

I APPROVE,  
\_\_\_\_\_/ signed /\_\_\_\_\_  
„\_18\_”\_06\_2020  
Mihail COTOROBAI,  
The People’s Advocate (Ombudsman)



**Situation**



**COVID-19**

**in detention**

**Prevention of torture Department within the PAO**

The response to the COVID-19 pandemic required to carry out exceptional measures to limit its spread as much as possible, such as general retention of the population, restriction of civil liberties, compulsory quarantine of people infected with the virus, adoption of sanctions for violating anti-pandemic rules, social distance, disinfection measures and many others. Beyond the limitation of civil liberties and the foundations of the civilian population, the situation of people behind bars has been even more restricted. One of the justifications for these measures was not to admit the virus to detention centers. The risk of a massive infection in places of deprivation of freedom was quite real and enormous compared to the existing challenges up to the infection.

This report is a summary of the situation concerning the prevention and control of the public pandemic in the institutions that ensure the detention of persons. In terms of methodology, the research was carried out remotely by the team of the Prevention of torture Department within the People's Advocate Office. The accomplishment period of the work includes March 12 - June 1, 2020. The authors analyzed the operative information submitted daily by the relevant authorities; analysis of incoming requests; additional requests for information from authorities and persons with positions of responsibility; adopted internal acts; communications from civil society and media organizations; statements by public figures, as well as the practices of human rights institutions and mechanisms of torture prevention from abroad, etc.

First observations show that the authorities reacted, as usual, differently and independently of the response to the effects of the pandemic. There have been a number of internal challenges regarding the adaptation of procedures and modes of action to the constraints of the health crisis. A synergy and coordination of actions between authorities was noticed only in the middle of the emergency period. For example, residential institutions and psychiatric hospitals would have prepared for pandemic prevention since January 2020. While the state of emergency was declared on March 17, 2020. Respectively, no firm actions or antipandemics measures were taken in the pre-emergency period. We do not know the reasons for these inactions and the purpose of this work is not to find them out. However, we cannot ignore the multiple desperate calls of medical employees regarding the lack of basic protective equipment in the fight against infection. The effects of this attitude (negligent in our opinion) also led to the fact that during the state of emergency, 3 outbreaks of infection were active in three residential institutions which affected about 10 % of the total number of residents and about 5 % of the employees of Temporary placement centers for persons with disabilities. We believe that the relevant authorities need to provide a coherent response to those failures, including in order to help prevent such incidents in the future.

We mark a relatively good cooperation with public institutions, especially the National Penitentiary Administration, the Social Assistance National Agency, the Psychiatric Hospital in Orhei, the Psychiatric Hospital in Balti, the Bureau for Migration and Asylum, etc.

## INTERNATIONAL STANDARDS WITH RESPECT TO THE PROTECTION OF PERSONS DEPRIVED OF FREEDOM DURING THE PERIOD OF PUBLIC PANDEMIC

The human rights system provides normative principles in defining a response to the COVID-19 outbreak or any other public health crisis. The fundamental principle is that the rights of all affected people must be respected and it is necessary to implement all public health measures without any discrimination. Under international human rights law, everyone has the right to the highest standard of physical and mental health. When a State deprives a person of his / her freedom, it shall be responsible for providing medical care and for protecting and promoting his / her physical and mental health and well-being, as set out in the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules).<sup>5</sup> This responsibility for care is crucial, as detainees have no choice but only to depend on the authorities for the protection and promotion of their own health.

The detainees in prisons and other places of detention are not only more vulnerable to COVID-19 infection, they are also particularly vulnerable to human rights violations<sup>1</sup>.

For this reason, we reiterate the important principles that must be observed in response to COVID-19 in prisons and other places of detention<sup>2</sup>, which are strictly based on human rights standards and international norms in the field of crime prevention and criminal justice:

- ✓ Ensuring health care for detainees in prisons and other places of detention is the responsibility of the State.
- ✓ Detainees in prisons and other detention centers should benefit of the same standards of health care available in the external community, without discrimination based on their legal status.
- ✓ Appropriate measures must be taken to ensure gender equality in resolving COVID-19 emergencies in prisons and other places of detention.
- ✓ Penitentiaries and other detention authorities must take all measures to ensure that human rights in relation to detainees are respected, that those in their custody are not isolated from the outside world and - most importantly - that detainees have access to adequate medical information and services.
- ✓ Increased attention must be paid to the application of measures that do not deprive access to liberty at all stages of criminal justice, including the trial phase, lawsuit and sentencing phase, as well as the post-conviction stages. Priority should be given to measures that do not deprive access to freedom for alleged offenders and low-risk detainees and care needs, with preference given to pregnant women and women who have children in their care.
- ✓ Selective detention procedures should also be considered, which would allow the detainees with the highest risk to be separated from other detainees in the most efficient and least invasive manner possible, and which would allow limited solitary detention to remain accessible to the most vulnerable.

---

<sup>1</sup> <http://ombudsman.md/activitate/prevenirea-torturii/prevenirea-torturii/> <http://ombudsman.md/rapoarte/anuale/>

<sup>2</sup> Under Art. 30 of Law no 52/2014 on the People's Advocate (Ombudsman), the notion of deprivation of freedom is defined as any form of placing an individual, by an order of any judiciary, administrative or another body, in a state or private detention place, which he cannot leave at his will, as punishment, sanction, procedural or constraint measure, safety measure, as well as a result of the dependence of the care provided or based on any other reason.

- ✓ After entering prisons and other places of detention, all individuals should be tested for fever and lower respiratory tract symptoms; special attention should be paid to persons with contagious diseases. If they have symptoms compatible with COVID-19 or if they have a previous diagnosis of COVID-19 and still show symptoms, they should be placed in medical isolation until further medical evaluation and testing is performed.
- ✓ The psychological and behavioral reactions of convicts or detainees in other circumstances, probably differ from those of persons who respect physical distancing in the community; therefore, increased attention should be given to emotional and psychological support, to transparent awareness and the exchange of information about the disease, and to ensure constant contact with family and relatives.
- ✓ Appropriate measures must be in place to prevent the stigmatization or marginalization of individuals or groups who are considered potential virus carriers.
- ✓ Any decision to place persons in prisons and other detention centers in conditions of medical isolation should always be based on medical necessity as a result of a clinical decision, authorized by law or regulation of the competent administrative authority.
- ✓ Persons isolated for public health reasons, inside prisons and other places of detention, must be informed about the reason for their isolation and will have the opportunity to notify a third party.
- ✓ Appropriate measures must be taken to protect persons placed in isolation from any ill-treatment and to facilitate in given circumstances the contact with persons where appropriate and possible (for example, by using audiovisual means of communication).
- ✓ The fundamental guarantees against ill-treatment applied to detainees by law enforcement (access to a lawyer, access to a doctor, notification of the detention measure) must be fully respected in all circumstances and at all times.
- ✓ The number of staff must be strengthened, and the staff must benefit from professional support, protection of health and safety, but also the necessary training in order to continue performing their tasks in places of deprivation of freedom.
- ✓ With the purpose to reduce the risks associated with COVID-19, the authorities must urgently review pre-trial detention. Bail systems must be suspended to ensure that pre-trial detention is not excessively imposed. Persons most at risk, especially the elderly and those with underlying physical and mental health problems, should be considered immediately for release to avoid serious consequences if COVID-19 spreads across a prison and also to make essential medical services available.
- ✓ No health measure can justify restrictions on meetings with a lawyer. If the prison administration considers that lawyers should not have access to prisons, it should at least ensure free communication between lawyers and clients online or by telephone. Interruption of criminal proceedings during the pandemic could directly affect detainees on parole, reduction of sentence, etc., which would not only affect their interests, but also directly contribute to prison overcrowding, individual protests, conflicts, etc.
- ✓ Protection measures must allow persons to attend the trial and benefit from a lawyer. Law enforcement, prisons, parole boards and courts must take all appropriate measures to protect anyone from COVID-19 infection. In order to ensure the continued functioning of criminal justice bodies, measures should be taken, such as hearings or remote scheduling and / or the provision of protection equipment for face-to-face trials. Any restrictive measures - if any - must be personalized and based on independent medical conclusions.

- ✓ Isolation or quarantine measures must be proportionate, authorized by law, and must not result in de facto isolation in the disciplinary isolator.
- ✓ Any decision to isolate or to put in quarantine the detainees should be made only following an independent medical assessment and should be proportionate to the risk presented. This assessment must be communicated in a transparent manner to the data subjects. In addition, the medical assessment must allow the measure to be limited in time. Quarantine measures should only be imposed if the prison administration cannot take an alternative protective measure to prevent or respond to the spread of infection.
- ✓ During isolation or quarantine, the conditions and regime must comply with the minimum standards set out in the Nelson Mandela Rules. Likewise, open and clear communication between the prison administration and detainees must remain, including with regard to the provision of food, drink, sanitary ware, medicines and contact with the outside world.
- ✓ The COVID-19 outbreak should not be used as a justification to undermine compliance with all fundamental safeguards included in the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), including, but not limited to, the requirement that restrictions should never constitute torture or other cruel, inhuman or degrading treatment or punishment; prohibition of prolonged solitary confinement (i.e. over 15 consecutive days); the requirement that clinical decisions can only be made by health professionals and should not be ignored or rejected by non-medical prison staff; and that, although means of contact with the family may be restricted in exceptional circumstances for a limited period of time, they should never be completely prohibited.
- ✓ The COVID-19 outbreak should not be used as a justification to contest an external inspection of penitentiaries and other places of detention by independent international or national bodies whose mandate is to prevent torture and other cruel, inhuman or degrading treatment or punishment; such bodies have national prevention mechanisms in accordance with the Optional Protocol to the Convention against Torture, the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.
- ✓ Even under conditions of the COVID-19 outbreak, the above-mentioned inspection bodies must have access to all persons deprived of their freedom in prisons and other places of detention, including persons placed in solitary confinement, in accordance with the provisions of the respective authorities' mandate.

The first infection with COVID-19 was confirmed at the Penitentiary no. 7 in Rusca, later at Penitentiary no. 6 in Soroca. 2 employees of the penitentiary system were tested positive, the information being confirmed on March 25, 2020. The employees did not come into contact with the detainees and other colleagues, they were treated at the hospital and at home. During the emergency period, 10 detainees died for reasons other than COVID-19 infection. The People's Advocate Office was informed about 85 escorts at the 112 service for providing medical assistance to detainees. Similarly, 25 cases of dismissal from service of employees who showed signs of fever or other health problems were reported. Between March 11 and June 1, 2020, 18 cases of COVID-19 were registered to 18 NPA employees<sup>3</sup>.

Until June 1, 2020, the **National Penitentiary Administration** did not report any cases of COVID-19 infection among detainees<sup>4</sup>. A single convict extradited from Ukraine was found with COVID-19 on April 22, 2020 at the Penitentiary no. 13 in Chisinau<sup>5</sup>. He was brought to the penitentiary by the police. The detainee was found positive at the COVID-19 Center in Chisinau. Subsequently, the last one was escorted by the employees of Penitentiary no. 13 at the COVID-19 Constructor Center (center for treating infected people). On May 6, 2020, the convict was tested negative, being transferred to the penitentiary institution for the execution of the sentence.

The first case of COVID-19 at **the Republican Clinical Psychiatric Hospital in Chisinau** was registered on March 28, 2020 in a barmaid of the section no. 11. On March 30, 2020, the second case was registered in a patient from the section no. 10, discharged on March 27, 2020. As a result of the epidemiological investigation, community exposure to COVID-19 virus of these 2 cases was not identified. As a result of the testing at COVID-19 of 18 medical workers with clinical signs performed between March 30 and April 1, 2020, in 14 of them the tests were positive (4 doctors, 1 resident doctor, 2 medical assistants, 7 nurses). Of the 58 patients with clinical signs who were tested, 38 were confirmed with COVID-19 infection. The cases of COVID-19 were recorded in 5 sections: no: 2, 3, 4, 10 and 11 within the Clinical Psychiatric Hospital of Chisinau. The Republican Clinical Psychiatric Hospital in Chisinau has 740 beds. Here are working 96 doctors, 137 medical assistants and 100 nurses. More than 157 patients were admitted to the Psychiatric Hospital in Chisinau for anticovid treatment.

On March 30, 2020, the first case of "Suspicion of COVID-19" was recorded with a nurse from the dental office within the **PMSI Psychiatric Hospital in Balti**. She addressed the PMSI HC no. 5 in Balti, and on April 13, 2020 the test result was negative. Another employee as a nurse in the filter of the institution was isolated inside it, after being subjected to risk following the service of an infected patient. Subsequently, tests for COVID-19 were performed in two nurses and one patient who tested negative. The Psychiatric Hospital in Balti has a medical filter (isolator) in a separate block in which they have 7 isolation boxes. On April 13, 2020, 5 patients infected with COVID-19 were admitted from the Placement Center in Branzeni, Edinet district (one of them in

<sup>3</sup> <http://anp.gov.md/randomsituatia-epidemiologica-privind-infectia-covid-19-cadrul-sistemului-administratiei>

<sup>4</sup> More than 6500 persons are detained in 17 penitentiary institutions.

<sup>5</sup> NPA operative synthesis of June 05-06, 2020.

serious condition was transferred to the PMSI Clinical Hospital in Balti). Patients from the PMSI Psychiatric Hospital in Balti were not tested for the new type of infection (COVID-19), given the lack of contact with suspects or patients.

Between April and May 2020, at the Psychiatric Hospital in Balti, 91 infected patients were treated, out of which 40 residents of the Placement Center in Branzeni, Edinet district and another 38 from the Placement Center in Badiceni, Soroca district.

**The Psychiatric Hospital in Orhei** did not report any cases of infection. 4 employees were at home isolation in April after a case of infection was confirmed in Vatici village, Orhei district. The rate of patients hospitalized during the pandemic varies from 80 to 112 persons.

On May 28, 2020, out of the 38 residents of **the Temporary Placement Center for Persons with Disabilities in Badiceni**, hospitalized in the CPH in Balti municipality, 15 treated beneficiaries returned. 23 residents remained hospitalized at the Psychiatric hospital in Balti, and 68 residents are receiving treatment at the Placement Center. A total of 122 residents became ill with COVID-19 infection. Of the 36 employees tested positive, 2 people are hospitalized, 10 people were treated and 24 people are treated at home.

In **the Temporary Placement Center for Persons with Disabilities in Cocieri, Dubasari district**, out of the 74 residents who were previously positively confirmed and hospitalized in the CPH in Chisinau, only 9 remain hospitalized. Previously, 33 employees were tested positive. Of these, 8 were treated and 25 are treated at home.

As of May 31, 2020, **the Temporary Placement Center for Persons with Disabilities in Branzeni, Edinet district**, did not have persons tested positive for COVID-19. The 71 residents tested positive recovered and returned to the institution. Likewise, the 23 employees tested positive were treated.

**The Temporary Placement Center for Persons with Disabilities in Balti municipality** informed about the health condition of an employee, who, during the emergency period, was on annual leave and was tested positive for COVID-19.

**0 cases** of COVID-19 among the detained persons reported the National Penitentiary Administration, the National Anticorruption Center, the Temporary Placement Center for Persons with Disabilities (Adults) in Balti, the Temporary Placement Centers for Persons with Disabilities (minors) in Orhei and Hancesti, the Temporary Placement Center for Foreigners and the Asylum Center within the Bureau for Migration and Asylum.

**The Ministry of Defense** informed the Ombudsman's Office about 10 cases of infection in the military and civilian personnel of the defense entity.

And, **the General Police Inspectorate** informed about the illness of 59 police employees during the monitoring period, of which 30 recovered. At the same time, in 4 police inspectorates were identified 34 persons detained with negative results to the infection and only one detained with a positive test. He was escorted to the COVID-19 Center in Chisinau, later handed over to the Penitentiary institution no. 13. 31 detainees tested negatively (including a woman) were identified

at the preventive detention facility within the Chisinau Police Department and one case at the police inspectorate in Cahul, the police inspectorate in Causeni and the police inspectorate in Hancesti.

Between April and May 2020, there were **3 deaths**.

Two deaths were recorded at the Republican Clinical Psychiatric Hospital in Chisinau: a 73-year-old patient who died on April 28 and a 62-year-old patient who died on May 20.

On April 5, 2020, the resident of the Placement Center in Balti died of COVID-19, being treated in the Municipal Clinical Hospital in Balti. She allegedly fell ill in the Municipal Hospital in Balti from another patient who tested positive, after 11 days in the surgery department. After being tested for COVID-19, she was transported to the Psychiatric Hospital in Balti (assigned for such cases). In 2 days she was brought back to the Municipal Hospital for treatment. The resident was not in contact with other residents of the Placement Center for Persons with Disabilities (adults) in Balti.

**MEASURES TAKEN FOR PREVENTING THE PANDEMIC  
VERSUS ENSURING THE RIGHTS OF PERSONS IN CUSTODY.  
LESSONS LEARNED.**

In this subchapter we will refer only to some aspects that drew attention during the monitoring process.

On January 24, 2020, there was issued the Order No. 81 of the Ministry of Health, Labour and Social Protection of Moldova on measures to prevent and control infection with the new-type of Coronavirus (2019-n CoV). And, between January 28-30, **psychiatric hospitals and residential institutions** (February-March) ordered pandemic prevention measures, which meant that medical and residential institutions were to be prepared for pandemic prevention and treatment.

Following the rapid spread of the pandemic, hospitals and residential institutions reported the basics: lack or insufficiency of protective equipment, lack of tests, etc., which assumed that there was no centralized strategy to combat the pandemic, etc. Rather, psychiatric and residential institutions were left alone with the pandemic challenge. The three psychiatric hospitals were designated treatment centers only after April 6, 2020. As a result, they faced another challenge: the treatment of persons with psycho-neurological diseases in the inpatient conditions for the treatment of patients with mental illness. It seems that psychiatric hospitals have faced these challenges. However, to ensure the fundamental rights of residents requires a different approach and attitude. At the same time, the measures ordered by the resident institutions were harsh on the residents (they could not leave the centers' yard, and some could not even go out for a few months, etc.) and more relaxing for employees (who traveled daily to / from Center, etc.). The sources of illness were contacts with employees, including nurses (the infection penetrated from the outside). According to the data presented, 272 of the over 2200 residents, as well as 93 employees from 4 placement centers (Branzeni, Cocieri, Balti and Badiceni) were infected with COVID-19



infection. That situation would not have improved until mid-May. It is certain that the relevant authorities are going to assess the risks of the infection entering the residential spaces, so as not to put the residents and their employees at risk.

In **the National Army**, preventive measures were introduced on March 9, 2020. It was ordered to prohibit the access to the military units of the National Army of foreigners and visitors (relatives of the military), leaves for soldiers and mass activities<sup>6</sup>. At the same time, the soldiers at the checkpoints and crossing points were provided with protective masks and disinfectant solutions. At the same time, the medical specialists within the units monitored daily the state of health of the staff, performed disinfection actions in the military units and the houses of the military. On March 12, 2020, the Armed Forces Military Academy "Alexandru cel Bun" temporarily suspended its educational process, moving to distance learning<sup>7</sup>. The military police Center temporarily stopped its activity of arrest and the execution of the security service at the guard of the arrest. However, since March 24, more than 1500 soldiers have been involved in external pandemic prevention activities, such as: ensuring public order; arranging triage centers; disinfection of post offices; supervision of the quarantine regime in the quarantined localities, etc. All these activities involved the military being at risk. It seems that the National Army overcame the mass infection, once no case of illness was reported in the military units.

The good organization of pandemic prevention measures in **the penitentiary system** has demonstrated the sure will of decision makers to prevent infection<sup>8</sup>. The National Penitentiary Administration has taken into account international and national recommendations in this regard, acting diligently. It appears that the compensatory measures applied in the penitentiary institutions were sufficient. The People's Advocate Office did not receive any requests regarding the disagreement with the anti-covid measures instituted in penitentiaries. Although, the lack of demand is not an indicator. Subsequently, the People's Advocate Office was informed about injuries, physical self-aggression in protest; refusal to eat, violence between detainees and attacks on employees, all of medium and severe nature on physical and mental integrity, etc.

**The General Police Inspectorate** has established 3 special isolators for the placement of patients with infection. These are the isolator in Floresti, the isolator in Calarasi and the isolator in Ceadir-Lunga. According to the decision, in these three isolators, the detained persons were to be placed during the isolation period (from 7 to 14 days). In our opinion, the placement of persons detained as having infection in these isolators constitutes in itself a violation of Article 3 of the ECtHR. All three private spaces do not meet the minimum standards of detention, which the Ombudsman and the Council for the Prevention of Torture have repeatedly mentioned in their reports and recommendations. For example, in the isolator in Floresti, the toilets are missing in the cells; in the isolator in Calarasi and Ceadir-Lunga, dampness and anti-sanitation persist. Respectively, the placement of suspects with respiratory diseases in those conditions is contraindicated. We recommend that the General Police Inspectorate review its decision immediately<sup>9</sup>.

---

<sup>6</sup> <https://www.army.md/?lng=2&action=show&cat=122&obj=6247>

<sup>7</sup> <https://www.army.md/?lng=2&action=show&cat=122&obj=6258>

<sup>8</sup> <http://anp.gov.md/covid-19>

<sup>9</sup> Disposition of the head of GPI no. 34/16-569/2020;

## **"COVID-19" CENTERS BETWEEN FORCED OR VOLUNTARY TREATMENT**

Following the response to the increase in the number of infected persons, the authorities decided to create, establish medical institutions specialised in the treatment of the disease. These have been abbreviated as "COVID-19 Centers".

In the field of torture prevention, the question arose as to whether these institutions could be places of deprivation of freedom in the light of the Optional Protocol to the UN Convention against Torture, including whether the form of treatment of patients was voluntary or forced.

At the same time, more information appeared in the press that some patients had "escaped" from these Centers, and the police allegedly returned them to treatment. Despite these, there were no complaints about hospitalization or forced anticovid treatment.

The regulations for the establishment and / or designation of triage and treatment institutions did not provide for the establishment of institutions for the forced treatment of the disease. Rather, these Centers have been set up to facilitate the identification of the virus in safe spaces.

The hospitalization in the medical institutions takes place on the basis of the information / ordinary treatment agreement of the patient, i.e. on the basis of individual decision of the latter, not being any administrative decision in this respect. This agreement contains provisions that warn the patient tested positive about the consequences of non-compliance with the quarantine regime ordered by the National Commission for Exceptional Situations and the administrative fine to which he / she may be subject.

In this perspective, we can say that the treatment undertaken in the institution seems to be partially voluntary, once the patient is notified of the contravention liability if he / she will spread the epidemic by leaving the medical institution.

## **TORTURE PREVENTION ACTIVITY. REACTIONS AND ANSWERS**

We remind you that according to the provisions of the Optional Protocol to the UN Convention against Torture, monitoring visits may be limited only in exceptional cases, for urgent and imperative reasons related to national defense, public safety, calamities or serious disturbances at the place visited, which temporarily impede the visit.

As the UN Subcommittee on Prevention of Torture underlined in its recommendation to the UK National Prevention Mechanism (UK NPM) in the context of the COVID-19 epidemic, "there should rather be a specific reason why ... a visit should not be made at a certain point, except that such visits should not be made at all ". However, each monitoring body must take all necessary

precautions to comply with the "**do no harm**" principle, in particular to the elderly or persons with pre-existing diseases<sup>10</sup>.

Prior to declaring the state of emergency, the People's Advocate Office received the decision to temporarily suspend the visits of employees in the territory (including places of detention), in order to protect employees, but also persons behind bars. Between March 12 and June 1, 2020, there were no preventive visits to places of detention.

The activity of monitoring the situation in private places took place remotely, through direct contact with the heads of institutions that provide custody of persons, phone calls, examination of applications, the situation reflected in the media, but also the decisions of relevant authorities, etc. Every day, the People's Advocates were informed about the situation in the places of detention. Likewise, the People's Advocate Office submitted some additional approaches for information, including requesting the National Commission for Exceptional Situations to take the necessary measures to prevent the spread of the pandemic in places of detention, including the protection of employees.

In its role in preventing human rights violations, the Ombudsman Institution has been actively involved in providing the necessary support to the authorities through those recommendations and concerns. *On the contrary*, the authorities reacted, as usual, with reservations, undermining the authority of the People's Advocate and the importance of the national institution for the protection of human rights. The People's Advocates actively supported the contribution of civil society in the field of expertise.

On March 19, 2020, the Ombudsman signed the Appeal on the need to implement additional measures to prevent the spread of COVID-19 virus in prisons by the Promo-LEX Association, the Council for the Prevention of Torture and European Prison Litigation<sup>11</sup>. The recommendations of the targeted appeal were partially accepted by the National Penitentiary Administration and the General Police Inspectorate.

On March 25, 2020, the People's Advocate submitted 2 approaches to the General Prosecutor's Office of the Republic of Moldova and the Superior Council of Magistracy regarding the examination of the opportunity to terminate the requests for pre-trial detention during the public health crisis with the application of alternative measures to detention, especially for persons over the age of 50 and with chronic diseases (home placement, electronic monitoring, etc.), from the perspective of ensuring the right to life and health of persons<sup>12</sup>.

In its response of March 27, 2020, the General Prosecutor's Office informed the People's Advocate Office that "the Prosecutor General intervened on 19.03.2020 to the Prosecutor's Office, the heads of criminal prosecution bodies, special investigation bodies and finding, with a general instruction, in which, among other things, it established that the measure of pre-trial detention will be applied only in exceptional cases and only if the application of another preventive measure would considerably prejudice the investigation of the case".

---

<sup>10</sup> <https://rm.coe.int/16809d56a0>

<sup>11</sup> [https://promolex.md/wp-content/uploads/2020/03/Apel\\_M%C4%83suri-suplimentare\\_CoronaV\\_Sfinal.pdf](https://promolex.md/wp-content/uploads/2020/03/Apel_M%C4%83suri-suplimentare_CoronaV_Sfinal.pdf)

<sup>12</sup> <http://ombudsman.md/news/avocatul-poporului-pledeaza-pentru-aplicarea-masurilor-alternative-detentiei-pe-durata-crizei-epidemiologice/>

On April 6, 2020, the Superior Council of Magistracy informed that it supports the People's Advocate's approach regarding the application of pre-trial detention in strict accordance with the provisions of the Criminal Procedure Code.

On April 8, 2020, the People's Advocate recommended that the authorities take urgent measures to release certain categories of detainees (including minors) from detention, by applying the most appropriate solutions, so as to significantly reduce the number of detainees as a measure of antipandemic prevention<sup>13</sup>. This approach submitted to the National Commission for Exceptional Situations and to the Ministry of Justice of the Republic of Moldova remained unanswered and unresolved. The reasons why the authorities refused the emergency release are not known.

On May 15, 2020, the People's Advocates and members of the Council for the Prevention of Torture welcomed the efforts of civil society to extend measures to prevent the COVID-19 virus in the penitentiary system following the lifting of the state of emergency<sup>14</sup>. The People's Advocates have warned the authorities that if the epidemic spreads in prisons, it will be very difficult to manage the situation. Penitentiary medical departments do not have the possibility to provide hospital care and intensive care, and the penitentiary hospital does not have the capacity to provide the necessary medical care to all infected detainees, in case of COVID-19 spread. At the same time, the already overburdened public medical institutions will face a new challenge - the need to create the conditions for ensuring the permanent guarding of interned detainees.

The People's Advocates have spoken out in favor of extending measures to prevent COVID-19 infection in the penitentiary system, which are absolutely necessary given that the virus is still a real danger. Additional compensatory measures (additional minutes, online conferences, etc.) and alternative (teleconferencing) are to replace inoperative escorts and transfers (except 112); the conduct of criminal prosecution and trial cases is risky, except for those carried out through the videoconferencing system or online; carrying out other activities, at least for the next two months. At the same time, in order to prevent, including overcrowding, detention institutions and courts must examine cases relating to the application of detention measures under criminal law. The protection of employees must also be a priority.

Similarly, the Ombudsmen reiterated that the effects of the above-mentioned suspensions and limitations must in no way affect the rights and legitimate interests provided for detainees. And safeguards against torture and other ill-treatment must be unconditionally respected.

Following the respective approach and appeal, the National Penitentiary Administration extended the measures to prevent the pandemic in the penitentiary system until June 30, 2020.

---

<sup>13</sup> <http://ombudsman.md/news/avocatii-poporului-recomanda-autoritatile-intreprinderea-masurilor-de-urgenta-pentru-eliberarea-din-detentie-a-anumitor-categorii-de-detinuti-inclusiv-minori-prin-aplicarea-celor-mai-potrivite-solu-2/>

<sup>14</sup> <http://ombudsman.md/news/avocatii-poporului-in-cazul-rasandirii-epidemiei-in-inchisori-situatia-nu-va-putea-fi-controlata-in-nici-un-mod/>

## GENERAL RECOMMENDATIONS:

- A. Establishment of a legal framework governing compulsory quarantine in places of deprivation of freedom and specification of its requirements and consequences.
- B. Development of a procedure manual to determine the roles of all those involved in quarantine and / or the isolation mechanism in detention facilities.
- C. Determination of basic legal safeguards for those subject to quarantine or isolation, medical staff, as well as other agents and employees who are in contact with them.
- D. Provision of equal health care and humane treatment for all persons subject to quarantine, including persons subject to compulsory isolation or hospitalization.
- E. Provision of psychological guidance for all persons in need of it among persons who are subject to quarantine, isolation or compulsory hospitalization.
- F. Provision of psychosocial assistance to those in need among detainees and their family members, as appropriate.
- G. Provision of the necessary devices to facilitate the movement of sick and elderly detainees and detainees with disabilities.
- H. Distribution of equipment, tools and means necessary to prevent the spread of the pandemic and obligation of the employees responsible for hygiene, disinfection and sterilization to use them correctly.
- I. Compliance with strict rules of cleanliness and hygiene and provision of hydro-alcohol gel dispensers in all common areas.
- J. Organisation of interactive joint training courses for all medical, security and administrative staff involved in crisis and pandemic management.