



## BASIC HUMAN RIGHTS OF FOREIGN NATIONAL PRISONERS (FNPs)

### Information

1. Right to receive at the moment of arrest and at the commencement of detention or imprisonment, or promptly thereafter, information in a language he understands of his rights and how to avail himself of such rights. (UN Principles 13-14, CoE Police 55)
2. Right to be informed of the reasons for the arrest and of the charges in a language the prisoner can understand. (ICCPR 14.3, UN Principles 10, EU2012 6)
3. Right to inform a person of one's own choice about the detention. (UN Principle 16.1, CoE FNP 15.2, CoE Police 57, EU2012 4.2 c)
4. Right to receive information about prison rules and the rights and duties of prisoners in a language the prisoner can understand. (UN Rec 4, SMR 54-55, EPR 30.1, CoE FNP 15.1)
5. Right to be informed about consular entitlements, to make contact with consular authorities and to receive visits and consular assistance. (VCCR 36.1 b-c UN Principles 16.2, UN Res (e), UN Rec 4, SMR 62, CAT 6.3, EU Charter 46, EPR 37.1, CoE FNP 24)
6. Right to be informed about transfer possibilities to the country of origin. (EPR 37.5, CoE FNP 15.3, CoE Transfer 4.1, EU909JHA 6.4)

### Fair trial

7. Right to an effective remedy and to a fair trial. Everyone who has been charged shall be presumed innocent until proved guilty according to law. (ICCPR 14, UDHR10-11.1, ECHR 6, EU Charter 46-47)
8. Right to receive legal assistance in criminal proceedings. (ICCPR 14.3 d, SMR 61, UN Principles 17-18, EPR 23, CoE FNP 21)
9. Right to receive free assistance of an interpreter when the prisoner cannot understand or speak the language used in court. (ICCPR 14.3 f, UN Principles 14, UN Res (c))
10. Right to be equal before the courts and to be tried without undue delay. (ICCPR 14.1, 14.3 c)
11. Right to be released pending trial, unless a judicial or other authority decides otherwise in the interest of the administration of justice. (UN Principle 39, CoE FNP 5)
12. Right to be considered for the same range of non-custodial sanctions and measures as other suspects. (UN Rec 2, UN Res (d), CoE FNP 4, 14.1)
13. Right not to be subjected to more severe custodial penalties or inferior prison conditions solely because of foreign nationality. (UN Res (b))
14. Right to be entitled to full consideration for early release. (CoE FNP 6)

### Treatment

15. Right to be treated with humanity and with respect for the inherent dignity of the human person. (ICCPR 10.1, UDHR 5, SMR 1, CAT 1-2, UN Basic Principles 1, ECHR 3, EU Charter 4, EPR 1)
16. Right to be protected from torture or inhuman or degrading treatment or punishment. (ICCPR 7, UDHR 5, CAT 7, ECHR 3, EU Charter 4)
17. Right to be treated in a way that takes into consideration the particular situation and individual needs of foreign national prisoners. (CoE FNP 3)
18. Right not to be discriminated against (including on grounds such as national origin and language) and to receive effective protection against discrimination. (ICCPR 26, UDHR 7, SMR 2, UN Principles 5, UN Basic Principle 2, EU Charter 21-22, EPR 13, CoE FNP 7)
19. Right to have access to the same health care and treatment programmes that are available to other prisoners. (EU Charter 35, CoE FNP 31)
20. Right to freedom of thought, conscience and religion and freedom to manifest this in worship and observance. (ICCPR 18.1, UDHR 18, SMR 65-66, UN Basic Principles 3, UN Rec 3, EU Charter 10.1, EPR 29, CoE FNP 30)

21. Right to wear clothes and to maintain personal hygiene in a way that does not offend the cultural or religious sensibilities of the prisoner and to receive food that takes into consideration cultural and religious requirements. (UN Rec 4, CoE FNP 18,19)
22. Right to have no unlawful interference in his privacy, family life and correspondence and to make contact (also via visits) with family and friends at regular intervals. (ICCPR 17, UDHR 12, SMR 58, UN Rec 5, EU Charter 7, EPR 24, CoE FNP 22)
23. Right to receive in prison access to interpretation and translation facilities and the possibility to learn a language to facilitate the communication. (SMR 61.2, EPR 38.3, CoE FNP 8, 29.1)
24. Right to have the same access as national prisoners to education, work and vocational training. (UN Rec 1, SMR 4.2, 71, EPR 26, 28, CoE FNP 27.1, 29)
25. Right to make without censorship a request or complaint to the central prison administration, the judicial authority or other proper authorities through approved channels. (SMR 56, UN Rec 4, EPR 70)

## **Resettlement**

26. Right to receive treatment that is aimed at reformation and social rehabilitation to prepare for release into society. (ICCPR 10.3, SMR 4, EPR 6, 107, CoE FNP 9, 29.2, 35)
27. Right to be informed as early as possible about their legal status and situation after release. (CoE FNP 35.2 a)
28. Right to be protected from expulsion, return ('refoulement') or extradition to a State where there is a serious risk to be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment. (UDHR 14, CAT 3, EU Charter 19.2)
29. Right to have the consent and the social reintegration of the prisoner taken into account in the decision on transfer to another country. (UN Transfer 1, CoE Transfer 4, CoE FNP 10)
30. Right to establish relations with outside agencies to receive assistance and support with resettlement after release. (SMR 107-108, 81, EPR 107, CoE FNP 37, CoE Probation 64)

## **United Nations**

- Universal Declaration of Human Rights (UDHR)
- International Covenant on Civil and Political Rights (ICCPR)
- UN Convention against Torture (CAT)
- Standard Minimum Rules for the Treatment of Prisoners (SMR Mandela Rules)
- Vienna Convention on Consular Relations (VCCR)
- Model Agreement on the Transfer of Foreign Prisoners (UN Transfer)
- UN Basic Principles for the Treatment of Prisoners (UN Basic Principles)
- UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (UN Principles)
- Recommendations on the Treatment of Foreign Prisoners (UN Rec)
- UN Resolution 1998/22 Status of foreign citizens in criminal proceedings (UN Res)

## **Council of Europe**

- European Convention of Human Rights (ECHR)
- European Prison Rules (EPR)
- Recommendation (2012)12 concerning foreign prisoners (CoE FNP)
- Convention on the Transfer of Sentenced Persons (CoE Transfer)
- Recommendation CM/Rec(2010)1 Probation Rules (CoE Probation)
- Recommendation Rec(2001)10 European Code of Police Ethics (CoE Politics)

## **European Union**

- Charter of Fundamental Rights of the European Union (EU Charter)
- Council Framework Decision 2008/909/JHA (EU909JHA)
- Directive 2010/64 on the right to interpretation and translation in criminal proceedings (EU2010)
- Directive 2012/13 on the right to information in criminal proceedings (EU2012)