



ABOUT THE PROJECT

With the project "Open Research Behind Closed Doors" (implemented between July 2020 and March 2021), the Ludwig Boltzmann Institute of Fundamental and Human Rights (LBI-GMR), in cooperation with partners from Austria (SiM), Italy (Associazione Antigone) and Germany (Strafvollzugsarchiv), gives an insight into the lived experiences of persons with psychosocial and intellectual disabilities detained during the COVID-19 pandemic (March 2020 - February 2021). The project aimed to develop recommendations on how to improve the situation of the persons with psychosocial and intellectual disabilities during the pandemic and identify paths for future research.

COMMON FACTORS

'Dangerousness' as the reason for preventive measures

Persons with psychosocial and intellectual disabilities, who (allegedly) committed a crime, can be deprived of liberty for the assumed danger they pose to themselves and society, independently of their criminal responsibility.

Detention facilities or forensic-psychiatric clinics as places of detention

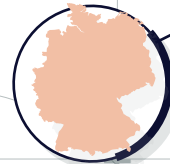
The preventive measures can be executed in designated parts of a prison, specialized facilities and clinics or the forensic-psychiatric ward of hospitals.

Uncertain length of detention

Release depends on the reduction of a person's 'dangerousness'. Preventive measures can have no time limit or a maximum length in relation to the foreseen sentence for the offence committed.

COUNTRY SPECIFIC DATA

GERMANY



Responsible Ministry

Ministries of Health

Data

sec. 63, **6.025** persons
sec. 64, **4.146** persons
(data with limitations for 2018)

ITALY



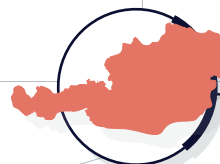
Responsible Ministry

Ministry of Health
Ministry of Justice

Data

551 persons in REMs
-no available data for prisons-
(data from 30 November 2020)

AUSTRIA



Responsible Ministry

Ministry of Justice

Data

sec. 21.1, **706** persons
sec. 21.2, **505** persons
(data from 1 January 2021)

MAIN FINDINGS

Persons deprived of liberty, equally those with psychosocial and intellectual disabilities, are in a particularly vulnerable situation during the COVID-19 pandemic. This is because of:

Difficulties in taking the necessary precautionary measures (e.g., distance and hygiene measures) to prevent the spread of COVID-19.

Dependency on the state to ensure the right to health.

Before the outbreak of the pandemic, many countries had significant problems with regard to overcrowding and access to healthcare, incl therapies. The same areas continued to raise serious concern during the COVID-19 pandemic, which further aggravated the pre-existing deficiencies.



1 RELAXATIONS: Rehabilitative measures and relaxations were limited or suspended. That can result in prolonged deprivation of liberty.



2 CONTACT: Initially, visits by relatives were suspended due to COVID-19, making it necessary to find measures compensating for the suspended or limited visits.



3 INFORMATION: The COVID-19 pandemic proved that providing adequate information transparently and respectfully had a de-escalating effect and helped to reduce uncertainty, fear and violence.



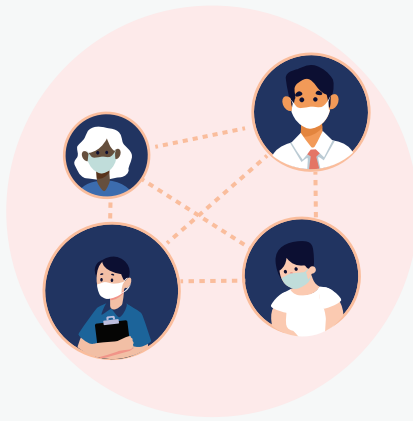
4 THERAPIES: Due to COVID-19, therapies were reduced or suspended. However, a halt of therapies can have severe negative impact on the persons health and their rehabilitation, reintegration and release.

MAIN RECOMMENDATIONS TO AUTHORITIES AND ADMINISTRATIONS OF FACILITIES

1

Ensure treatment instead of punishment

To provide persons deprived of liberty with adequate treatment, authorities should reduce the number of persons concerned by making use of alternative measures, and review the legal provisions for depriving preventive custodial measures and detention and detention on a regular basis. Moreover adequate resources have to be allocated to ensure access to therapy.



2

Strengthen cooperation among relevant stakeholders

Regular exchange among different practitioners and experts, including experts by experience (e.g., former detainees and relatives) about promising practices, experiences and different perspectives should be enhanced. A platform for discussion should be fostered, e.g. by organising of roundtables and similar events.

COVID-19 RELATED RECOMMENDATIONS



1

Prioritise vaccination of persons concerned

Due to their vulnerable situation, persons deprived of liberty should be offered vaccination as soon as possible, and they and staff should be included in the high priority groups.



2

Uphold relaxations

Relaxations should be upheld to the largest extent possible, e.g., by making use of testing, quarantine or stringing together various interruptions of detention, and the phases and steps of relaxations should be arranged more flexibly.



3

Assess the necessity and proportionality of restrictions

Restrictions should be checked for necessity regularly. Regulations that similarly affect the general population should serve as a point of reference, so that detainees' well-being is not compromised disproportionately. In addition, measures to mitigate the negative impacts of the restrictions should be put in place.



4

Use new technology where adequate

New technologies, such as video calls, should be used to ensure that persons concerned can maintain regular contacts with the outside world. Authorities should ensure that the necessary technological equipment and knowledge of how to use it are at hand. However, the use of new technology should not replace the personal visits.

