

Prisoners have rights!

People in prison have rights and the possibility to claim these rights.

Right to dignified treatment:

Treatment of prisoners must respect their human dignity.

Prisoners are to be addressed as "Mr.," "Ms.," and by last name.

They have the right to be informed about measures and duties that affect them. (§22, Abs4 StVG)

Right to correspondence

Prisoners have the right to send and receive letters - as often as they want and to whom or from whom they want. Letters may be controlled and must be delivered openly. Letters must be written in German, but prisoners who are not able to write in German may write in their native language or another language.

Letters to and from public authorities, legal advisors and advice centers may only be opened in exceptional cases and only in the presence of the prisoner. (§86ff StVG)

Right to visit

Prisoners have the right to at least one visit of half an hour per week. Once in six weeks they have the right to a visit of one hour. If prisoners rarely get visits or the visitors have a long way to travel, they have the right to extended visiting time. Visiting hours and conditions depend on the prison.

Prisoners also have the right to long-term visits at least once every quarterly period to clarify important personal matters and to maintain close personal or family relationships. Long-term visits last between three and 14 hours. Long-term visits must be requested. If long-term visits are not possible in the institution where prisoners are held, a transfer to a suitable institution can be requested.

Visitors must bring an identity document recognized in Austria. Visits are usually supervised. (§93f StVG)

In exceptional situations (e.g., Corona), visits may be restricted or prohibited. In such cases, video telephony should be offered as a substitute.

Legal counsel may also visit prisoners outside visiting hours; the content of conversations is confidential, visual monitoring is permitted. (§96 StVG)

Right to telephone calls

Prisoners have the right to make telephone calls for certain reasons, such as short conversations with relatives, friends and lawyers. Telephone calls must be registered and paid for and are usually monitored. Telephone calls with lawyers, advice centers and public authorities may not be monitored. (§96a StVG)

Right to receive parcels and money

Prisoners have the right to receive parcels. Food, drink, and tobacco may not be sent. (§91 StVG)

Prisoners have the right to receive money shipments (by bank transfer) and to dispose of this money. They also have the right to dispose of the money they had with them when they were incarcerated. (§ 41 StVG)

Right to pastoral care

Prisoners have the right to attend religious services and to have unsupervised conversations with pastoral counselors from religious communities recognized by the state of Austria. (§85 StVG)

Right to work

The prison must endeavor to provide useful work for all prisoners. (§45 StVG) There is no right to a specific job; however, prisoners may request another job and file a complaint if this request is denied.

75% of the wage is deducted for the costs of the penal system, as well as the contribution to unemployment insurance. (§32 StVG) Half of the remainder is paid out as house money and half is taken into account as reserves. (§54 StVG)

Prisoners capable of work are obliged to work (§54 StVG), while prisoners in pretrial detention are not. (§187 StPO).

Right to vocational training, further education, and instruction

Prisoners have the right to education at elementary school level if they lack such knowledge. Foreign-language prisoners have the right to instruction in basic German. If this is not possible in the prison concerned, prisoners must be transferred.

Prisoners without vocational training or without chances of employment in their learned profession have the right to vocational training, insofar as this is possible within the prison term and there are training places available. (§48 StVG)

Prisoners have the right to participate in distance learning courses. (§57 StVG)

Right to separate detention

The following groups of persons are to be detained separately:

- Men and women, (§8 StVG).
- persons who are in prison for the first time and persons who have been in prison several times, (§127 StVG).
- prisoners with psychological problems have the right to be detained separately and the right to psychological treatment, (§129 StVG)
- persons in pre-trial detention and persons in criminal detention, (§185 StPO)
- juveniles (§55 JGG)

Right to dignified furnishing of detention rooms

Cells must provide sufficient daylight, be ventilated, heated, and illuminated in the dark (except at night). Prisoners have the right to decorate the cell with flowers and pictures. Non-smokers must be housed separately from smokers upon request. (§40 StVG)

Right to be housed together by day and individually by night

Prisoners have the right to spend as much time as possible with other prisoners during the day.

A right to a single cell exists only if the prison has sufficient single cells. (§124 StVG)

Right to adequate food

Prisoners have the right to adequate food, whereby health restrictions and religious rules are to be taken into consideration. (§38 StVG)

Right to hygiene and medical care

All rooms must be clean. Each cell must have a separate toilet; in cells with several prisoners, the toilet must be structurally separated. Every prisoner has the right to hot water to wash daily and the right to shower twice a week. In case of sports and soiling through work, there is the right to more frequent showers. (§42 StVG)

Prisoners have the right to medical care provided by prison doctors with the same benefits provided by social insurance outside the prison. If care is not possible in the prison, the prisoner must be taken to another prison or hospital. (§66ff StVG)

Persons with drug addiction have the right to withdrawal treatment if this seems appropriate and not unpromising. (§68a StVG)

Medical experiments are forbidden without exception! (§67 StVG)

Right to purchase

Prisoners have the right to purchase food, coffee, tobacco and personal hygiene items from their own money in the prison once a week. (§34 StVG)

Right to spend time outdoors

Prisoners have the right to spend one hour per day outdoors, weather permitting (§42 StVG).

Right to occupation during free time

Prisoners have the right to borrow books and magazines from the prison library, to own books and magazines, to write or draw by themselves. Once every quarterly period they have the right to attend a cultural event. (§58ff StVG)

Right to privileges

Prisoners can apply for privileges, e.g. technical equipment (TV, radio, ...). (§24 StVG)

Right to go out

A right to go out exists only in special cases (urgent personal matter, visit to the sick in case of danger to the life of close persons, funeral) and not earlier than three years before the scheduled end of imprisonment. (§99f StVG)

Right to transfer to another detention facility

There is the right to be transferred to another prison if it is closer to the place of residence and therefore visits are easier or if the execution of the sentence there is more suitable. (§10 StVG)

Right to loosened prison regime

Except in the case of life imprisonment and if no abuse is to be feared, there is the right to loosened prison regime, e.g. m open cell doors during the day, no surveillance at work, going out, education or medical care outside the institution. (§126 StVG)

Right to electronically monitored house arrest (ankle bracelet).

Electronically monitored house arrest is only allowed if a maximum of 12 months of the sentence is open and numerous conditions are met: suitable housing, consent of roommates, suitable employment, sufficient income, health and accident insurance, no risk of abuse. A cost contribution of 22€ per day must be paid for the ankle bracelet. This can be waived under certain circumstances. (§156 StVG)

Right to release preparation

Three to twelve months before the expected release, prisoners have the right to special measures in preparation for release and loosening of the prison regime. If there are special reasons, there is also the right to go out, if accommodation and financing are provided and there is no risk of abuse. (§144 StVG)

Right to conditional release

Conditional release is possible in exceptional cases after serving half the sentence, mostly only after serving two-thirds of the sentence if no further criminal acts are expected. Conditional release must be applied for and is reviewed by the court. (§152 StVG) Normally, prisoners have a right to a hearing; if there is no hearing, reasons must be given. (§46 StGB, §152a StVG)

Right to termination of imprisonment due to entry/residence ban.

Prisoners with an entry or residence ban in Austria can usually be released after half of the sentence if they undertake to leave the country and this departure is also possible. (§133a StVG)

Clemency proceedings

The Federal President can pardon prisoners so that, for example, a sentence is shortened, or an unconditional sentence is converted into a conditional sentence. Clemency may be granted ex officio or upon request; a request must be addressed to the Federal Ministry of Justice.

There is no right to clemency procedures. (Art. 65 Para. 2 lit c B-VG, §507ff StPO)

Right to translation

If prisoners do not have sufficient knowledge of German, they generally have the right to translation in all proceedings concerning the execution of sentences. (§116 StVG, §56 StPO, §39a AVG)

Request

Prisoners can submit requests for all the rights described above. These should be submitted in writing, using Request Form 11, to the prison officials, and receipt of the request should be confirmed in writing. (There is also the right to make an oral request, but then you cannot prove that you have made the request). (§119 StVG)

A request should be answered as soon as possible, but at the latest after six months. (§73 AVG)

Complaint

If a request is not answered within the time limit or if the decision is negative, prisoners have the right to appeal. If the decision was only communicated orally, one can request a written decision within three days. After the decision, one has 14 days to appeal to the prison management. (§ 120 StVG)

If the appeal is not decided within six months, or if the decision is negative, an appeal can be filed to the provincial court. (§121c StVG)

A complaint asking for administrative review can be filed against general abuses in prison. Such a complaint must be dealt with by the prison management and the Ministry of Justice. However, the complainants have no right to a decision on such a complaint. (§122 StVG)

This brief information was compiled on the basis of the "Handbook Penal System" (Handbuch Strafvollzug) by Alexia Stuefer and Johanna Schöch. This handbook has been made available to every prison library.

If you have questions about your rights in the penal system or need assistance in asserting your rights, you can contact the "Union for the Rights of Prisoners," c/o Verein Boem, Schwarzhorn-gasse 1/2, 1050 Vienna.