

BY SPEED POST

No. 17013/16/2019-PR
Ministry of Home Affairs
Government of India

Women Safety Division, 2nd Floor,
Major Dhyan Chand National Stadium
India Gate, New Delhi-110002
September 21, 2020

To

1. The Chief Secretary/Administrator of all States and UTs
2. The ACS/Principal Secretary/Secretary (**Home**) of all States/UTs
3. The DG/IG (Police) of all States and UTs
4. The DG/IG (Prisons) of all States and UTs

Sub: Consular access to foreign nationals in prisons, custody or detention.

Sir/Madam,

Please refer to this Ministry's letter of even number dated August 2, 2019 regarding grant of consular access to foreign nationals in prisons, custody or detention, whereby detailed guidelines about grant of consular access was communicated to all States and UTs. A copy of the letter is attached.

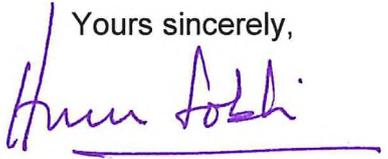
2. The Ministry of External Affairs, which is the nodal Ministry in respect of consular and diplomatic issues with foreign Governments, have informed that information about arrest/custody of a foreign national is to be provided to the consular post only **if requested by the detained/arrested person**. In the absence of such a request, there is no obligation to notify the consular when a national of such country is arrested or detained, unless specifically provided. The Ministry of External Affairs has desired that in continuation of the instructions on consular access communicated vide MHA's letter of even number dated August 2, 2019, the following instructions, may be conveyed to all States and UTs for their compliance:

i) **The willingness to inform** the foreign Diplomatic Mission may be taken from a foreign national in the event of his arrest/detention/custody/imprisonment in India. Along with the information of arrest/detention/imprisonment etc. of the foreign national, his **willingness to inform his Diplomatic Mission must also be forwarded** to the CPV Division, Ministry of External Affairs.

ii) The information regarding arrest/detention/imprisonment of a foreign national is **not** to be conveyed by States/UTs to local diplomatic Missions **directly** and has to be always **routed through** the Ministry of External Affairs only.

3. All State Governments and UT Administrations are requested to kindly take note of the above guidelines for compliance at their end. It is requested that the instructions may be disseminated to all concerned officials down the line for effective implementation of the same.

Yours sincerely,



(Arun Sobti)

Deputy Secretary (PR & ATC)

Phone: 2307 5297

Email: dspr.atc@mha.gov.in

BY SPEED POST

No. 17013/16/2019-PR
Ministry of Home Affairs
Government of India

Women Safety Division, 2nd Floor,
Major Dhyan Chand National Stadium
India Gate, New Delhi-110002

August 2, 2019

To

1. The Chief Secretary/Administrator of all States and UTs
2. The ACS/Principal Secretary/Secretary (**Home**) of all States and UTs
3. The DG/IG (Police) of all States and UTs
4. The DG/IG (Prisons) of all States and UTs

Sub: Consular access to foreign nationals in prisons, custody or detention.

Sir/Madam,

Consular access is granted to Foreign Diplomats/Consular Officers to visit the nationals of their country, who are in prison, custody or detention, as and when any such request is received by the Ministry of External Affairs from the diplomatic Missions concerned in India. Article 36 of the 'Vienna Convention on Consular Access', an international treaty of the United Nations, acceded to by the Government of India, provides that Consular Officers shall have the right to visit a national of their country who is in prison, custody or detention, and to converse and correspond with him and to arrange for his legal representation. If a national of a foreign country is arrested or committed to prison or to custody or is detained in any other manner, the Consular Post of the country is to be informed of the same without delay. Any communication addressed to the Consular Post by the person arrested, or in prison, custody or detention is also to be forwarded to the said Consular Post without delay.

2. The CPV Division of the Ministry of External Affairs is the nodal authority for receiving requests for consular access from foreign Embassies and High Commissions and is authorized to issue the letter of permission to diplomatic Missions to have consular access to the nationals of their country.

3. To streamline the **process of granting consular access** and to make the procedure uniform and robust, it has been decided to lay down the following guidelines:

i) **Intimation concerning detention or arrest of any foreign national** in any Prison, Custody or Detention Centre is to be immediately communicated by the State Government/Jail authority concerned to Consular-I Section, CPV Division, Ministry of External Affairs, Patiala House Annexe (Room No. 43), Tilak Marg, New Delhi – 110001 and through email at: socons@mea.gov.in, uscons@mea.gov.in and also to the Women Safety Division of the Ministry of Home Affairs (dealing with Prison matters) at: dspr.atc@mha.gov.in.

ii) Representative of any foreign Mission or Embassy approaching the State/Jail authority for consular access to any prisoner or detainee is to be advised to **contact the CPV Division of the Ministry of External Affairs (MEA)**, New Delhi at the address mentioned above.

iii) The request of any foreign national in prison or custody or Detention Centre for consular access is to be **forwarded to the CPV Division of the Ministry of External Affairs**, who shall take appropriate action in the matter. Consular access is to be granted **only on receipt of permission letter issued by the CPV Division of the Ministry of External Affairs** who are authorized to issue such permission.

iv) Permission for Consular access issued by the Consular Section of CPV Division, Ministry of External Affairs is to be honoured by the State authorities as **MEA is the approved authority** for the same and access is to be allowed to the consular officer **without delay**.

v) The Jail/State authorities should refrain from contacting the foreign diplomatic Missions/Embassies directly. They should make correspondence about a foreign national in their custody **only with the CPV Division** of the Ministry of External Affairs, who will take further appropriate action.

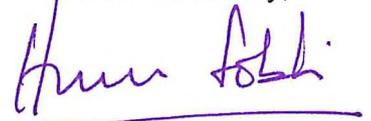
vi) In case of emergency, an electronic copy of the permission letter shall be issued by the CPV Division of the Ministry of External Affairs to the Diplomatic Mission with a copy to the Jail authority concerned. In case of any doubt, State authorities can check the veracity of the document with the CPV Division.

vii) **Regular reports of arrest/detention of foreign nationals** (with all relevant details) are to be provided to CPV Division of the Ministry of External Affairs at email: socons@meag.gov.in and also to the Women Safety Division of the Ministry of Home Affairs through email at: dspr.atc@mha.gov.in.

viii) Special attention may be paid to the fact that there should be no delay in intimation of arrest of a foreign national to MEA and MHA. The States/UTs should **send regular quarterly and six monthly reports** about foreign nationals in Jails/Detention Centres (including the crime and current status of their case etc.) to MEA and MHA.

4. All State/UT authorities are requested to comply with the above guidelines. This supersedes any other instructions/guidelines issued on the subject in the past.

Yours sincerely,



(Arun Sobti)
Deputy Secretary (PR & ATC)
Phone: 2307 5297
Email: dspr.atc@mha.gov.in