

COMPLAINT PROCEDURES



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Complaints in prisons are all complaints lodged **by or on behalf of detainees against decisions, actions or lack of official action** on a variety of issues, such as: staff misconduct, inadequate protection from other inmates who may cause them harm, poor material conditions, lack of activities or insufficient provision of health care.

Recurring problems related to complaints:

- 1. Lack of independence, confidentiality or effectiveness** that defeat the purpose of a complaint procedure
Examples: Lack of accessibility of written or oral information; Lack of translation of information into the most commonly used foreign languages; Special needs (of e.g. illiterate detainees, people with disabilities, or juveniles) are not addressed
- 2. Lack or inadequate provision of information** about the right to complain and the rules of complaint procedures
Examples: Undue delays; Written complaints to be handed over or put in complaint boxes in open envelopes; Lack of response to complaints; Lack of adequate preventive and reparatory measures upon complaint
- 3. Reprisals upon complaint or discouraging behaviour** build an atmosphere of distrust and undermine the detainees' right to complain
Examples: Threatening the inmates due to a complaint with the loss of privileges such as leave; Failure to transmit complaints to external complaint bodies; Placement in disciplinary confinement due to a complaint

What do international standards say?

What information should be provided about the right to complain and how?

Detainees can fully exercise their right to complain only if they are properly informed about the human rights violations that can be addressed through complaints, and the institutional rules of a complaint procedure. Both written and oral information shall be provided upon the admission of the detainee to the prison and as often as necessary afterwards. **A key issue at the heart of the enforcement of the right to information is accessibility.**

- The information should include authorized methods of seeking information or legal advice and instructions for submitting a complaint.
- Summaries of the information shall be displayed in common areas of the prison.
- Information shall be available in the most commonly used languages according to the needs of the prison population.
- Special needs (of e.g. illiterate detainees, those living with disabilities, foreigners or juveniles) shall be addressed.

Fundamental principles and requirements

- Free communication with external inspectors and monitors
- Confidentiality
- No censorship as to the substance of complaints
- Promptness
- Right to a reasoned decision
- Right to appeal to a judicial or other authority
- Prisoners' effective participation
- Effective investigation upon complaints related to ill-treatment or death

Why is protection against reprisals important?

-The right to submit a complaint and an effective complaint procedure can be exercised only if the detainee does not have to fear any form of reprisal, intimidation or other negative consequences (e.g. threats, solitary confinement, other discouraging measures, such as transfer into a less furnished cell) upon the submission of a complaint.

-All staff working for detention facilities must be informed that the highest authorities remain vigilant to ensure that detainees who wish to submit a complaint will not be subject to any kind of intimidation or reprisal and that violations of this norm will be severely punished.

Key standards

- UN Mandela Rules, R 54-57
- CoE, European Prison Rules, R 30, 70
- The European Court of Human Rights' collection of Factsheets & Jurisprudence
- CPT 27th General Report, Complaint mechanisms



National Preventive Mechanisms, established under the UN Optional Protocol to the Convention against Torture (OPCAT), are mandated to visit places of detention to prevent torture and ill-treatment and examine factors that contribute to its occurrence. They can face extraordinary challenges in monitoring the efficiency of complaint procedures, but they also have a broad mandate as well as the authority to investigate potential gaps and detect the inefficiencies. It is essential for them to advocate for effective complaint procedures, since detainees' complaints are important indicators of systemic problems related to detention conditions.

What should prison staff and administrations consider?

1. Is all the necessary information about the right to complain provided in an accessible way?
2. Are prison staff and the prison director available for direct complaints of detainees?
3. Is confidential and free communication to external inspectors and monitors (e.g. prosecutorial, judicial services, NPMs or monitoring NGOs) ensured?
4. Are detainees' complaints confidentially, promptly and fairly handled?
5. Do written decisions about complaints include detailed reasoning?
6. In case of successful complaints, are adequate preventive and reparatory remedies provided in the internal complaint procedure?
7. Does the prison maintain full records of requests and complaint procedures, and conduct a systematic analysis of complaints?
8. Are all necessary measures taken for protection against reprisal upon submission of a complaint?

To find out more about complaints consult our Handbook:
"Complaint Procedures and the Right to Information in Prisons"

For further information on other thematic issues, please refer to our publications on:
Solitary confinement, Prison violence, Persons in a situation of vulnerability