furthermore, the Recommendation complements also the [Commission Recommendation of 27 November 2013](#) on procedural safeguards for vulnerable persons.

Although all Member States must comply with the European Convention on Human Rights (ECHR), in practice, there are significant differences in relation to pre-trial detention, and material detention conditions vary enormously.

Prison-monitoring bodies across the EU report concerns. In 2021, there were 81 findings of violations of [Article 3 ECHR](#) (Inhuman and degrading treatment) involving 14 Member States, and 46 cases of violations of [Article 5 ECHR](#) (Right to Liberty and Security), involving 12 Member States.

The differences between Member States have an impact on mutual trust and judicial cooperation in criminal matters, for instance in the context of mutual recognition and the operation of the European Arrest Warrant (EAW). Since 2016, execution of an EAW has been delayed or refused on grounds of real risk of breach of fundamental rights in nearly 300 cases.

## For More Information

[Recommendation on the procedural rights of suspects and accused persons subject to pre-trial detention and on material detention conditions](#)

[JHA Non-Paper from the Commission in the context of the adoption of the Recommendation on procedural rights of suspects and accused persons subject to pre-trial detention and on material detention conditions](#)

IP/22/7570

### Quotes:

The European Court of Human Rights has identified unacceptable practices by some Member States, involving inhuman treatment and breaches of the right to liberty and security. The EU firmly stands for human rights across the globe, and it is crucial to ensure that our own house is in order. We urge Member States to take these recommendations on board as soon as possible, and to make sure that their national systems comply with EU standards.  
Didier Reynders, Commissioner for Justice - 08/12/2022

### Press contacts:

[Christian WIGAND](#) (+32 2 296 22 53)

[Katarzyna KOLANKO](#) (+ 32 2 296 34 44)

[Cristina TORRES CASTILLO](#) (+32 2 29 90679)

General public inquiries: [Europe Direct](#) by phone [00 800 67 89 10 11](#) or by [email](#)