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Council for the Prevention of Torture
National Preventive Mechanism



ANNUAL ACTIVITY REPORT

2022

Prevention of torture and other cruel, inhuman or degrading
treatment or punishment in the Republic of Moldova

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This Annual Activity Report of the Council for the Prevention of Torture (CfPT) for 2022 has been prepared by CfPT members (as authors):

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LIST OF ABBREVIATIONS

- CAT** – UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- CC** – Criminal Code of the Republic of Moldova No. 985/2002
- CCP** – Code of Criminal Procedure of the Republic of Moldova No. 122/2003
- CfPT** – Council for the Prevention of Torture
- CoE** – Council of Europe
- CPT** – European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
- DPI** – Department of Prison Institutions (predecessor of the National Administration of Penitentiaries under the Ministry of Justice)
- ECHR** – Convention for the Protection of Human Rights and Fundamental Freedoms
- ECtHR** – European Court of Human Rights
- GPI** – General Police Inspectorate
- LPA** – Local Public Administration
- MIA** – Ministry of Internal Affairs
- MoD** – Ministry of Defence
- MoJ** – Ministry of Justice
- MoH** – Ministry of Health
- NAC** – National Anticorruption Centre
- NHIC** – National Health Insurance Company
- NAP** – National Administration of Penitentiaries under the Ministry of Justice
- NPM** – National Preventive Mechanism
- NSIH** – National Social Insurance House
- PA** – People's Advocate (Ombudsman)
- PAO** – People's Advocate Office
- TDI** – Temporary Detention Isolator
- OP CAT** – Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
- UN** – United Nations Organisation
- UN CAT** – UN Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- UN SPT** – UN Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment



FOREWORD

The **Council for the Prevention of Torture (CfPT)** was established on 25 October 2016 within the People's Advocate Office as a National Preventive Mechanism, in line with the provisions of the Law No. 52 of 2014 on the People's Advocate (Ombudsman) and the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The Council consists of 7 members. The People's Advocate (Ombudsman) and the People's Advocate (Ombudsman) for Child's Rights are ex officio members of the Council. The other members are proposed by the civil society, they are selected through a competition organised by the People's Advocate Office and are appointed for a non-renewable 5-year term. A member of the Council may be a person who meets the following requirements:

- a) has a university degree in the field of law, medicine, psychology, pedagogy, social work or another field relevant to the mandate;
- b) has at least three years' seniority in work and experience in the field of human rights;
- c) has no criminal record;
- d) does not hold public office, is not a member of the legislature or a member of any political party;
- e) does not hold a position within law enforcement bodies.

The current members proposed by the civil society are experts in the field of promoting respect for human rights, with legal, medical and psychological backgrounds.

The mission of the CfPT is to ensure the protection of persons against torture and other cruel, inhuman or degrading treatment or punishment by conducting preventive and monitoring visits to places of detention, identifying system problems and issuing recommendations to competent authorities to address them. The State has an obligation to implement the recommendations received from the CfPT, so during its mandate the members of the CfPT will monitor the progress achieved by the authorities.

The CfPT successfully operated during 2022 and conducted **20 visits** and issued **19 reports**. Pursuant to Article 23 of the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Republic of Moldova is committed to publishing and disseminating the annual reports of national preventive mechanisms.

Ceslav PANICO,
President of the Council for the Prevention of Torture,
People's Advocate (Ombudsman)



SUMMARY

In 2016, the **Council for the Prevention of Torture (CfPT)** was established in the **Republic of Moldova as the National Preventive Mechanism**, under the Law No. 52/2014 on the People's Advocate (Ombudsman)¹.

The Council established in 2016 continued the work on the prevention of torture initiated by the Parliamentary Advocates (2007-2014) and the Centre for Human Rights (CHR) where an Advisory Council was set up to provide advice and assistance in the exercise of the duties of the Parliamentary Advocates as a National Preventive Mechanism.

This Activity Report of the Council for the Prevention of Torture for the year 2022 was unanimously approved by the members of the CfPT.

The Council is composed of 7 members: the People's Advocate (Ombudsman), the People's Advocate (Ombudsman) for the Child's Rights and 5 members proposed by the civil society. The duties of the CfPT include, in particular, conducting unannounced preventive and monitoring visits to places where people are or may be deprived of their liberty; submitting systemic proposals/recommendations; initiating and maintaining a continuous dialogue with national and international institutions dealing with the protection and promotion of the respect for human rights.

The Council for the Prevention of Torture conducted **20 visits** in **23 places of detention** between February and December 2022. As a result, **19 reports** containing **460 recommendations** were drafted, which were submitted by the President of the CfPT (the People's Advocate/Ombudsman) to the places concerned. Due to the complexity of the recommendations submitted, as well as the lack of clear implementation mechanisms in most of the places concerned, the CfPT recommendations are still in the process of being implemented. However, many of the recommendations have been implemented.

The findings and recommendations of the CfPT relate in particular to:

- the situation of torture in places of detention;
- treatment of detainees/patients/residents;
- safeguards against torture and other ill-treatment;
- material conditions of detention;
- medical care;
- the situation of vulnerable groups;
- safety of staff and persons deprived of their liberty;
- other relevant issues, depending on the specifics of the institution.

¹ <http://lex.justice.md/md/352794/>



As a result of the analysis of the findings and recommendations of the CfPT during the visits, we note that in the area of prevention of torture and ill-treatment, some progress has been made compared to the previous period, in particular in terms of significant improvement of material conditions of detention in temporary detention isolators throughout the country, as well as several policies adopted at the level of the relevant institutions.

At the same time, we note that many systemic problems also identified in previous reports remain either unresolved or implemented to a limited extent. These problems relate, in particular, to the material conditions of detention in prisons; overcrowding; the influence of the criminal subculture; insufficient medical care; staff shortages; poor documentation/recording of bodily injuries; high number of injuries/self-harm in detention, etc.

The CfPT appreciates the efforts and intentions of state institutions to improve the situation regarding respect for the rights of persons in places of detention and expresses its intention to support and contribute to the actions for preventing and combating torture, as well as actions related to this field. At the same time, the CfPT calls on the authorities to make and intensify joint efforts to reduce the incidence of this phenomenon and to promote a policy of zero tolerance towards torture and ill-treatment.



I. INTRODUCTION

The Council for the Prevention of Torture (CfPT) as the National Preventive Mechanism (NPM). Membership, mandate, role, activity safeguards

By ratifying the Optional Protocol to the UN Convention against Torture, the Republic of Moldova has reaffirmed that torture and inhuman or degrading treatment or punishment are prohibited and constitute serious human rights violations and that efforts will be made to combat, as well as distinct **and dedicated** efforts **to prevent** torture and other ill-treatment. Thus, the State is obliged to establish and maintain an independent and functional mechanism for the prevention of torture.

In line with Article 30 of the Law No. 52/2014² on the People's Advocate (Ombudsman), **for the purpose of protection of persons against torture and other cruel, inhuman or degrading treatment or punishment, the Council for the Prevention of Torture** shall be established at the People's Advocate Office as the **National Preventive Mechanism**.

Composition

The Council consists of 7 members, 2 People's Advocates (Ombudsmen) and 5 members from the civil society. The People's Advocate (Ombudsman) and the People's Advocate (Ombudsman) for Child's Rights are ex officio members of the Council for the duration of their mandate. The other 5 members proposed by the civil society are selected for a 5-year term through a public competition organised by the People's Advocate Office.

***CfPT is composed of
7 members
appointed for a 5-year term***

- *People's Advocate (Ombudsman)*
- *People's Advocate for the Child's Rights*
- *5 representatives of the civil society*

On 23 December 2021, following a competition conducted by the People's Advocate Office, 5 new members of the Council, representatives of the civil society, were selected. In selecting the members of the CfPT, not only the extensive professional experience and integrity of the candidates were taken into account, but also the recommendations of the OP CAT in terms of selecting candidates from different fields to ensure a diversity and fullness of experience and representativeness of various social and minority groups.

² <http://lex.justice.md/md/352794/>



Membership of the Council for the Prevention of Torture 2022			
Ceslav PANICO	President	Lawyer	People's Advocate (Ombudsman)
Maia BANARESCU	Member	Lawyer	People's Advocate for the Child's Rights
Ludmila MARANDICI	Member	Medical therapist	Public Association „Positive Initiative”
Vadim AFTENE	Member	Psychiatrist	Head of the Community Mental Health Centre PMSI TMA Riscani
Olesea DORONCEANU	Member	Attorney	Public Association “Moldovan Institute for Human Rights” (IDOM)
Iulia CUREA	Member	Psychologist	Public Association „Involvement, Rehabilitation, Integration, Support”
Gheorghe BOSII	Member	Lawyer	Public Association „Centre for the Rights of Persons with Disabilities”

Pursuant to Article 18 of the OP CAT: *“States Parties shall take the necessary measures to ensure that experts of the national preventive mechanism have the required capabilities and professional knowledge. They shall strive for a gender balance and the adequate representation of ethnic and minority groups in the country”.*

The current composition of the CfPT includes members from different fields, whose professional experience enables them to monitor the status of human rights observance and report all allegations of torture or ill-treatment.

In this regard, 2 persons with higher legal education (one of whom is a lawyer); a psychologist with extensive experience working with persons in detention; a psychiatrist, an expert in the field of mental health and a medical therapist with extensive medical and managerial experience in the penitentiary system were selected as members from the civil society.

To fulfil the assigned duties, **the CfPT members are guided and plan their activity on the basis of the provisions of:** OP CAT; Law No. 52/2014 on the People's Advocate (Ombudsman), Regulation on the organization and functioning of the People's Advocate Office of 2015³; Regulation on the organisation and functioning of the Council for the Prevention of Torture of 2016⁴, Principles relating to the Status of

³ Law No. 164/2015 on the approval of the Regulation on the organization and functioning of the People's Advocate Office. <http://lex.justice.md/md/361146/>

⁴ Regulation on the organisation and functioning of the Council for the Prevention of Torture, approved by the People's Advocate on 05.07.2016 and endorsed by the Committee for human rights and inter-ethnic relations of the Parliament of the Republic of Moldova. <http://ombudsman.md/ro/content/regulamentul-de-organizare-si-functionare-consiliului-pentru-prevenirea-torturii-fost>



National Institutions (The Paris Principles) of 1993⁵, UN SPT Recommendations of 2013 on the activity of the national preventive mechanism (independence, functionality and visibility of the NPM)⁶; The Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) as revised in 2015 by the UN General Assembly⁷; the standards and tools of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)⁸; other national and international regulations/standards.

The Council is also guided by standards in distinct areas such as minors in detention (The Beijing rules UN 1985), women in detention (Bangkok Rules), persons with special needs, etc.

The role of the National Preventive Mechanism

To reduce the risks and ensure the protection of persons against torture and other cruel, inhuman or degrading treatment or punishment, ***the CfPT's members carry out their activity, in particular, by performing the following duties:***

Systematic and regular conduct of preventive and monitoring visits to places where people are or may be deprived of their liberty.

The purpose of the visits is to identify the causes, risks of torture and other ill-treatment, systemic problems and mechanisms for ensuring respect for the rights and protection of people deprived of their liberty.

Submission of systemic proposals/recommendations

(administrative measures, institutional or legislative proposals) to state institutions/decision makers to improve the situation of torture and other cruel, inhuman or degrading treatment or punishment.

*Initiation and maintenance of a **continuous dialogue with national and international institutions** dealing with the protection and promotion of the respect for human rights.*

⁵ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx>

⁶ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fOP%2fMDA%2f2&Lang=en

⁷ https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf

⁸ https://www.coe.int/en/web/cpt/standards?p_p_id=56_INSTANCE_rmo9MHZGnI46&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-4&p_p_col_count=1&_56_INSTANCE_rmo9MHZGnI46_languageId=ro_RO



Within the meaning of the Optional Protocol⁹ to the UN Convention against Torture:

Deprivation of liberty	<i>means any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority.</i>
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Article 30 para. (4) of the Law on the People's Advocate (Ombudsman) contains a similar notion of deprivation of liberty: ***any form of placement of a person, by order of any judicial, administrative or other body, in a public or private place of detention, which the person cannot leave at will, as a punishment, sanction, procedural measure of constraint, safety measure, as well as a result of dependence on a provided care or for any other reasons***¹⁰.

Principles of activity

Throughout the term of office, in order to perform the duties provided for in the OP CAT and Law No. 52/2014, the members of the CfPT conduct their activity based on the ***principles of independence, impartiality, objectivity and confidentiality set out for the People's Advocate (Ombudsman)***¹¹.

Safeguards of independence and inviolability of the CfPT members

Safeguards of independence for the CfPT members	<i>The CfPT members are independent of any public authority, legal person, regardless of the type of ownership and legal form of organisation, and of any person in a position of responsibility at any level.</i>
	<i>The CfPT members cannot be subjected to any imperative or mandatory mandate. No one may force the members of the Council to obey its instructions or provisions.</i>
	<i>The CfPT members shall not be required to provide explanations or statements on cases being examined or under examination, except where they are for the benefit of the represented party or contain information of public interest.</i>
	Interference in the activity of the CfPT and of the People's Advocate Office (Ombudsman), intentional ignorance by persons with positions of responsibility at all levels of the recommendations of the People's Advocate (Ombudsman), as well as obstruction in any form of the Council's activity, are subject to liability, in accordance with the legislation in force.
	<i>It is prohibited to order, apply, admit or tolerate any type of sanction and otherwise prejudice any person or organisation for communicating any truthful or false information to members of the CfPT and other persons accompanying them while exercising the function of torture prevention.</i>
	<i>The CfPT members independently choose the places to be visited and the persons they want to talk with. No prior notification or permission from any authority shall be required to conduct preventive and monitoring visits.</i>

⁹ Article 4, point 2 of the Optional Protocol to the UN to the Convention against Torture (OP CAT).

¹⁰ Article 30 point 4 of Law No. 52/2014 on the People's Advocate (Ombudsman), <http://lex.justice.md/md/352794/>

¹¹ Articles 3, 4, 31 of Law No. 52/2014 on the People's Advocate (Ombudsman).



Inviolability of the CfPT members	<i>The CfPT members cannot be persecuted or held legally liable for their opinions expressed and actions made in compliance with the law, during the exercise of their term of office.</i>
	<i>The Council's members cannot be apprehended, searched or arrested without the prior consent of the Parliament. In the case of a flagrant offence and in the case of offences referred to in Articles 243, 324-328 and 3302 of the Criminal Code No. 985/2002, the Parliament's consent to detention, arrest or search is not required. All procedural actions, except in cases of flagrant offence, may be conducted only after the issuance of the order to initiate the criminal proceeding, with observance of the safeguards provided by constitutional norms and international acts.</i>
	<i>If a charge is brought against the CfPT members, they are suspended from office until the court decision becomes final. If guilt has not been proven or a judgement of acquittal or termination of the criminal proceeding has been handed down, the suspension from office shall cease and they shall be reinstated in all their previous rights.</i>
	<i>The inviolability of the CfPT members extends to their home and workplace, means of transport and telecommunications used, correspondence, documents and personal property.</i>

Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OP CAT)

In order to set up a system of regular visits conducted by independent international and national bodies to places where people are deprived of their liberty for the purpose of prevention of torture, inhuman or degrading treatment or punishment, on 18 December 2002, the United Nations General Assembly adopted the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP CAT)¹².

On 16 September 2005, the Republic of Moldova signed and, by Law No. 66/2006, ratified the Optional Protocol to the UN Convention (OP CAT)¹³. The Optional Protocol sets out a 2-component system that includes independent international and national monitoring bodies conducting unannounced and unrestricted visits to all existing places of detention in signatory States Parties. Under the Optional Protocol, the UN Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading

¹² Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OP CAT) (<http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCAT.aspx>)

¹³ Law No. 66/2006 on ratification of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, published in the Official Gazette of the Republic of Moldova, No. 66-69 of 28.04.2006.



Treatment or Punishment (UN SPT) was established¹⁴. The Subcommittee has a dual mandate: a) to monitor the conditions of detention and treatment of persons deprived of their liberty by visiting States Parties to the Optional Protocol; and b) to provide advice/guidance in the implementation of the Optional Protocol by the State Parties and, in particular, to support the establishment and proper functioning of the National Preventive Mechanisms. The UN SPT is composed of 25 independent experts and is the largest human rights treaty body in the UN.

The Optional Protocol also provides that each State Party (including the Republic of Moldova) establishes, designates and maintains, at national level, one or more bodies to visit places of detention in order to prevent torture and other cruel, inhuman or degrading treatment or punishment (hereinafter the National Preventive Mechanism).

Every State Party is required to allow unannounced visits to be carried out, in accordance with the Optional Protocol, by OP CAT mechanisms, in any place under its jurisdiction and control, where persons are or may be deprived of their liberty.

Thus, the OP CAT system involves the establishment of a preventive system of regular visits to places of detention by functional and independent bodies (both international and national levels), such as the UN SPT and the NPM. The protection of persons deprived of their liberty against torture and inhuman or degrading treatment or punishment can be strengthened by non-judicial means of a preventive nature, based on regular visits and continuous dialogue with national authorities and international organisations.

The NPM mandate under the OP CAT is to conduct regular preventive visits to all types of places where people are or may be deprived of their liberty. These visits should result with recommendations for improving the protection of people deprived of their liberty, as well as initiating and maintaining a continuous dialogue with the national authorities. The mechanisms can also provide comments on laws and draft laws, national regulations and propose certain reforms.

¹⁴ <http://www.ohchr.org/EN/HRBodies/OPCAT/Pages/OPCATIndex.aspx>



II. ACTIVITY OF THE COUNCIL FOR THE PREVENTION OF TORTURE IN 2022



Several places of detention fall under the scope of the NPM mandate:

- **Prisons:** 17 prisons under the [National Administration of Penitentiaries](#)¹⁵, subordinated to the Ministry of Justice. Out of 17 prisons, 3 are semi-closed prisons, 6 closed prisons, 1 prison for juveniles, 1 prison for women, 1 prison hospital and 5 criminal prosecution isolators.

As of 1 January 2023, according to official information, 6,084 persons were deprived of their liberty in prisons (in comparison with 6,396 persons in 2021), out of which 5,042 convicted and 1,037 remanded in custody¹⁶;

- **Temporary detention isolators (TDIs):** institutions subordinated to the General Police Inspectorate (GPI)¹⁷ of the Ministry of Internal Affairs. Total isolators: 14 territorial and 1 TDI of the Chisinau Police Department.

According to the official information provided to the People's Advocate Office by the head of the GPI, the total number of persons placed and detained in TDIs, in 2021, was 4,605 and, in 2022, there were 4,779 persons detained (information is disaggregated: men/women/juveniles/foreigners).

- **Centre for temporary placement of foreigners**, managed by the Bureau for Migration and Asylum¹⁸, under the Ministry of Internal Affairs;
- **Criminal prosecution isolator of the National Anticorruption Centre**¹⁹;
- **Military Command of the National Army** of the Ministry of Defence²⁰;
- **Psychiatric hospitals** – 3 hospitals subordinated to the [Ministry of Health](#);
- **Temporary placement centres** for adults with disabilities in Brinzeni, Badiceni, Balti, Cocieri and 2 placement centres for children with disabilities in Hincesti (for girls) and Orhei (for boys), public institutions managed by the National Social Assistance Agency, subordinated to the [Ministry of Labour and Social Protection](#).

The Council members meet twice a month in ordinary meetings and during visits. In 2022, the CfPT held 24 meetings.

¹⁵ [Penitenciare/Subdiviziuni subordonate | ANP - Administrația Națională a Penitenciarelor \(gov.md\)](#)

¹⁶ https://drive.google.com/file/d/1lwPQj2QaMNceE2_xb4LNq1H8qf9CbKH8/view?pli=1

¹⁷ <http://politia.md/>

¹⁸ <http://bma.gov.md/ro>

¹⁹ <https://www.cna.md/index.php?l=ro>

²⁰ <http://www.army.md/>



The Council visits were planned on the basis of the Annual Plan of Visits for 2022, which is strictly confidential, being drawn up and approved at the beginning of the year. When planning the visits, CfPT aims to cover all places of detention in different institutions under different authorities.

The visit plan includes the type of preventive visit (monitoring, thematic, detailed), the type of institution, the exact institutions to be visited, the dates of the visits, the composition of the monitoring team and the thematic content to be monitored. All visits are preventive, but, in some cases, the Council may focus the visit on a narrow segment within an institution (detailed visit) or on a specific area where abuse/allegations of ill-treatment have been reported.

An example of the thematic visits of the CfPT in 2022 are 2 unplanned/*ad-hoc* visits to the Codru Clinical Psychiatric Hospital in Chisinau, following which, in collaboration with the People's Advocate Office, a Special Report on monitoring the respect of the rights of patients placed under medical treatment by restraint was drawn up²¹.

Following the visits, reports with recommendations to the authorities are drawn up.

The CfPT focuses not only on verifying the material conditions of detention, but on a broader range of issues covered by the CfPT's preventive mandate.

Thus, during monitoring visits, the following are checked:

- the situation of torture in the place of detention;
- the treatment of detainees/patients/residents;
- the safeguards against torture and other ill-treatment;
- the conditions of detention (including healthcare services);
- the vulnerable groups;
- implementation of recommendations resulting from previous visits of the CfPT.

Public institutions have the obligation to communicate and inform subordinate institutions and employees about the CfPT mandate, ensuring the unrestricted access of members to any place of deprivation of liberty.

In this regard, the Council appreciates the fact that, during the visits, the CfPT members had access to any room in the places of detention visited, to any register and records requested existing at the time of the visit, had the possibility to choose which persons to talk to (including to conduct confidential group and individual interviews with persons deprived of their liberty), to take photos/document the rooms and registers, in line with the provisions of Article 32 of Law No. 52/2014 on the People's Advocate (Ombudsman).

²¹ http://ombudsman.md/news/avocatul-poporului-a-finalizat-si-a-remis-institutiilor-competente-un-raport-special-privind-incendiul-de-la-spitalul-de-psihiatrie-or-codru-care-a-avut-loc-la-data-de-27-octombrie-2022/?fbclid=IwAR3DtmhgG_0agvpDa0N99KrP2Bsirie4wwd7krf5Ok2WCktanz6JO58Er2c



However, the CfPT notes that, in some institutions, there have been isolated cases where: members had to wait for a long time to be granted access to the institution; members had been searched for non-prohibited items (work notebooks); had to wait to enter the detention cells locked from inside; had been denied access and confidential discussion with a particular prisoner sentenced to life imprisonment, for safety reasons. Thus, the CfPT reiterates the continuing need for the authorities to ensure that employees are informed of the mandate and powers of the Council in order to avoid the occurrence of similar situations in the future.

In 2022, the CfPT conducted 20 visits to 23 detention institutions and prepared 19 reports containing 460 recommendations.

Name of institution	Number of visits	Number of visit reports
TEMORARY DETENTION ISOLATORS	7	8
PRISONS	6	5
PSYCHIATRIC HOSPITALS	2	1
TEMPORARY PLACEMENT CENTRES FOR PERSONS WITH DISABILITIES	2	2
NATIONAL ANTICORRUPTION CENTRE ISOLATOR	1	1
MILITARY COMMAND	1	1
CENTRE FOR TEMPORARY PLACEMENT OF FOREIGNERS	1	1
TOTAL	20 VISITS	19 REPORTS

Note: A CfPT Report was preceded by 3 visits to the same institution.



	Category of institutions	Number of visited institutions	Number of visits	Types of visits	Objectives of visits	Categories of persons detained
1	Prisons	5 institutions: Pruncul P No. 16 Rezina P No. 17 Leova P No. 3 Cricova P No. 4 Chisinau P No. 13	6 visits	6 planned visits	<ul style="list-style-type: none"> • situation of juveniles, • situation of women, • situation of persons in pre-trial detention, • situation of adults, • situation of persons in self-isolation or under administrative sanctions, • health of persons in prisons • implementation of previous CfPT recommendations, • NAP interaction with other detention institutions, • situation of NAP staff 	<ul style="list-style-type: none"> • juveniles, • women, • (male) adults, • persons in pre-trial detention, • persons with disabilities.
2	Temporary Detention Isolators	11 institutions: Chisinau PD Causeni TDI Anenii Noi TDI Riscani, Ciocana, Botanica TDI Buiucani, Centre TDI Comrat TDI Orhei TDI Riscani TDI	7 visits	7 planned visits	7 detailed visits: <ul style="list-style-type: none"> • situation of juveniles, • situation of women, • observance of safeguards against torture during the initial detention periods, • situation of prisoners on remand in TDI, • situation of foreigners, • implementation of previous CfPT recommendations, • GPI interaction with other detention institutions, • situation of the GPI staff. 	<ul style="list-style-type: none"> • juveniles, • women, • (male) adults, • foreigners and stateless persons, • persons with disabilities.
3	Centre for Temporary Placement of Foreigners (CTPF), MIA	1 institution	1 visit	1 planned visit	1 detailed visit: <ul style="list-style-type: none"> • situation of foreigners, • situation of juveniles, • situation of women, • situation of persons placed in CTPF, • documentation of persons, • communication of persons with the outside world, including from the country of origin, • implementation of previous CfPT recommendations, • CTPF's interaction with other detention institutions, • situation of the CTPF staff. 	<ul style="list-style-type: none"> • foreigners and stateless persons, • women, • (male) adults, • persons with disabilities.



	Category of institutions	Number of visited institutions	Number of visits	Types of visits	Objectives of visits	Categories of persons detained
4	NAC Isolator	1 institution	1 visit	1 planned visit	<ul style="list-style-type: none"> • verification of detention conditions including implementation of the CfPT recommendations. 	<ul style="list-style-type: none"> • women, • men, • persons with disabilities.
5	Military Command of the National Army	1 institution	1 visit	1 planned visit	1 detailed visit on the situation of adult detainees (as disciplinary sanction) in the Military Garrison.	<ul style="list-style-type: none"> • adult women, men.
6	Psychiatric hospitals	2 institutions PMSI Balti Clinical Psychiatric Hospital PMSI Codru Clinical Psychiatric Hospital in Chisinau, Ward No.10	2 visits	1 planned visit 1 unplanned visit	2 detailed visits: <ul style="list-style-type: none"> • situation of women, • situation of adults, • situation of persons under treatment by constraint, • health of persons, • safeguards against forced and "voluntary" admissions, including judicial ones, • implementation of previous CfPT recommendations, • interaction of the institutions with other detention institutions, • situation of the institutions' staff. 	<ul style="list-style-type: none"> • adult women, men with mental disabilities.
7	Temporary Placement Centres for Persons with Disabilities	2 institutions <ul style="list-style-type: none"> • Temporary Placement Centres for Persons with Disabilities (adults), Brinzeni • Temporary Placement Centres for Persons with Disabilities (male children), Orhei City. 	2 visits	2 planned visits	2 detailed visits: <ul style="list-style-type: none"> • situation of juveniles, • situation of women, • situation of adults, • situation of persons in self-isolation or under administrative sanctions, • health of persons, • implementation of previous CfPT recommendations, • interaction of institutions with other detention institutions, • situation of the institutions' staff. 	<ul style="list-style-type: none"> • women, men, juveniles.
Total 2022		23 institutions visited	20 visits conducted	<ul style="list-style-type: none"> • 19 reports 		



When planning visits and drafting recommendations, the CfPT pays particular attention to the Government's Action Plan for 2020-2023, whereby the authorities have undertaken: to safeguard the rights of persons deprived of their liberty, eradicate torture and ill-treatment, including through the construction of a new penitentiary; modernise the penitentiary system by refurbishing/rehabilitating detention facilities in compliance with the European norms and standards; develop the prison industry; increase the number of economic agents operating within the penitentiary system; reorganise the healthcare services/units in detention institutions to ensure the decision-making independence of the medical workers in the provision of healthcare to persons deprived of their liberty etc.

The activity of the CfPT is also aligned with the provisions of the [Law No. 211/2021](#) on the approval of the Strategy on ensuring the independence and integrity of the justice sector for 2022-2025 and the Action Plan for its implementation.

During the term of office, the members of the CfPT will monitor the progress made by the authorities under the Action Plan, in particular those related to the improvement of the mechanisms for the execution of criminal sentences and conditions of detention; establishment and implementation of the progressive system of execution of criminal sentences; creation of the penitentiary industry with a view to the involvement of convicted persons in work and their re-socialization; evaluation of the application of videoconferencing in criminal cases throughout the judicial system and in all prison institutions, etc.

Comments on relevant laws and draft laws

1. Consultation, draft Law on the amendment of some normative acts (Enforcement Code of the Republic of Moldova – Article 235; Tax Code of the Republic of Moldova) No. 372/2022: <https://www.parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/6206/language/ro-RO/Default.aspx>.
2. Proposals to amend the GPI Order on escorting persons taken into custody.
3. Request of the Ministry of Justice to present the opinion on the concept of the progressive system of execution of the sentence.
4. Participation in the **Working Group on the mechanism of social reintegration of persons released from detention**, which was set up at the initiative of the Ministry of Justice to develop new legislation and policies in the field of social adaptation of former detainees.
5. Participation in the Working Group for drafting proposals for the amendment of the criminal enforcement legislation on the establishment of an individualized and progressive system of execution of criminal sentences, set up on 2 December 2022 on the basis of the Ministry of Justice Order No. 305.



Dialogue between the CfPT and the national institutions responsible for places of detention

1. Parliament of the Republic of Moldova - Joint meeting of the Commission on Human Rights and Inter-ethnic Relations with representatives of the Ministry of Justice and the National Administration of Penitentiaries, held on 26 October 2022, Parliament building. The problems noted by the members of the Commission following unannounced visits to prison institutions were discussed.
2. Ministry of Defence - 17 May 2022, issues were discussed regarding the degree of implementation of the recommendations of the Ombudsman and the Council for the Prevention of Torture previously made to the Ministry of Defence in the thematic reports (including the report on the Păvlescu case) or reports based on the visits. In this regard, it was discussed the set up of a working group and the development of an action plan to support the efforts to promote, respect the human rights, fight discrimination, create a safe and comfortable psychological climate in military units of the National Army.
3. National Administration of Penitentiaries:
 - 11 February 2022 - working meeting to discuss the issues identified by the CfPT following the unannounced visits to prison institutions;
 - 4 July 2022 - working meeting with the representatives of the National Administration of Penitentiaries, subject of discussion being the implementation of the recommendations made following the monitoring visit to Pruncul Prison No. 16.
4. Ministry of Internal Affairs - working meeting to discuss the issues identified by the CfPT as a result of unannounced visits to institutions subordinated to the Ministry of Internal Affairs.
5. National Anticorruption Centre - working meeting to discuss the issues identified by the CfPT following the unannounced visit to the NAC isolator.
6. Ministry of Justice - working meeting at the Ministry of Justice. The topics discussed focused on: (a) ensuring senior and mid-level medical staff for the prison healthcare; (b) providing healthcare to insured categories of detainees (juveniles, pregnant women, pensioners, disabled persons) from the Compulsory health insurance fund; (c) aligning the prison health service with the national health policies in the light of the national health programmes, positive practices and integration options, (d) the need to make changes to the regulatory framework that would clarify the responsibilities and the cooperation framework between the Ministry of Justice and the Ministry of Health, etc.

Dialogue between the CfPT and civil society

1. Participation in the launch of the study **“Judicial practice in examining cases of torture and ill-treatment”**.



2. Discussion with the civil society in the context of the implementation of the project *Advocacy for aligning health policies in places of detention with national standards and promoting comprehensive national response to crisis situations*, funded by the Netherlands Helsinki Committee (NHC) and implemented in the Republic of Moldova in partnership with 3 NGOs: PA AFI, IDOM and Pas cu Pas Southern Region.
3. Participation in consultations on the evaluation of the effectiveness of the mechanism for identifying, recording and reporting alleged cases of ill-treatment, approved by Order No. 77 of the General Prosecutor's Office of 31 December 2013, study conducted by Promo-LEX.
4. Participation in the presentation of the report **„Evaluation of the mechanism for preventing and combating ill-treatment in the penitentiary system of the Republic of Moldova”**, a study conducted by Promo-LEX.

Cooperation of the CfPT with national and international institutions for the protection of human rights

1. Participation in the HUMAN RIGHTS FORUM 2022 Integration of the human rights and equality-based approach in the Agenda for the accession of the Republic of Moldova to the European Union.
2. Participation in the European NPM Conference, **„Monitoring the rights of specific groups of persons deprived of their liberty”** in Strasbourg, France.

Strengthening the CfPT's capacity

1. Council of Europe HELP online course on CPT standards;
2. 2 workshops: purpose and role of the national preventive mechanism, conducting monitoring visits, drafting of CfPT reports.



III. CURRENT SITUATION IN PLACES OF DETENTION IN 2022

General overview. Systemic problems.

Over the last 4-5 years, in the Republic of Moldova, although there has been some significant progress in combating torture and inhuman/degrading treatment, a number of systemic problems remain unresolved and continue to be a challenge.

This was also noted in the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), which conducted a visit to the Republic of Moldova from 28 January to 7 February 2020.²² The purpose of the visit was to assess the progress made in the implementation of the CPT's previous recommendations of 2018 on the situation of detainees in police custody, prisons, psychiatric hospitals and temporary placement centres for persons with disabilities. The CPT noted the improvement in conditions of detention in police custody; provision of the right to information; provision of medical examination upon placement in detention. However, the CPT raised concerns about the failure to ensure the right to legal assistance immediately after the taking into custody; shortcomings in the recording of bodily injuries; failure to ensure confidentiality of medical data.

In the penitentiary system, the CPT did not find allegations/complaints on acts of physical torture but reported the application of psychological torture; excessive use of physical force against detainees; multiple cases of physical violence and intimidation among detainees, as well as the failure to address the issue of non-formal criminal hierarchy; failure to provide a safe and secure detention environment due to staff shortages, criminal subculture, common cells, lack of trust in prison staff; overcrowding; lack/insufficiency of occupational activities; increase in the number of detainees diagnosed with mental health problems; disproportionate application of disciplinary sanctions, etc.

Similarly, the CPT found minor improvements in the treatment of persons placed in psychiatric hospitals and placement centres noting that pharmacological treatment prevails, lack of other therapeutic treatment options, staff shortages and use of restraint measures are major concerns that require clear intervention actions.

²² CPT 2020 report on the Republic of Moldova <https://rm.coe.int/16809f8fa>



From 5 to 15 December 2022, in order to verify the treatment and conditions of detention in prisons, the CPT conducted an *ad hoc* visit to the Republic of Moldova²³. The content of the published report will provide an update on the progress and challenges faced by the authorities.

The problem of investigating cases of torture and ill-treatment at the national level and the increased number of cases before the European Court of Human Rights concerning the Republic of Moldova, in which violations of Article 3 ECHR²⁴ (prohibition of degrading, inhuman treatment and torture) remain a major problem. According to an analytical paper of December 2022, prepared by the Legal Resources Centre from Moldova (LRCM), Judging and sanctioning torture and ill-treatment - the analysis of judicial practice²⁵ from 2013 to 2022 established that out of 71 irrevocable decisions of the Supreme Court of Justice, in which 102 persons are accused, 75% of the analysed court judgements refer to the accusations against police officers, employees in the field of education (8%) and representatives of private security services (6%). 73 of the 102 persons charged have been sentenced. A further 17 persons were acquitted, while for 12 persons the trial was discontinued due to procedural reasons, such as the expiry of the limitation period or the resumption of the prosecution with violations. The acquittal rate in these cases is five times higher than the average acquittal rate in the judicial system (around 3%). 59% of the first instance sentences were quashed in the appeal courts. At the Supreme Court of Justice, 3 out of 4 appeal court judgements are upheld. The average length of time for the trial of a case of torture and ill-treatment is 6 years.

By 1 June 2022, the European Court of Human Rights had delivered 119 judgements, finding 169 violations of Article 3 ECHR committed by the Republic of Moldova. The majority of these violations relate to ill-treatment (38), inadequate investigation thereof - 42 and poor conditions of detention - 48, according to the Summary of violations found by the European Court of Human Rights against the Republic of Moldova²⁶ in relation to Article 3 ECHR, prepared by the LRCM in 2022.

According to an Infographic²⁷ "How torture and ill-treatment is combated in Moldova", prepared by the LRCM in 2021, the number of complaints of ill-treatment decreased by 50% in the last decade, although their volume remains quite high. In 2019, the highest number of complaints to the Prosecutor's Office was recorded - 876, a number decreasing to 511 in 2021. In 2021, the prosecutors started investigations only in 1 out of 11 complaints of ill-treatment received and the average duration of initiated investigations is 1-2 years.

²³ CPT visit to Moldova 2022 <https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-cpt-carries-out-a-visit-to-moldova>

²⁴ <https://hudoc.echr.coe.int/eng#{%22languageisocode%22:%22ENG%22,%22respondent%22:%22MDA%22,%22article%22:%223%22,%22documentcollectionid%22:%22GRANDCHAMBER%22,%22CHAMBER%22,%22violation%22:%223%22}}>

²⁵ Analytical document LRCM <https://LRCM.org/judecareea-si-sanctionarea-torturii-si-a-relelor-tratamente-analiza-practicii-judecatoresti/>

²⁶ Summary of violations of Article 3 ECHR by the LRCM <https://crjm.org/wp-content/uploads/2022/06/Sinteza-violarii-constatate-in-privinta-RM.pdf>

²⁷ Infographic LRCM <https://crjm.org/wp-content/uploads/2022/06/Infografic-MATRA-copy.pdf>



Thus, the most important systemic problems relating to the prevention and fight against torture previously identified by the CfPT, also remain relevant in 2022:

- The massive flow of staff and the large number of vacancies which prevent the effective and efficient performance of the duties of institutions holding persons deprived of their liberty and ensuring the respect for the rights of these persons.
- Lack of mechanisms for filing effective complaints/confidential information to prosecutors, People's Advocate (Ombudsman) or NGOs.
- Documentation and reporting of bodily injuries in accordance with the (joint) Order No.77 of 31.12.2013 of the General Prosecutor's Office is largely not conducted in accordance with the order.
- Total lack (*de jure* and *de facto*) of safeguards against torture or other ill-treatment in the Detention Isolator within the Chisinau Garrison under the Ministry of Defence of the Republic of Moldova.
- Deficiencies in the medical examination of persons taken into custody, upon each entry and exit to/from the institution.
- Lack of independence of the medical staff, failure to observe confidentiality of medical data and lack of confidential mechanisms for reporting bodily injuries found.
- Overcrowding in prison institutions.
- The presence of informal relationships between inmates continues, caused by the phenomenon of criminal subculture, which persists in most prison institutions.
- The material conditions of detention in most custodial institutions are below national and international standards.
- The detention conditions are not adapted to the special needs of detainees with disabilities.

However, some progress has been recorded in this area: increased efforts of the authorities to reduce the number of cases of persons being deprived of their liberty beyond the legal time limit; improvement of material conditions in the temporary detention isolators and some sectors in prisons; development of the related legal framework on compliance with standards in places of detention, continued reduction of the number of persons detained in the penitentiary system, application of amnesty mechanisms, etc.



III.1. Situation in the places of detention in institutions subordinated to

III.1.1. Ministry of Internal Affairs (MIA)

Treatment of detained/ apprehended persons in places of detention in institutions subordinated to the General Police Inspectorate of the MIA



Temporary Detention Isolators

There are 14 territorial detention isolators in the country, 1 TDI of the Chisinau Police Department and the Chisinau National Anticorruption Centre isolator. 11 isolators, the TDI of the Chisinau PD and the NAC isolator have been renovated with European Union funds and put into operation in 2020. During 2022, the CfPT conducted 7 preventive monitoring visits to the territorial temporary detention isolators (including in Chisinau) and one visit to the NAC isolator.

The material conditions of detention in the vast majority of the visited isolators correspond to international standards, which the CfPT welcomes. The temporary detention isolators are subordinated to the General Police Inspectorate, and the largest capacity is held by the TDI of the Chisinau Police Department (22 cells, 76 places). By GPI Order No. 380 of 21.10.2019, the Instructions on the organisation and functioning of the TDI and the necessary measures for their provision were approved. The order regulates the procedure of reception, distribution of persons taken into custody in the TDI;



ensuring the rights of detainees (access to lawyer, notification of third parties, doctor, health care, procedure of examination of complaints/requests); visits; transmission of objects; walks; obligations of detainees; regime; food; conditions of application of physical force, special means, firearms; minimum requirements regarding the material conditions in cells; nomenclature of completed registers, etc.

Problems/impediments encountered by representatives of Police Inspectorates

The CfPT notes that some of the problems previously found have been resolved, for example, a significant reduction in the number of cases of exceeding the 72-hour detention period, due to the non-admission of persons to prisons after 5 p.m. and on days of rest or public holidays; the lack/insufficiency of means of transport or fuel, which led to exceeding the legal detention period; cases where lawyers do not appear on time for detention, etc.

The most current problems observed in TDI are:

- Staff shortage (large number of vacant positions). According to the official information provided by the GPI for 2022, the total number of positions according to the staffing lists is of 9,156 positions, of which 1,195 are vacant. During 2022 -793 were hired and -1,199 dismissed.
- Lack of medical staff in the 24/24 isolators, which creates impediments in ensuring the mandatory medical examination at each entry-exit in/from the isolator;
- Lack of a psychologist position in the staffing lists, which could create difficulties in the proper management of conflict situations, self-injury, inter-prisoner violence, etc.
- Lack of accommodation of TDIs to the needs of persons with disabilities (only 3 TDIs are adapted).

According to the statistical information for 2021/2022 provided by the GPI:

- The General Police Inspectorate **did not record** any cases of ill-treatment of persons taken into custody by police employees in 2022.
- The number of complaints on torture/ill-treatment and the number of cases initiated on complaints in 2022 registered **16 criminal cases** under the provisions of Article 166/1 of the Criminal Code, **44 cases (complaints, appeals) on ill-treatment committed by police employees**, based on which 44 workplace investigations were initiated. In 17 cases, **no** misconduct **was found** in the actions of the employees, in 3 cases, criminal cases against police employees were initiated by the Prosecutor's Office, and in 6 cases against civilians, reports were drawn up on contraventions under Article 342 of the Contravention Code of the Republic of Moldova No 218/2008 (intentional false calling of specialized services).



Summarizing the information provided, we note that although the General Police Inspectorate did not register cases of ill-treatment of persons taken into custody by police staff, nevertheless, 44 referrals and 16 criminal cases initiated under Article 166/1 of the Criminal Code represent a major concern, which confirms the presence and extent of the phenomenon of torture in places of detention.

- In 2021, **23 criminal cases** were recorded pursuant to the provisions of Article 166/1 of the Criminal Code, 56 cases (complaints, appeals) regarding ill-treatment committed by police employees, on the basis of which 56 service investigations were initiated. In 28 cases in the actions of police officers no violations were found, in 4 cases, criminal cases were initiated by the Prosecutor's Office under Article 166/1 Criminal Code and 1 criminal case under Article 201/1 Criminal Code.

The statistics for 2021 are even worse, however compared to 2022, we observe a slightly decreasing trend of the phenomenon of torture.

- In the police inspectorates under the General Police Inspectorate, **during 2022, 507 alleged acts of torture, inhuman or degrading treatment were recorded** in the Register for the receipt and submission of complaints, statements or other information about alleged acts of torture, inhuman or degrading treatment, all of which were reported to the Prosecution bodies.

The large number of incidents recorded, 507, confirms that the authorities need to take concrete and effective measures to reduce the number of incidents and ensure safeguards against ill-treatment.

- The physical force, firearm and special means upon taking into custody and in police isolators were applied, in 2022, in 4 cases and, in 2021 - 9 cases.

A concern maintained by the CfPT over the years is the high number of cases where the legal duration for the holding in custody of persons (72/48 hours) is exceeded.

- The number of persons placed and detained in the Temporary Detention Isolators within the territorial subdivisions of the Police subordinated to the General Police Inspectorate for **2021 was of 4,605 (most of them in TDI Chisinau PD - 1727). Of the total number of persons held in custody, 3,129 were held up to 72 hours and 1,476 for more than 72 hours.**
- For 2022, the number of persons placed in TDIs was 4,779 (1,983 - TDI Chisinau PD); of the total number of 3,682 up to 72 hours and **1,097 more than 72 hours.**

According to the authorities, this phenomenon was caused by various reasons (refusal of penitentiaries to receive people after 5 p.m. or on Saturdays and Sundays, the long time required to establish the identity of persons, the COVID-19 pandemic), etc.

The CfPT stresses the need to observe the legal time limit for the holding in custody, as a safeguard against ill-treatment and torture and emphasises the need to resolve the problems that generate such situations.

According to official information from the General Prosecutor's Office *versus* complaints about torture and ill-treatment recorded and examined by the prosecution bodies:

- in 2021, 486 complaints for acts of ill-treatment and 12 cases of acts of torture were recorded;
- in 2022, 453 complaints for acts of ill-treatment and 14 cases of acts of torture were recorded.

Most complaints by place of torture or ill-treatment were committed in the street or other public places; in police inspectorate premises and in prison institutions.

In 2022, 55 criminal cases were filed pursuant to Article 166/1 (1), (2); and 3 criminal cases on Article 166/1 (3), (4).

Treatment of persons detained in police custody



a) Abuse by police staff

During the preventive visits conducted by the CfPT members during 2022, no cases of physical force, abuse or other forms of ill-treatment by GPI MIA employees (including the escort service) were directly identified. At the same time, CfPT would like to underline that, at the time of the visits, only in 2 of the visited places detainees were placed with whom discussions were held.

Signs of torture or allegations of acts of torture, identified in the Register for cases of application of bodily injuries/trauma/self-harm/declaration of hunger strike and the Register of violent incidents, application of physical force or special means in TDIs, referred to:



- disproportionate application of physical force by police staff at the stage of taking into custody of persons and causing bodily harm to persons taken into custody;
- causing bodily harm in other circumstances not attributable to police staff (altercations with other persons, incidents in domestic conditions, accidents, etc).

Analysing the statistical data received from the GPI for the year 2022 (507 complaints in 2022) the CfPT notes with regret that although the phenomenon of torture and ill-treatment of persons in police custody has decreased, the reported figures still remain worrying.

b) Violence among apprehended/detained persons

During 2022, the CfPT did not receive any allegations nor did it find from the analysis of the records any cases of inter-prisoner violence. In this respect, we would like to point out that there have been visible improvements in the prevention of violence through the establishment of preventive and safety measures. The death case of Andrei Braguta in the custody of the authorities revealed the systemic problems in this segment, and the recommendations of the People's Advocate Office set out in the Special Report²⁸ on the investigation of the circumstances of the case have been taken into account by the authorities in order to improve the situation.

To prevent inter-prisoner violence, there was set up the procedure of screening and distribution in cells (smoker/non-smoker, placement of mentally disabled persons separately from other detainees, separation of persons with obvious signs of illness (cough, confirmed tuberculosis); installation of working alarm buttons in all cells; presence of 24/7 video surveillance in cells, etc.

Thus, although no major problems have been noted, the Council will continue to pay particular attention to this segment including to sporadic/isolated cases that have occurred.

Safeguards against torture and other ill-treatment in the initial periods of detention

Three rights of persons detained by the police are considered by the CPT to be of particular importance: the right of the person concerned to have the fact of his/her detention notified to a third party of his choice (family member, friend, another relative), the right of access to a lawyer, and the right to request a medical examination by a doctor of his/her choice (in addition to any medical examination carried out by a doctor called by the police authorities). They are, in the CPT's opinion, three fundamental safeguards against the ill-treatment of detained persons, which should apply as from the very outset of deprivation of liberty, regardless of how it may be described under the legal system concerned (apprehension, arrest etc).²⁹

²⁸ Special PAO Report https://ombudsman.md/wp-content/uploads/2019/03/BRAGUTA_Report_pdf_FINAL-1.pdf

²⁹ Excerpt from the 2nd General Report [CPT/Inf (92) 3]



Access to legal advice

Access to a lawyer for persons in police custody should include the right to contact and be visited by a lawyer (in both cases the confidentiality of discussions should be guaranteed) and, in principle, the right of the person concerned to have their lawyer present during questioning³⁰.

To be fully effective, the right of access to a lawyer should be guaranteed as from the very outset of a person's deprivation of liberty. The CPT has repeatedly found that the period immediately following deprivation of liberty is when the risk of intimidation and physical ill-treatment is the greatest. Further, the right of access to a lawyer should apply as of the moment of deprivation of liberty, irrespective of the precise legal status of the person concerned; more specifically, enjoyment of the right should not be made dependent on the person having been formally declared to be a "suspect"³¹.

During the visits, the CfPT found that the right of apprehended/detained persons to be assisted by a lawyer is respected. All TDIs are provided with spaces (clean, equipped with table, chair, ventilated, with access to light and heating) specially arranged for confidential interviews with lawyers, complaints about limitation of the duration, impediments, failure to observe confidentiality were not found.

Access of apprehended persons to medical examination and medical assistance provided

The CPT stressed that ***the effective screening for injuries by health-care staff can make a significant contribution to the prevention of ill-treatment of persons detained by the police***³². The right to medical assistance, besides being essential for persons in need of medical care, is one of the fundamental safeguards against ill-treatment for any person in police custody. ***It is, therefore, essential that this right is guaranteed from the earliest stage of detention.***

The CfPT notes and welcomes the fact that some of the problems/impediments previously exposed by the CfPT regarding the access of persons in custody to medical examination, as well as the recommendations for redressing the situation, have been resolved, as noted following the visits in 2022.

Medical assistance in TDI is regulated by the GPI Order No. 380 of 21.10.2019.

Overall, the CfPT notes the following improvements: all TDIs have specially equipped spaces for the provision of medical care (although not all meet the minimum quality requirements); the medical care is usually provided by a feldsher; no lack of medicine stocks or first-aid medical devices was noted; the template of medical records to be filled in are unified (although they are unevenly and sometimes incorrectly filled

³⁰ CPT Rules, revised 2015, point 38

³¹ CPT Rules, revised 2015 <https://rm.coe.int/16806ccd1f>

³² <https://rm.coe.int/16806975ab>



in); the medical premises are not video-monitored; the continuity of treatment for tuberculosis, HIV/AIDS and opioid addiction is partially ensured.

However, in terms of the issues that could generate violations it was found: the medical examination does not take place in all cases, immediately at each entry-exit from the isolator; confidentiality of medical data is not respected in all TDIs; there are no qualified persons to provide psychiatric/psychological assistance in any of the institutions subordinated to MIA; there is no policy to identify persons with suicidal tendencies and place them under supervision and there is no staff to conduct such assessments; possible lack of independence of the medical staff is noted (they are employed by the TDI).

In terms of documenting and reporting bodily injuries, the CfPT notes that, in some TDIs, the feldshers only formally describe the bodily injuries found, without reporting their origin. At the same time, not all medical staff is trained and aware of the provisions of the Istanbul Protocol³³ and the (joint) Order No. 77 of 31.12.2013 of the General Prosecutor's Office on the approval of the Regulation on the procedure for identifying, registering and reporting the alleged cases of torture, inhuman or degrading treatment. Respectively, the medical staff providing medical care to the detained persons and who made the entries in the registers, do not undertake any further action under Order No. 77 of 31.12.2013. Double loyalty seriously affects the documentation and reporting of bodily injuries to detained persons. There is currently a lack of confidential mechanisms for reporting bodily injuries found, as well as safeguards to protect the medical staff from retaliation by the administration or colleagues.

As in the previous period, medical care to detained persons is provided by the medical staff employed by the institution, by escorting them to a medical institution under the Ministry of Health or by calling the 112 service. The Council established that there are no procedures in the TDI that would establish operational conduct of persons who have declared hunger strike.

The Council notes that not all the medical offices in the TDI meet the sanitary-hygienic requirements, in particular the safety of medical operations is not complied with. The waste resulting from the medical activity, contrary to the provisions of Law No. 209 of 29.07.2016 on waste, is unsafely collected, thus there are risks to the health of detainees and employees.

The Council maintains the recommendation to comply with the Sanitary Regulation on hygiene conditions for health care providers³⁴, and the need of (harmless) destruction of expired medicines in line with the legislation in force, including the MoH Order No. 9 of 06.01.2006 "On the non-hazardous disposal of medicines with expired shelf life, counterfeit, with quality deficiencies or without source (accompanying) documents".

³³ <http://www.icarfoundation.ro/wp-content/uploads/2011/09/Istanbul-Protocol-in-Romanian.pdf>

³⁴ Sanitary regulation on hygiene conditions for medical service providers, approved by Government Decision No. 663 of 23.07.2010 <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=335428>



The need to comply with Recommendation No. R (1998) 7 of the Committee of Ministers, which sets out the basic principles for dealing with the problem of hunger strikes, is also maintained³⁵.

Notification of custody

Notification of custody is an essential safeguard of the detained person, which should be ensured. The telephone should be available, free of charge, functional and the privacy and confidentiality of telephone conversations by persons apprehended/detained should be ensured.

From discussions with detained persons, it has been established that the right to inform a relative regarding the placement into custody is respected. However, TDIs do not have a telephone in order to ensure the right of apprehended/detained persons to notify their relatives/lawyer on their placement into state custody. Thus, if the detainee requests to inform a relative or requests a meeting with the lawyer, then the radio station in the isolator is used to notify the Guard Unit staff who informs the relatives or contact the lawyer, as appropriate. As an exception, only in the isolator of the National Anticorruption Centre there is a functional telephone, but it is located in the corridor and the confidentiality of the calls is not ensured.

Moreover, CfPT noted the presence of a mobile telephone only in one isolator, which, according to the staff, is handed to the person detained in order to make the notification call.

Information regarding the rights

CfPT notes that when people are detained, they are provided standard forms on the rights/obligations of the detained person, and the information is also recorded in a separate register. In most of the visited TDIs, information boards with leaflets on the rights of detainees (including in several languages); the mandate and contact details of the PAO, the CfPT mandate, the contact details of public institutions (Prosecutor's Office, healthcare institutions, lawyers), etc. are posted in the corridor. However, in the cells, in the visiting room, there are no printed excerpts with the rights of the detainees or information on the CfPT mandate, therefore the access of detainees to information on their rights is limited. Thus, it is recommended to update and place information on the rights/obligations of detainees (including in other languages) also in the cells/walking yard, with the inclusion of information on the mandate of the CfPT and/or other institutions responsible for the protection of their rights.

³⁵ (1) Hunger strikers should be given an objective explanation of the harmful effects of their action upon their physical well-being, so that they understand the dangers of prolonged hunger striking. (2) The clinical assessment of a hunger striker should be carried out only with the express permission of the patient, unless he or she suffers from serious mental disorders which require the transfer to a psychiatric service.



Registers

The General Police Inspectorate Order No. 380 of 21.10.2019 provides the nomenclature of registers filled in TDIs to which the CfPT had unrestricted access in all the places visited. The CfPT notes an uneven practice for filling in the registers, such that in some TDIs no objections were raised versus the quality of the records in the registers and, in other TDIs, the registers were either missing, blank or incorrectly/incompletely filled in. Thus, an internal management problem rather than a systemic problem is noted. The overall analysis of the registers shows that, sometimes, in some registers, the information is duplicated and certain compartments are incorrectly filled in, so it would be recommended to revise some unnecessary or repetitive headings.

The overlap of information in the registers of cases of torture, incidents, injuries, with the medical registers, does not coincide in all cases, neither the information on the injuries, nor the circumstances of their occurrence.

Complaints procedure and communication with the outside world

The procedure for managing the complaints is not sufficiently clear, the mechanisms for dealing with complaints, the possibility to file them, who examines them, the results, etc. are not clear. In many TDIs, the Register for the receipt and submission of complaints, statements or other information on alleged acts of torture, inhuman or degrading treatment with information to the prosecutor for 2022 is not filled in, therefore detainees either did not submit complaints or did not have a real possibility to submit them.

In the TDIs, there are no mailboxes, no telephones, no paper, pens, envelopes, stamps available (although it is claimed that they are issued on request) to ensure the exercise, when needed, of the right to file complaints. The information boards accessible inside the isolators do not include information on the complaints/request procedures, both internal (addressed to the head of the isolator, the head of the Inspectorate) and external (addressed to the Prosecutor's Office, the People's Advocate/Ombudsman, the Parliamentary Committees, the President of the Republic of Moldova, the Council for Prevention of Torture).

Detention conditions in the places of detention in institutions subordinated to GPI MIA

Living conditions

Material conditions of detention in TDI cells are satisfactory and meet national and international standards. The cells are not overcrowded, are clean, have 1, 2 or 3 bunk beds with stairs to reach the 2nd level; there is a table and chairs corresponding to the number of beds in each cell; the walls are clean without traces of mould; the temperature in the isolator and cells was in compliance with the standards; humidity was not high; no insects or rodents were observed; access to daylight is ensured by the



presence of large windows; artificial light at night/in the evening is functioning; the ventilation system is functional. In each cell, there is a device installed on the wall next to the door, through which the detainee can call or ring up the guards, if necessary. In other rooms of the isolator (medical office, visiting room, kitchen, storeroom) the conditions were satisfactory, normal humidity, artificial lighting, temperature was in compliance with the norms. In the TDIs there is a cell with a glass door provided for holding people with phobias.

An unresolved problem affecting all TDIs in the country is the lack of infrastructure adapted to the needs of people with disabilities, especially locomotor disabilities (the presence of stairs is an impediment to access many common areas).

The kitchens are equipped with microwave oven, cooker, refrigerator, washing machine, washbasin, etc. The isolators have a few lockers with padlocks where the belongings/clothes of the apprehended/detained persons can be kept.

These significant improvements were found in the 2020 CPT Report ³⁶.

Hygiene and access to the bathroom for detained persons

In the majority of TDIs visited, the beds, mattresses and bedding were clean (some new). Each cell had a space (isolated from the cell by a wall and a double glass door reaching to the ceiling) where the toilet (functional, clean, ventilated) the shower head (hot and cold water) and a functional faucet, where people can maintain daily hygiene, are located. There were personal hygiene items in the cells, and upon request, the administration distributes personal hygiene products to detained persons - toilet paper, soap, shampoo, tissues, towel, toothpaste and toothbrush.

Water and food

All persons in TDIs have unlimited access to drinking water. Food is provided 3 times a day on the basis of contracts with economic agents that deliver food in sealed boxes (except for TDI Riscani). Food is distributed to detainees in their cells. In some TDIs, the possibility of consumption of food delivered by parcels by relatives has also been allowed (although very rarely and only products that do not require thermal preparation). All TDIs also have a fridge where food sent by parcel can be stored.

However, the CfPT notes that there are no special diets in case of presence of chronic diseases in apprehended/detained persons; the employees of the isolator distribute food without a health notebook with the respective mentions regarding the medical check-up and hygiene training; there is no procedure for collecting food waste.

³⁶ 2020 CPT Report Moldova <https://rm.coe.int/16809f8fa8>



Daily activities

Apprehended/detained persons have unrestricted access to the outdoors and daily walks, time is monitored by recording the walks in the walking log. The yards for walks are clean and have a roof in case of rain. Apprehended/detained persons have limited access to newspapers, radio, books in the isolator library.

As the placement is for a term of up to 72 hours, the Council recommends that the administration identify occupational activities to maintain the mental health of the detained persons and to provide psychological support services, upon request. Although the position of a psychologist in the TDI's staffing lists for detained persons is not provided for, the CfPT recommends assisting them, upon request, by a psychologist to overcome stress, anxiety, inter-prisoner violence, cases of self-harm, etc.

Transportation of persons detained in police custody

The GPI Order No. 527/2017 approved the minimum mandatory standards for detention facilities and vehicles intended for the transportation of persons detained in police custody. Most of the TDIs visited had at least 2 means of transport that were revamped and adapted to the safety standards for transporting persons detained in police custody. During 2022, the CfPT did not record any allegations of ill-treatment/torture by employees of the security and escort service.

However, an unresolved issue remains the failure to provide detainees with water and food during escort and the restriction of bathroom access during transportation.

III.1.2. Situation in the places of detention of the Centre for Temporary Placement of Foreigners (CTPF), General Inspectorate for Migration of the MIA

Pursuant to the **Law No. 200/2010 on the foreigners' regime**,³⁷ Article 65 provides that: foreigners in public custody are placed in the Centre for Temporary Placement of Foreigners. The Centre is a specialized structure, administered by the competent authority for foreigners, intended for the temporary accommodation of foreigners declared undesirable or against whom the measure of return or expulsion has been ordered and who have been taken into public custody.

Placement under public custody, pursuant to Article 64 of Law No. 200/2010, is a measure restricting the freedom of movement, enforced by the Court against the foreigner, who has not executed the return decision or who could not be returned within the time limit provided by law, who has crossed or attempted to illegally cross the state border, who has entered the country within the period of a previous entry ban, whose identity could not be established, who has been declared undesirable, against whom expulsion has been ordered or if there is a risk of their abduction. The maximum period of placement into public custody may not exceed 12 months.

³⁷ Law No. 200/2010, https://www.legis.md/cautare/getResults?doc_id=123027&lang=ro



By Government Decision No. 493/2011 the Regulation of the Centre for Temporary Placement of Foreigners was approved, which provides that the Centre is a specialized structure, subordinated to the competent authority for foreigners and intended for the temporary accommodation of foreigners declared undesirable or against whom the measure of return or expulsion has been ordered and who have been placed into public custody. The regulation lays down the procedure for placing foreigners in the Centre, the rights and obligations of foreigners, the rules of movement, etc.

The Centre is structurally set up of 3 specialised services - Security and Access Service, Identification and Escort Service; and Logistics Service. According to the organisational structure, the Centre has 39 positions, at the time of the visit 33 positions were occupied, 5 women were employed. The accommodation capacity of the CTPF is of 160 persons. Foreigners are placed in the Centre on the basis of a court order and can be held from 30 days to 6 months and undesirable persons up to 12 months. On average, up to 40 persons are held in the centre for a period of approximately 40 days each year.

Treatment of persons in custody

According to CPT standards, detention of foreigners should be a measure of last resort after careful and individual consideration of each case. Prolonged detention without a time limit and with unclear prospects of release could be considered inhuman or degrading treatment.

Guarantees for the detention of foreign nationals include access to a lawyer, access to a doctor and informing a third party or relative regarding the detention. In addition, as a guarantee³⁸, foreigners should be able to benefit from consular services, have access to a translator, benefit of an appeal against the decision of the judicial body ordering the deprivation of liberty and regular re-evaluation of the decision on deprivation of liberty.

Although the CfPT did not receive any allegations of torture or ill-treatment from employees or other persons, it was nevertheless found that some safeguards against torture were not complied with. The Register for the receipt and submission of complaints, statements or other information on alleged acts of torture, inhuman or degrading treatment was not available in the Centre. The primary physical examination was conducted by an employee/staff without medical education; CTPF does not have medical workers on staff available at any time of day or night, therefore the right to a medical examination of persons, at every entry or exit from the Centre, is not observed. The medical examination should correspond to the rigours and requirements provided in the Istanbul Protocol and the Order of the General Prosecutor's Office No. 77 of 31.12.2013, but these requirements are not respected either by the CTPF employees or by the medical staff of the Border Police (responsible for providing health care to persons in CTPF custody).

³⁸ <https://www.coe.int/en/web/cpt/safeguards-irregular-migrants>



Safeguards against torture and other ill-treatment

Notification of detention

Pursuant to CTPF Regulation point 21, 18, 119 after placement, the foreigner has the right to inform his/her family, lawyer or other person of the place where he/she is placed. The communication shall be conducted in writing, by telephone or by other means, free of charge. Foreigners can benefit from the right to correspondence and telephone services at their own expense. The placed foreigners have the right to meetings with relatives and other persons specified by them, lasting from 1 to 4 hours.

The CfPT notes the presence of public telephones and mailboxes, foreigners are not restricted in their right to visits, however the telephone calls are limited, being conditional on the availability or lack of money to purchase telephone cards. At the same time, it is noted that the possession of mobile phones in CTPF **is prohibited, but not the access to the Internet**, so that foreigners could contact/communicate with relatives, free of charge, via electronic means of communication, but in the absence of phones/laptops this right is conditional on the consent of employees.

Access to a lawyer

The Law No. 200/2010 and the CTPF Regulation provide for the right of foreigners to benefit from free or contractual legal assistance. There is no limit to the frequency of meetings with the lawyer, the meetings are conducted in a confidential manner and their number cannot be limited. Furthermore, the foreigner is also allowed to inform the lawyer or another person of the place where he/she is placed. The Centre has specially equipped rooms for visits, which have a table, chairs and other facilities (the rooms are clean, heated during winter, ventilated, with access to natural light). Information leaflets on the rights of asylum seekers/refugees and the contact details of the Law Centre of Advocates are available in the visiting rooms. No complaints on the non-compliance with this safeguard were received.

Information on the rights of persons placed in the Centre

The Law No. 200/2010 on the foreigners' regime provides in Article 66 (3) that: "foreigners who stay at the Centre have the right to be informed in writing, immediately after their accommodation, in the language they speak or understand, about the main reasons that led to the measure taken, about their rights and obligations during their stay at the Centre." The Council found that the Register for information on rights and obligations is not available **in the Centre** and that the access of the detained persons to information on their rights is limited, as the information translated on the notice boards is about the rights of asylum seekers/refugees and not about their rights and obligations while in the institution.

Another finding that has not been resolved concerns the right to a translator, thus, in 2022, there is no person employed as a translator in CTPF. Given the multitude of countries of origin of foreigners, it is not clear how this safeguard is observed, how



communication is conducted with foreigners and how their rights and obligations are explained to them. In this regard, the CfPT recommends ensuring the access of the persons placed to a translator, either by including this position in the staffing list or by identifying the financial means to contract the services of a translator, when necessary.

Procedure for managing the requests/complaints

The CfPT found that foreigners can send letters both to the management of the centre and to other bodies (there is an accessible mailbox on the territory), the correspondence is not censored and is recorded in separate registers. All requests submitted to the administration are registered and examined (most concern the right to telephone calls and visits). For sending external (national) correspondence on request, the foreign detainees are provided with stamps, envelopes, pen, paper, etc.

However, the CfPT's biggest concern is the lack of the Register for the receipt and submission of complaints, statements or other information on alleged acts of torture, inhuman or degrading treatment. Foreigners who do not know the state language and do not benefit from an employed translator cannot complain about potential abuse or inhuman/degrading treatment.

Access to medical examination

The regulatory framework, which regulates the provision of healthcare services to persons placed in public custody, is provided for in *Government Decision No. 493/2011/Regulation CTPF pct. 181-202; MIA Order No. 354/2015 on the approval of the Instructions on the internal order of the Centre for Temporary Placement of Foreigners and MIA Order No. 345/2014 on the approval of the Instruction on the procedure of directing, receiving, medical investigation and treatment of asylum seekers, beneficiaries of humanitarian protection and foreigners placed in CTPF.*

The competent authority for foreigners within the Ministry of Internal Affairs is responsible for creating conditions for the maintenance, provision of medical care and hospitalisation of foreigners placed in the Centre. Upon placement in the Centre, foreigners are subject to mandatory medical check-up, including chest X-rays, laboratory tests to exclude infectious and parasitic diseases (including communicable diseases). Out-patient medical care should ensure confidentiality and should not offend the dignity of the foreign national, should be conducted in the presence of the nurse and of the interpreter of the same sex as the foreigner (in the event of a language barrier). The results of the examination, which contain data on the foreigner's mental and somatic state, is recorded in the medical examination record of the person placed in the Centre (F-025/e), as well as in the Register of medical examinations of persons upon placement in the Centre. The medical care in the Centre is provided free of charge whenever necessary or upon request. Urgent medical care (at the pre-hospital stage) is provided at the Centre's medical point. Treatment of the illness detected may be conducted on the premises of the medical point or by hospitalisation.



The medical staff conducting the medical examination has the obligation to report to the head of the Centre if he/she finds that the foreigner has been subjected to torture, cruel, inhuman or degrading treatment or other ill-treatment, and to record in the medical file, the facts found and the foreigner's statements related to this. All cases of ill-treatment or trauma of foreigners are recorded in the Centre's Register for recording trauma. In cases of ill-treatment, the foreigner has the right to ask to be examined, at his/her own expense, by a doctor outside the Centre, recommended by the Centre, or by a forensic doctor. The findings of the doctor from outside the Centre will be recorded in the medical file of the person placed and the forensic medical certificate will be enclosed to the medical file, after the foreigner has become aware of its content, against signature.

Findings of the CfPT on medical care in the CTPF

- Pursuant to the MIA Order No. 354 of 31.12.2015, the medical staff performs the service, as a rule, between 8.00-17.00, **and in practice there is no medical staff on the Centre's staff lists.**
- The CTPF administration claims that the mechanism for organising medical care to persons placed in CTPF takes place through escorting foreigners to the healthcare service of the Border Police or visits to CTPF of the doctors from the General Inspectorate of Border Police. In practice, this mechanism does not provide compliance with the safeguards for the prevention of torture and ill-treatment due to non-enforcement of:
 - a. confidential medical examination at each entry and exit into/from the institution;
 - b. documentation and reporting of all bodily injuries in accordance with the national acts and the Istanbul Protocol;
 - c. ensuring uninterrupted continuity of treatment upon placement and discharge in/from the institution.
- **Documentation and reporting of bodily injuries in accordance with** *(the joint) Order No. 77* of 31.12.2013 of the General Prosecutor's Office regarding the approval of the Regulation on the procedure for identifying, registering and reporting the alleged cases of torture, inhuman or degrading treatment **is not carried out.**
- The MIA Order No. 354 of 31.12.2015 and the MIA Order No. 345 of 24.11.2014 expressly provide for the performance of mandatory primary medical examination for the purpose of prophylaxis of diseases endangering public health (tuberculosis, lues, HIV infection, viral hepatitis) with their registration in the ambulatory patient file and subsequent medical supervision. The CfPT finds that the mandatory nature of this provision violates the patients' right to confidentiality because the interviewed foreigners claimed that although blood samples are taken from them, they are not informed on the kind of investigations or what the results of the investigations are.



- **HIV investigation is included as a mandatory criterion for placement in the Centre³⁹**, which is contrary to the current legislation of the Republic of Moldova and international recommendations. The Principle 9 of the United Nations Basic Principles for the Treatment of Prisoners states that “prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation” and that health services in prisons should have professional, ethical and technical standards equivalent to those applicable to public health services in the community. Thus, international recommendations expressly provide for prisoners’ access to testing for HIV, viral hepatitis and sexually transmitted infections, at all times, while in detention. Respectively, the screening of the mandatory infectious diseases in places of detention is more a matter of commitment of the administration and the imposition of standard operating procedures for implementation, but without limiting the patient rights.
- CTPF has a specially designed space for medical examination in conditions of confidentiality, however the medical examination is not conducted upon placement in the centre, but the next day, the person taken into custody is escorted to the healthcare service of the Border Police, where he/she is examined. Upon placement in the centre, the duty officer, who is not medical staff, visually examines the foreigner for any physical injuries. Thus, the security of personal medical data and medical examination of foreigners under confidential conditions upon entry and exit from the CTPF is not ensured. The persons, who do not have medical or nursing duties, should not have access to medical information.
- The Council finds that the medical data of the persons are kept in the medical office **with free access**, where non-medical staff also has access, and therefore the requirements for guaranteeing the confidentiality of medical data are not met. The medical records are kept in open access (on the table in the medical office) and are accessible to all employees. The CfPT finds the lack of some procedures, instructions on managing the personal medical data of the persons taken into custody.
- The recommendations of doctors for dynamic examination are not followed; the continuity and results of the treatment administered are not documented; the results of laboratory tests are not interpreted.
- No record of hunger strikes is made in the medical files and the persons are not medically supervised. Operational procedures for handling such cases are lacking.

³⁹ The provisions of point 13 (4) of MIA Order No. 354 of 31.12.2015 on the approval of the internal Instructions of the Centre for Temporary Placement of Foreigners, as well as point 3 of the MIA Order No. 345 of 24.11.2014 on the approval of the Instruction on the procedure of directing, receiving for medical investigation and treatment of asylum seekers, beneficiaries of humanitarian protection and foreigners placed in the Centre for the Placement of Foreigners, expressly provide for conducting the mandatory primary medical examination for the purpose of prophylaxis of diseases, endangering public health (tuberculosis, lues, HIV infection, viral hepatitis) with their registration in the ambulatory patient record and subsequent medical supervision.



- Adequate management of medicines is not ensured (procedures for securing, recording, checking, disposal of expired medicines), including compliant storage conditions (lockers with padlock and/or dark cupboards, refrigerator). There is no Register for the record of medicines, including a system for managing the expiry dates and procedures for the safe disposal of medicines. The medical office is not provided with a refrigerator for the storage of medicines with a special thermal regime. Expired medicines were identified in the healthcare facility.
- The management of waste resulting from medical activity is not ensured in accordance with the legislation in force. The waste resulting from the medical activity, contrary to the provisions of Law No. 209/2016 on waste, is collected unsafely, and the institution lacks procedures for its management. Respectively, the safety of medical manoeuvres is not ensured and there are risks to the health of foreigners and employees.
- Several foreign citizens complained about the lack of an interpreter during the medical examination, so they could not understand what documents they signed and adequately describe their health problems. **According to CPT standards: whenever members of the medical staff are unable to make a proper diagnostic evaluation due to language problems, they should be able to benefit without delay from the services of a qualified interpreter. Detained irregular migrants should be fully informed about the treatment being offered to them.**
- The persons detained should be provided with adequate access to psychological assistance and psychiatric care and procedures and professional training should be in place to prevent acts of self-harm and suicides.

Material conditions of detention

The CfPT found that the material conditions of detention in the cells are satisfactory and meet national and international standards. The rooms are not overcrowded, are clean, they have 2 or 4 bunk beds with stairs to reach the 2nd level; there is a table and chairs in each room; the walls are clean with no traces of mould; the temperature was in line with the standards; the humidity was not high; no insects or rodents were observed; access to daylight is ensured by the presence of large windows; the artificial light at night/evening is functional; there is no ventilation system. In other rooms (medical office, visiting room, storage), the conditions were satisfactory, normal humidity, natural and artificial lighting, the temperature was in compliance with the norms. In the institution, foreigners do not have access to the facilities of a kitchen (microwave, stove, refrigerator, washing machine) because food preparation is not allowed.

The disciplinary isolator is in the same building with the duty officer. The isolator does not have a separate surveillance point. In some aspects, the disciplinary isolator does not meet the detention standards because the window is small and does not allow daylight in; the toilet is not separate and there is no system/device for calling the staff (especially at night and in case of emergency).



Minimum hygiene requirements are met, beds, mattresses and bed linen were clean (in the building for families they were new). The toilet located on each floor was functional, clean, ventilated. The bathroom had a shower (hot and cold water) and a functional faucet where people can maintain daily hygiene. The administration claims that personal hygiene products are distributed to the persons detained, toilet paper, soap, shampoo. In this regard, CfPT received complaints only with regard to the insufficient quantity of hygiene products.

Food and water supply

Access to drinking water is unlimited. Food is delivered 3 times a day in the institution's kitchen, products are delivered daily in sealed boxes under a contract with an economic agent.

Some of the interviewed foreigners expressed dissatisfaction with the quantity and quality of the food, mentioning that they receive small, inedible quantities or leftovers. At the same time, it was mentioned that the traditional food preparations do not correspond to the specific food of the country they come from, for this reason they would welcome permission to prepare their own food.

Daily activities

Foreigners have unrestricted and unlimited access to the outdoors and daily walks. The courtyard/walking area was clean and had a roof in case of rain. A TV is located on each floor, the gym, tennis and chess table, art books, prayer room are available and accessible.

However, foreigners claim they have no occupations, especially women, as there are only 2 channels available on TV, there are few books in the library and in languages they do not know. In the opinion of the CfPT, the diversity of TV channels and the supplementation of the library with diverse literature and in several languages, could ensure the diversity of occupational activities of the people in the Centre.

III.1.3. Situation in the places of detention in the Military Command of the National Army

The isolator of the National Army Military Command is located in the city of Chisinau and is intended for the disciplinary isolation of the servicemen, both on term and on contract, for disciplinary offences committed in the exercise of their duties, both on contract and in the performance of military service on term. The detention capacity of the Command is of 14 cells, with 2 places each. The staff of the isolator consists of 29 military positions, of which 11 are vacant (which represents 37.9%).

During 2021, there were 298 arrestees in the isolator, of which 288 were soldiers on term, most of whom were placed on a 3 to 5-day term. In the 1st quarter of 2022, 40



persons were detained, out of which 39 were soldiers on term, a positive dynamic is observed compared to the 1st quarter of 2021 (101 persons were detained). The most common reasons for arrest in the first quarter of 2022 were: the abusive leaving of the military unit, post, desertion - 15 cases; use of alcoholic beverages, narcotic substances, smoking in unauthorised places - 10 cases; other reasons - 9 cases.

Arrest is conducted based on the regulation on the performance of military service. The duration of the arrest can vary from 1 to 5 days, which is applied by the commander of the military unit and up to 7 days which can be applied by the commander of the army. The arrest may be extended by the leadership of the Command in case of violations occurring during the execution of the detention. A soldier may remain in detention for a maximum of 15 days after which he/she is returned to the military unit. The arrested person is detained in the Military Command based on the arrest note received from the military unit. Revocation of the arrest may be conducted by a report (complaint) in writing submitted to the commander of the Military Command, who has the obligation to examine all the circumstances invoked. If the arrestee does not agree with the commander's conclusions, he or she has the right to file an appeal report to the army commander. Arrestees are provided with paper and pen to submit a complaint. There is a register of complaints.

Treatment of detained persons

The CfPT did not receive direct allegations of torture, violence from detainees/soldiers serving disciplinary sanctions because there were no soldiers at the time of the visit to the isolator and no complaints were recorded in the registers.

The day regime is organised in such a way that the arrested person has practically no free time during the day; according to the management of the Military Command, the arrestees have the possibility to sit during the day only during meal times (1.5 hours per day). The CfPT expressed concern about this treatment, stressing that such a harsh regime applied on a daily basis it could raise suspicions of ill-treatment, and therefore it is necessary to modify the regime and provide time for rest and recreation.

Similarly, the Council members did not note any books, newspapers for reading.

Conditions of detention

Similar to previous years, the detention conditions differ in the military facilities, depending on the military ranks they hold.

The material conditions of detention in cells remain unsatisfactory. The cells are ventilated and clean but small, damp, not equipped with a toilet, washbasin with access to water, outdated furniture and in need of replacement. In the cells for soldiers on term, beds are wooden with metal grating, suspended, there is a table that is attached to the floor, chairs are attached to the wall and cannot be moved towards the



table; cement floor, windows are small with bars and do not open, the glass is, basically, opaque and hardly lets any daylight through; the light from the light bulbs is poor. Part of the mattresses, pillows and bedding need to be changed. Upon arrival in the Military Command, the arrestee is provided with mattress and bed linen, the rest of the personal hygiene items are brought from the military unit.

In the cells for soldiers on contract, the rooms are brighter, the beds are more comfortable although the furniture is outdated and needs to be changed. This finding confirms the differential treatment of the soldiers and needs to be redressed by creating equal and similar conditions for all persons placed.

The areas where bath/shower facilities, toilets, washbasins are located need repair or replacement; neither the bathing areas nor the toilets provide privacy as they are not equipped with doors.

Food for detained persons

Food is provided to the persons detained 3 times a day, delivered from the military unit. The dining room is in a deplorable state with a strong smell of moisture, with traces of dampness, furniture and cutlery need to be repaired/replaced.

Safeguards against torture and other ill-treatment in the military command isolator

The CfPT finds that: the legal framework and regulatory acts do not expressly provide for certain fundamental safeguards for persons subject to disciplinary sanction through arrest.

Access to a lawyer

Access to a lawyer is not guaranteed and the person is, therefore, also limited in the possibility of challenging the sanction. There are no specially dedicated rooms for confidential meetings. Thus, there is no mechanism to access the services of a lawyer for defending one's procedural rights.

The administration claims that the meetings with the lawyer can take place with the agreement and at the request of the unit commander. In the absence of records of meetings with lawyers, the CfPT cannot establish that this right is respected.

Information on the place of detention/complaint mechanism

The persons detained have no possibility to notify on their detention. The arrestee has no possibility to communicate by telephone with outside persons, except through the security guard at his/her reasoned request. The persons detained do not have the right to see their relatives and do not have the right to receive parcels.



Possibility of persons detained to communicate through postal services is limited.

A small box for proposals, requests, complaints, claims is placed in the military command, but the CfPT has not been able to establish whether it is used or not by the arrested soldiers. Similarly, the CfPT could not ***ascertain/identify a clear procedure/mechanism in the isolator that is applied in the case of confidential complaints addressed to prosecutors, the People's Advocate*** or other competent institutions regarding ill-treatment/ allegations of torture allegedly suffered in the isolator. In such circumstances, the CfPT maintains its previous findings and considers that the person under disciplinary sanction is, basically, completely isolated.

In this context, the CfPT recommends reviewing the legal framework regulating the situation of the soldiers in detention with amendments that would ensure all guarantees against torture and ill-treatment.

Access to medical examination

The CfPT reiterates that one of the fundamental safeguards against torture, namely medical examination, is not ensured. The CfPT noted:

- There is a feldsher position in the staffing lists, which has been vacant since 2016, thus, **no medical examination is conducted upon entry and exit to/from the Military Command**. Upon entry to the Military Command, the arrestee comes with the medical examination (entry in the accompanying documentation) conducted by the doctor of the military unit and, subsequently, the external medical examination is conducted by the head of the guard of the Military Command (who is not a doctor). If bodily injuries are identified during the examination, the arrestee returns to the military unit or, if necessary, is examined in the military hospital. The **injuries found are not documented - thus, there is no mechanism for the effective documentation and reporting of such injuries**.
- Adequate recording and documentation of bodily injuries of arrestees is not ensured in accordance with the *(joint) Order No.77* of 31.12.2013 of the General Prosecutor's Office on the approval of the Regulation on the procedure for identifying, recording and reporting the alleged cases of torture, inhuman or degrading treatment. There is a register of bodily injuries that was established following the previous recommendations of the CfPT, but no cases are recorded in the register, although according to the commander of the Command, cases of self-injury and suicide attempts do occur;
- The medical examination is carried out when needed, when arrestees file any complaints, they are escorted to the military hospital or a doctor from the military unit is invited;
- There is no record book and no instructions for the conduct of persons who have declared hunger strikes, suicide attempts and self-harm;
- There is no psychologist position in the staffing lists. Psychological counselling is conducted when needed, by inviting the psychologist of the military unit.

III.1.4. Situation in the places of detention within the National Administration of Penitentiaries subordinated to the Ministry of Justice



During 2022, the Council for the Prevention of Torture conducted visits to 5 institutions under the National Administration of Penitentiaries of the Ministry of Justice. The CfPT visited: Chisinau Prison No. 13, Rezina Prison No. 17, Cricova Prison No. 4, Leova Prison No. 3 and Pruncul Prison No.16. In the period from 5 to 13 December 2022, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) also conducted an *ad hoc* visit to the Republic of Moldova. The visit was focused exclusively on the penitentiary system⁴⁰.

Level of occupancy of detention places in the NAP. Separation of categories of detainees

The problem of overcrowding in prison institutions is still ongoing, with most of the institutions visited by the CfPT in 2022 (Prison No. 3, Prison No. 4, Prison No. 13) recording a higher number of inmates than places that the prisons can provide in accordance with the CPT⁴¹ standards. Even though, the prison population decreased by 4.88% and

⁴⁰ CPT and the Republic of Moldova <https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-cpt-carries-out-a-visit-to-moldova>

⁴¹ <https://rm.coe.int/1680698462>



the number of persons released from prison institutions is 12.5% higher than in 2021⁴² (decrease mainly due to Law No. 243/2021 on amnesty⁴³), several prison institutions do not have sufficient detention spaces. The depopulation of prison institutions requires a comprehensive approach, which would include the implementation of tools to humanise penal policies⁴⁴, to improve the detention conditions, as well as to review the model of execution of prison sentences, bringing them in line with international standards and European Prison Rules⁴⁵.

In addition to the tools listed above, the CfPT considers it necessary to review the way inmates are distributed in prisons, and it has observed during the visits to the prisons that face the problem of overcrowding, the presence of differential treatment and unequal distribution in living spaces, thus there are overcrowded sections with unsatisfactory conditions of detention versus spacious sections with very good living conditions in the prisons. In Prison No. 4, the CfPT members identified situations where in cells of 20-30 sqm, 1-2 convicted persons were placed, while on another floor, more than 20 convicted persons were held on the same square metres.

More and more often, the CfPT observed situations where the procedure for separating the detainees is not clear and correct (Prison No. 3, Prison No. 17), so that different categories of inmates are placed separately, taking into account the legal reasons for their detention and the needs of their treatment⁴⁶.

Situation of adults in prison institutions

A) Treatment of adult prisoners in prison institutions. Inter-prisoner violence.

During the monitoring visits, the **CfPT did not receive any allegations of torture and other ill-treatment by prison staff against adult male prisoners**, except for a few cases in Prison No. 4 (ill-treatment by prison staff against convicted persons, use of special means including tear gas). It should be noted that the **CfPT received numerous allegations of verbal abuse, discriminatory behaviour against male prisoners (in most of the visited prisons)**.

The CfPT members continue to note the presence of strained relationships caused by the criminal subculture phenomenon. In this regard, the prisoners reported that some convicted persons enjoy more facilities (for example - larger living spaces, private

⁴² Report on the activity of the penitentiary administration system for 2022:

<https://www.anp.gov.md/index.php/rapoarte-de-bilant-semestriale-anuale>

⁴³ https://www.legis.md/cautare/getResults?doc_id=130586&lang=ro

⁴⁴ <https://promolex.md/wp-content/uploads/2022/07/Not%C4%83-analitic%C4%83-Implementarea-politicilor-de-depopulare-a-penitenciarelor-din-Republica-Moldova-%C3%AEn-contextul-pandemiei-de-COVID-19-2.pdf>

⁴⁵ European Prison Rules REC (2006) <https://rm.coe.int/16804c8d9a%20%20V>

⁴⁶ The United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) - Rule No.11; European Prison Rules (Recommendation Rec (2006)2 - point 18.8;



meeting rooms, common areas used only by a certain group of convicted persons, such as the football field, pool table), which creates the impression of the existence of **discrimination and differential treatment in the penitentiary institution, a phenomenon tacitly supported by the prison staff**⁴⁷.

The presence of criminal subculture is directly correlated with the lack of control of the prison administration. **The CfPT is concerned that the situation of understaffing, still reported in the CfPT reports for 2017 and 2018 persists even today, and the number of night staff has remained the same** (for 400-500 inmates in the prison, 4-5 staff remain for supervision during the night duty, and in Prison No. 4, at the time of the visit conducted by the CfPT, only 4 employees were involved in the service, during the night, for a total number of 783 convicted persons). In practice, the prison staff does not work in conditions where their own safety is ensured. This creates a situation where staff become involuntarily dependent on prisoners, without sufficient tools to control them. These concerns are also mentioned by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in June 2018⁴⁸.

The CfPT draws the attention that the lack of administrative control and the increasing influence of the criminal subculture is fostering intimidation and violence among prisoners. The most vulnerable in these conditions are those with the informal status of “humiliated” or with “undetermined” status, or who have given up the “informal laws”. With reference to addressing the issue of informal hierarchy and inter-prisoner violence, there is no progress on this segment, a finding made by the CPT during its visit in June 2018⁴⁹, but also during the visits and information analysed by the CfPT during 2022. The inactions of prison institutions to eradicate the phenomenon of criminal subculture constitute support for discriminatory behaviour⁵⁰, which increases the risk of situations of physical/mental abuse among prisoners.

The CfPT has received allegations on the practice of involving informal leaders in maintaining order among the prison population using violence. At the same time, the presence of violence among convicted persons can be identified in the records referring to bodily injuries (records directly indicating physical abuse against convicted persons). Unfortunately, most often, the records of the medical staff lack data on the actual origin of the bodily injury (if there are suspicions that there have been any altercations or violence, these are not reported by the medical staff), reporting is based

⁴⁷ This was highlighted in the Council of Europe Baseline Study into Criminal Subculture in Prisons in the Republic of Moldova (March 2018): <https://rm.coe.int/criminal-subculture-md-en-/1680796111>

⁴⁸ https://www.ecoi.net/en/file/local/1454825/1226_1545136703_2018-49-in-eng-docx.pdf

⁴⁹ Report to the Government of the Republic of Moldova on the visit to the Republic of Moldova carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 5 to 11 June 2018, English version available at: https://www.ecoi.net/en/file/local/1454825/1226_1545136703_2018-49-in-eng-docx.pdf

⁵⁰ Decision No. 239/2020 of the Equality Council https://egalitate.md/wp-content/uploads/2016/04/Decizie_constatare_239_2020_semnare.pdf



only on the statements of the prisoner. In such cases, the impression is that the prison tries to cover up such cases and consequently does not make the necessary efforts to provide a safe environment for the prisoners.

These findings point to the presence of **deficiencies in the documentation and recording of cases of traumatic injuries on prisoners**, and possibly to a lack of efficient investigations by the authorities. The CfPT encourages the prison administration to record, document and report cases of abuse against prisoners, so that the information gathered can provide the possibility to assess the origin of the traumatic injury and self-injury, identifying the actions/inactions of the prison administration in order to ensure safe conditions of detention. The **CfPT reiterates that ensuring the protection of prisoners against inter-prisoner violence is one of the obligations of prison staff, and failure to provide such safeguards constitutes ill-treatment by government institutions⁵¹**.

In most cases, the prevention of abuse is achieved by placing prisoners in safety places, in accordance with Article 206 of the Enforcement Code of the Republic of Moldova⁵². The number of persons who requested to ensure their safety in 2022 is of 811 persons, a number that has increased compared to 2018-2021. The CfPT repeatedly expresses its concern regarding the seriousness of the situation of prisoners in isolation under Article 206 of the Enforcement Code, a situation that can be considered as ill-treatment, due to the unsatisfactory living conditions in which they are placed, overcrowded, poorly ventilated and lit spaces, with minimal possibility to be involved in the activities provided in the institution and the limitation of facilities provided by the national legislation. The CfPT draws the attention of the responsible authorities to the fact that separating persons at risk of physical aggression is not the only solution to remove the danger, and if there are no other protection mechanisms, it is necessary to ensure that all prisoners have equal access to occupational activities, walks, communication with family, work, so that they can enjoy all the facilities/rights as the other categories of prisoners.

The CfPT has noticed positive achievements of the administration of Leova Prison No. 3, which ensures access to occupational activities for convicted persons who are separated in accordance with Article 206 of the Enforcement Code of the Republic of Moldova, involving all convicted persons, regardless of their category, to use common spaces such as football field, tennis table, library.

At the same time, from the information presented by the authorities, the CfPT noted the lack of qualitative analysis of the phenomenon of inter-prisoner violence. In the annual reports, there is no data referring to the situation of inmates who have been registered with bodily injuries (for example, how many of those who have been found

⁵¹ <https://rm.coe.int/2-combaterea-relelor-tratamente-in-penitenciare-final/1680722471>

⁵² https://www.legis.md/cautare/getResults?doc_id=122067&lang=ro



with injuries have requested to be placed in secure conditions), there is no report on the number of persons who have requested to be placed in secure conditions during the reporting period (usually, the number of convicted persons is specified on a certain date, for example, on 31.12.2021), there is no description of the profile of those who are placed in secure conditions pursuant to Article 206, on the number who have declared hunger strike, who have conducted self-harm or have had suicide attempts, there is no analysis of the needs and risks, information that could provide solutions for creating a safe and protective environment for this category of prisoners.

Disciplinary procedures applied to adult prisoners

The CfPT further notes the excessive application of the sanction of limiting the contact with the external world (suspension of the right to visits, suspension of the right to receive parcels, and to make telephone calls). Of the total number of 5,110 disciplinary sanctions recorded in 2022, 55% (2,726) of them are disciplinary sanctions in the form of suspension of the right to short-and long-term visits⁵³.

The issue of applying disciplinary sanctions in the form of suspension of the right to visits, which ***is in accordance with the law, but is contrary to the international standards*** was raised in the reports of CPT visits to the Republic of Moldova, both in 2018⁵⁴ and 2020⁵⁵, which warned the authorities to take measures, including by revising the legislation, so that the disciplinary sanctions applied to prisoners do not lead to forbidding contacts with the family.

During the visits conducted in 2022, the CfPT found the worsening of the situation of prisoners to whom such disciplinary sanctions have been applied. In accordance with point 61 of the Regulation on the way and conditions of applying the disciplinary sanctions, incentives and measures of record keeping of disciplinary proceedings, approved by NAP Order No. 551 of 21.12.2020, two or more sanctions of the same type are successively executed. This provision causes situations where prisoners, following the disciplinary sanctions with the lack of visits, accumulate a very large number of days in which they will be deprived of the right to communicate with their families (examining the "Register of reports regarding violations of the execution of the sentence" of Rezina Prison No. 17⁵⁶, the CfPT has identified individuals who have accumulated sanctions that will limit communication with the outside world by 300-

⁵³ REPORT on the activity of the penitentiary administration system for 2022: <http://www.anp.gov.md/index.php/rapoarte-de-bilant-semestriale-anuale>

⁵⁴ Report to the Government of the Republic of Moldova on the visit to the Republic of Moldova carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 5 to 11 June 2018, available in English at the following link: [16809022b9 \(coe.int\)](https://rm.coe.int/16809022b9)

⁵⁵ Report to the Government of the Republic of Moldova on the visit to the Republic of Moldova carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 28 January to 7 February 2020, available in English at the following link: <https://rm.coe.int/16809f8fa8>

⁵⁶ http://ombudsman.md/wp-content/uploads/2022/07/Raport_CPT_P17-Rezina_08.04.2022-2.pdf



500 days, in some cases the prisoner will be actually released from detention prior to having the right for visits again). Similarly, the CfPT believes that prisoners with such sanctions will be less motivated to comply with the detention regime.

The Council draws the attention of the NAP to the CPT's recommendation made as a result of its visit in June 2018⁵⁷: [...] Ensure that disciplinary punishment of prisoners does not lead to a total prohibition on family contacts and that any restrictions on family contacts as a form of disciplinary punishment are applied only when the offence relates to such contacts [...].

Although the prison administration explains that the high number of disciplinary sanctions with suspension of the right to visits is due to the provisions of the national legislation on the individualisation of disciplinary liability⁵⁸, the CfPT believes that until the legislation is reviewed, other legal solutions can be offered to facilitate the contact of prisoners with their family members. One such solution may be incentives with permission to have additional long- and short-term visits. However, this type of incentive was only offered in 17% (359 incentives) of the total of incentives offered during 2022. During the visit conducted to Leova Prison No. 3, the CfPT observed a significant increase in the number of incentives in 2022, however, no convicted person was incentivized with permission to have additional long- and short-term visits until the time of the visit.

Other exceptional situations

Analysing the Summing-up Activity Report of the penitentiary administration system for 2022⁵⁹, ***the CfPT notes a positive trend due to the decrease in the number of self-harm cases (729 – 13,3% less than in 2021), bodily injuries (1,128 – 2,2% less than in 2021), application of physical force (279 – 41,3% less than in 2021), cases of assault on staff (14 -35,3% less than in 2021), cases of suicide (4 compared to 6 in 2021).*** The increase in the number of cases of self-harm were recorded in Rezina Prison No. 17.

However, the CfPT remains concerned that, ***in the penitentiary administration system, suicide attempts and self-harm phenomenon among prisoners continue to persist.*** In this regard, in 2022, the number of inmates (5,042) decreased by 20% compared to 2017, when a number of 6,297 inmates was registered (one of the years with the

⁵⁷ Report to the Government of the Republic of Moldova on the visit to the Republic of Moldova carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 5 to 11 June 2018, English version available at:

https://www.ecoi.net/en/file/local/1454825/1226_1545136703_2018-49-in-eng-docx.pdf

⁵⁸ Article 246¹ of the Enforcement Code of the Republic of Moldova

https://www.legis.md/cautare/getResults?doc_id=119760&lang=ro

⁵⁹ Report on the activity of the penitentiary administration system for 2022

<http://www.anp.gov.md/index.php/rapoarte-de-bilant-semestriale-anuale>



highest number of inmates)⁶⁰, and the number of self-harm in 2022 decreased by 1,4% compared to 2017 (10 self-harm cases fewer than in 2017), and suicide attempts increased by 45%, with one suicide case more than in 2017⁶¹. Thus, the CfPT notes that the measures aimed at reducing self-harm and suicide attempts among prisoners undertaken by specialists in prisons do not fully produce the expected result. The CfPT notes that overcoming this serious problem requires strengthened systemic efforts that would include new approaches relevant to the institutional context, emotional needs and individual problems of prisoners at risk of self-harm/suicide. Equally, an evaluation of the efficiency of the already existing procedures is required, a monitoring of the way they are applied by staff.

In institutions, it was found that ***the practice of applying disciplinary sanctions, including for self-harm, which can be considered excessive and inhuman because sanctions are being imposed on persons possibly with mental disorders (sanction instead of necessary treatment).***

Another concern of the CfPT is that ***there is an increase in the number of cases of food refusals (hunger strikes) by prisoners, within the prison system.*** Analysing the Summing-up Activity Report of the penitentiary administration system for 2022, the CfPT notes an ***increase in the number of cases of hunger strikes: by 5% (748 cases) compared to 2021.*** During the visit to Cricova Prison No. 4, the CfPT recorded 2 cases of death, one of which was death after a hunger strike and 1 case of suicide. ***The conditions for detaining prisoners who are refusing food are inadequate, as frequently they are placed in disciplinary isolators intended for the execution of the disciplinary sanction.*** The registers are filled in with minimal data, the reason for the hunger strike and the resolution of the situation are not indicated. Supporting information materials for prisoners regarding the progress of their health status, the consequences and the conduct during the period of renouncing to hunger strike are not available. Similarly, the prisoners are not aware of the regulations regarding the refusal to eat in detention. The Council considers it important to revise the legal framework on hunger strikes in the prison system, including the fitting-out of premises and the algorithm of conduct.

Another issue is the registration of cases in the medical records, which is not conducted in all cases, such cases were detected at the time of the visit to Chisinau Prison No. 13, out of 3 prisoners who were on hunger strike at that time none had notifications about this fact in the medical documentation.

⁶⁰ https://statbank.statistica.md/PxWeb/pxweb/ro/30%20Statistica%20sociala/30%20Statistica%20sociala_12%20JUS_JUS030/JUS030300rcl.px/table/tableViewLayout1/?rxid=2345d98a-890b-4459-bb1f-9b565f99b3b9

⁶¹ Report on the activity of the penitentiary administration system for 2018, page 29
<https://anp.gov.md/rapoarte-de-bilant-semestriale-anuale>



B) Safeguards against torture and other ill-treatment



a) Complaints mechanisms within prison institutions

In all prisons visited by the CfPT, there are mailboxes to which representatives of Poșta Moldovei (Moldova Post Office) have access. The Council notes the positive trend in terms of installing as many mailboxes as possible. However, some prisoners in all of the visited prisons complained that their petitions or requests remain unanswered, or their examination is delayed with no justification, in particular submissions outside penitentiaries to the People's Advocate (Ombudsman), the Prosecutor's Office or NGOs. One of the issues identified in maintaining correspondence outside of the prison is the lack of financial resources of the prisoners to purchase envelopes and stamps, and the lack of money could be a real impediment to reporting possible abuse or cases of ill-treatment. Staff mention that they provide prisoners with the necessary resources (envelopes, paper sheets, pens, etc.), however no prisoner mentioned that they received materials from the administration.

In this context, ***the Council could not find/identify a clear procedure/mechanism within the prisons, which applies in the case of confidential complaints addressed to prosecutors, the People's Advocate (Ombudsman), public associations*** concerning ill-treatment/allegations of torture alleged to have been suffered in the prison or during the transportation of people.



During the visit to Chisinau Prison No.13 the CPT found that, in 2021, the number of prisoners received in audience by the management of the institution (176) is very low compared to the number of requests/complaints submitted by persons in detention to the administration – 4,192, of which 2,384 requests concern the right to be informed, 366 – material living conditions and 347 – health care.

Another situation was observed in Leova Prison No.3, which in the first half of 2022 registered 379 petitions submitted to the administration, including 253 petitions from prisoners, a number that decreased by 66% compared to the same period of 2021 (699 petitions).

b) Access to medical examination

The basic recommendation of the CfPT and international organisations with respect to ***the transfer of responsibility for the health of prisoners from the Ministry of Justice to the Ministry of Health has not been fulfilled***. The medical staff are not independent of the prison authorities in fulfilling their professional duties and are in a difficult situation of dual loyalty between making correct medical decisions on prisoners' health and the efforts of the administration to maintain the discipline and impose sanctions on prisoners.

The Council notes the efforts of the Ministry of Justice to strengthen the management of the medical service in the prison system, however both major financial investments and investments in the human resources involved in the reorganisation are required.

Medical staffing continues to be insufficient, which affects the access of convicted persons to a medical examination. The CfPT notes that the ***reorganisation*** of the Department of Prison Institutions into the National Administration of Penitentiaries in May 2018 ***has influenced the deepening of the problem regarding the provision of prisons with medical staff***. Thus, as a result of the reorganisation, 19 medical staff positions were reduced, more of the psychiatrist positions. Similarly, as a result of the change in the legal framework, civilian doctors who previously held certified positions cannot currently be employed. By the end of 2022, seven prisons lack heads of healthcare services, nine prisons had vacant positions of therapists, psychiatrists (4 prisons), 3 vacant positions of anaesthesiologist-reanimatologists. Healthcare provision in these institutions is provided by middle-level staff, which is still insufficient in number and completion, and for escort to civilian institutions or the prison hospital. In this context, the CfPT notes that the legal provision that⁶² ***any prison should have available services of at least a general practitioner, a dentist and a psychiatrist*** remains unfulfilled.

The CfPT reiterates that the effective guarantee of the right to health in places of detention is based on the cumulative fulfilment of the constituent criteria,

⁶² Paragraph (1) Article 231 of the Enforcement Code



such as: accessibility, availability, acceptability, quality, equivalence (equity). The CfPT notes that access to qualified health care is limited due to the insufficient provision of senior medical staff in institutions, thus, nurses are at risk of being held accountable because they undertake some responsibilities that are assigned to a doctor.

Another consequence of the reorganisation, which is unfavourable to the prison medical system, was the demotion in military rank to non-commissioned officer⁶³ and the non-payment of the related specialist training of the middle-level medical staff⁶⁴ (the feldsher became medical assistant), with **a loss of the salary supplement** and, respectively, with the departure of several people from the system. Following the amendment of the legislation⁶⁵ on the unified salary system in the budgetary sector, the application on civil servants with special status of medical specialty according to the provisions of Annex No. 6 to Law No. 270/2018, the salary class 52 is applied (prison staff, certified medical staff). In the case of civilian medical staff - the remuneration is paid according to Annex No. 9 to Law No. 270/2018 (similar to the medical staff within the Ministry of Health) - the salary class being 72. Thus, there is an issue of differentiated remuneration for medical staff working in prison institutions, depending on their special status. Similarly, medical staff without special status are not offered full salary supplements linked to their related speciality and harmful working conditions.

A particular concern is that the prison hospital is also acutely understaffed, with many vacancies for doctors. At the same time, **the positions foreseen for the provision with medical staff are not in compliance with the standards laid down in Order No. 100 of 10.03.2008 on Medical Staff Regulations**. For example, according to the approved regulations, in the therapeutic wards, there should be 1 doctor per 14-17 beds, 1 nurse per 16-18 beds. The Prison No. 16 provides only one position of medical assistant in the phthysiology ward of 70-100 beds. The hospital does not have a medical attendant position provided, which makes these services to be covered by the inmates, a situation that creates multiple problems related to the confidentiality of medical data and compromises the accessibility of services. The problem is also exacerbated by the fact that few doctors are employed as civil servants with special status and are not remunerated for the night shifts, being offered days off instead.

⁶³ Law on the prison administration system, No. 300/2017

<http://lex.justice.md/md/374276/>

⁶⁴ Article 57 m) length of service in civil branches related to the speciality of the position held, with one year of service being calculated for every two years of work seniority, but not more than ten years of service - for civil servants with special status in the corps of penitentiary officers (Law No. 300/2017)

⁶⁵ In accordance with the provisions of paragraph (2) of Article 12 of Law No. 270 of 23.11.2018 on the unified salary system in the budgetary sector, the basic salary shall be determined according to the remuneration coefficients provided for in Annexes Nos. 3-10, in relation to the position held, level of education, qualification category, teaching grade, length of service or step in the salary grid, as appropriate, under the conditions of the aforementioned Law.



The lack of doctors on non-working days aggravates the shortage of medical staff, and there are situations when there is no doctor in the institution, especially in cases when the doctor on duty leaves with a patient in escort to other medical institutions. As a result, the patients in the institution are left without medical supervision, which creates the risk of delays in providing necessary medical help in cases of medical emergencies.

In this context, *the CfPT notes that the Ministry of Justice/National Administration of Penitentiaries has not developed an efficient system of motivation and incentives to ensure with medical staff the health care services for the persons detained in the prison.*

The situation remains unchanged in this regard, the CfPT considers it important to review the status of doctors employed in the prison system in order to make the payment of the on-call shifts possible, not just to offer days off and to develop and effectively implement a strategy/action plan in order to provide the hospital and other prison institutions with medical staff.

One of the safeguards against torture is that for persons sentenced to imprisonment or remanded in custody during trial, thorough medical examination is provided upon arrival in the prison in order to detect and, therefore, treat any medical issue and to detect any signs of ill-treatment caused prior to arrival, and the provision of information on the rights and duties within the prison in a language the prisoner understands.

Thus, a positive trend is the improvement of procedures for documenting medical examinations on entry/exit from prison in case of bodily injuries, as well as the unification of records of various types of trauma (self-harm, traumatic injuries, after application of physical force, etc.). The Council appreciates the efforts of the NAP to implement this recommendation by drafting the NAP Order No. 169 of 06.09.2018 on streamlining the medical documentation of bodily injuries in the penitentiary system. The ***standardized questionnaire for reporting a traumatic injury*** implemented includes the description of the circumstances of occurrence, the explanation of the prisoner and the detailed description of the injuries and the medical opinion on the adequacy of those presented by the prisoner and the nature of the trauma. Thus, in case of discrepancies, the doctor may establish a presumption of alleged ill-treatment with subsequent reporting under the legislation in force, but from the discussions with the staff, this mechanism is not used in practice. It is much appreciated that the NAP has provided medical services with cameras that are used in photographing bodily injuries and attaching them to the package of documents, which is submitted to the Prosecutor's Office. The medical staff require continuous training in documenting bodily injuries, alleged acts of torture and on the provisions of the Istanbul Protocol ("Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment").



C) Conditions of accommodation in places of detention

Regrettably, practically in all the prisons visited, in a large number of cells, the material conditions of detention are far from being considered satisfactory.

In some of the prisons visited, the CfPT noted the administration's efforts to improve the living conditions, to divide up large "barrack" type sectors into rooms for a smaller number of prisoners. The Leova Prison No. 3 opened, in February 2020, a renovated block with a capacity of 126 places, with cells for 2-4 persons, equipped with video monitoring systems, modern control systems, fire safety, but also other conditions, including those related to the staff working rooms. It is the only visited block adjusted to the requirements of persons with special needs.

However, the CfPT still notes different conditions of maintenance and discriminatory attitude of the staff of the institution resulting from the segregation according to "group membership", in line with the criminal subculture, to the detriment of the total mass of prisoners or the most vulnerable and marginalized groups. In Prison No. 4, the inmates belonging to the group of criminal authorities are clearly favoured in terms of conditions - hotel-type cells with separate rooms (corridor, toilet, bathroom with washing machine), entertainment devices (radio, TV), pets, cells are very well repaired, furnished, with a classic kitchen equipped with appropriate technology (refrigerator, microwave, kettle, etc.). To gain access to these cells, prison staff knock on the door to be allowed access. At the other end of the spectrum are those from the "lower caste", according to the division of the criminal subculture, whose living conditions are clearly inferior to the other categories of prisoners. CfPT is alarmed by the poor material conditions of detention in the sector where prisoners are detained for safety reasons. During the visit, it was noted that the convicted persons are held in inhuman conditions. The doors of the cells in the basement were marked "detention prohibited", but people were being held in them. The cells were overcrowded (for example: 3 persons in 8 m² cells).

In Leova Prison No. 3, the conditions in cells in Sectors 2 and 3 are unsatisfactory, represented by narrow, overcrowded rooms with limited access to daylight, lack of proper ventilation and airing, high temperature, unpleasant smell, outdated furniture, worn bedding and unsanitary blankets. In some cells, the toilets are in a deplorable condition, thus the old sanitary items need to be repaired and replaced.

Practically in all the institutions visited, a large part of the cells have old furniture, most often broken, its state of maintenance leaves much to be desired, the conditions being mediocre. Sanitary facilities (sinks, toilets) are generally unsanitary. This image is also created by the fact that many of the cells are filled with numerous objects/personal belongings of the detainees, which visually transform the premises into a warehouse, the detainees' personal belongings being stored in bags under the bed, and their number is much higher than those needed for living.



In the prisons visited by the CfPT, there were no complaints from detainees regarding issues related to water supply and its quality. Water is supplied from city aqueducts or from the prison's artesian well.

Another problem identified is that prisons are not accommodating persons with disabilities. ***We note that according to Rule 5 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)⁶⁶, the prison administrations shall make all reasonable accommodation and adjustments to ensure that prisoners with physical, mental or other disabilities have full and effective access to prison life on an equitable basis.***

Access to the bathroom for prisoners is provided by the prison administration according to the established schedules, at least once a week. Most prisoners say they want to take a bath more often. One of the problems voiced by the prisoners is the lack of conditions for drying the clothes.

The CfPT recommends revising the hygiene kit and also including other necessary products as well as reviewing the quantity provided monthly. The prisoners confirm that they receive the set of hygiene products provided by the prison administration, but claim that, for some products, the quantity is small and not sufficient till the end of the month. The CfPT points out that the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)⁶⁷ underline that prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness.

The CfPT noted the efforts made by the prison administration to improve conditions in the food blocks, however, in some institutions, the sanitary and hygienic conditions are not fully complied with. In all the prisons visited, the prisoners involved in the food preparation have no qualifications in this field.

In all prisons, the CfPT received complaints regarding the ***quantity and quality of food***. Mainly, the complaints are that it is not tasty, and most prisoners said they would prefer to prepare their own food with products they receive from their families. In this regard, during the visits conducted, the prisoners expressed their dissatisfaction as regards the restriction of parcels with certain food products (potatoes, fruits). Complaints regarding the lack of a dietary menu were also recorded. The CfPT notes that these rules do not take into account special diets for prisoners with medical conditions (such as diabetes) or the prisoners' religious beliefs. The lack of fruit on the menu leads to complaints and vitamin deficiencies.

⁶⁶ The United Nations Standard Minimum Rules for the Treatment of Prisoners, available in English at the following link: https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf

⁶⁷ United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf



D) Regime and daily activities. Occupational time.

The CfPT further found that almost all prisoners in the criminal prosecution isolators and persons placed under the initial regime and disciplinary regime (in quarantine) spend most of their day in the cells, approximately 23 hours. They have access to the exercise yards for at least one hour a day where sports equipment is provided. They have partial access to TV, radio (if the equipment is brought by relatives and on the condition that the prisoners have money on their private account to pay for the electricity consumed) and books from the library. There are churches on the prison's premises, which can be visited by all categories of prisoners. Prisoners can also request psychological counselling or involvement in educational activities organised on the occasion of various holidays.

In prisons, where already sentenced persons are detained, the regime and activities, according to the day's schedule, offer a wide range of programmes, including: access to work, vocational training, education, programmes to change criminal behaviour, counselling, group therapy, physical education, religious or spiritual guidance, social and cultural activities and preparation for release, etc.

The educational and psycho-social assistance programmes are conducted based on the programme offer (which consists of 23 programmes) approved by the NAP, depending on the needs identified and the individual sentence execution plans. However, the CfPT notes that the possibilities of involvement in work and leisure time are limited and most of the prisoners spend their days watching TV or walking in the yard; at the time of the visits the large majority of convicted persons were not involved in reintegration activities, except for sports activities. From the discussions with the convicted persons, they mentioned that they participate in various programs, however these are of short duration, and they would like to have a permanent occupation, a job. According to the data provided by the National Administration of Penitentiaries in the activity reports for 2020-2022, the number of prisoners involved in vocational training programmes is decreasing. In 2022, 18,3% of prisoners were involved in work (4% increase compared to 2021). The CfPT encourages the National Administration of Penitentiaries to identify solutions for involving as many prisoners as possible in work, the number of convicted persons able to work being of 4,821 persons, which is 95% of the total number of convicted persons.⁶⁸

The CfPT noted problems related to the implementation of educational or psycho-social programmes for Russian-speaking and foreign prisoners. It is not clear how a prisoner understands the programme they attend but does not understand anything discussed at the programme.

Another need identified during the visits is the lack of intervention programmes and activities for prisoners with mental health problems. The lack of occupational activities negatively impacts the climate in the institution as well as the mental health of the

⁶⁸ [Statistical reports – NAP – National Administration of Penitentiaries \(gov.md\)](https://www.nap.gov.md/en/statistical-reports)



convicted persons. In this regard, **the CfPT urges the NAP to create opportunities to involve convicted persons in both educational activities and work, whether remunerated or non-remunerated.** Furthermore, the Council encourages prison institutions to make every effort to diversify psycho-educational/occupational programmes so that the Nelson Mandela Rule 4 on the prevention of recidivism and the period of imprisonment is used to ensure the reintegration of such persons into society upon release so that they can lead a law-abiding and self-supporting life.

E) Contact with the outside world

Notification of custody

The CfPT has not received any allegations from prisoners referring to the impossibility of informing relatives regarding the new place of detention, however, in the absence of a mechanism, at least of a standardised procedure for recording telephone calls made to inform relatives, the Council warns and suggests that the prison administration comply with ***Point 21 of the European Prison Rules⁶⁹, according to which the prison administration facilitates the access of prisoners to means of informing relatives with regards to the place of detention or transfer to another prison, as well as intervenes by informing relatives in case of serious illness, injury, etc.***

Telephone conversations

During monitoring visits, ***the CfPT did not receive any allegations from prisoners that access to telephone calls was somehow restricted.*** However, in some institutions, such as Rezina Prison No. 17, prisoners make phone calls from the telephone installed on the premises of the penitentiary, in a specially arranged room, which is within the hearing distance of the staff or other prisoners, which does not ensure privacy and confidentiality of telephone conversations.

Access to a lawyer

During the monitoring visits, the CfPT did not receive any allegations from prisoners that they had restricted access to the services of a lawyer, a fundamental safeguard including against torture and other ill-treatment. The CfPT encourages lawyers to provide qualified assistance and to challenge/report any allegations of torture, ill-treatment, degrading or inhuman treatment when they have knowledge of such information.

F) Healthcare provision in the prison system

The prison health system is under the National Administration of Penitentiaries, which is subordinated to the Ministry of Justice. At the level of NAP central apparatus, the NAP Medical Directorate is established, which is directly subordinated to the

⁶⁹ <https://rm.coe.int/16804c8d9a>. See also the Revised Commentary on the European Prison Rules, May 2018, <https://rm.coe.int/pc-cp-2018-1-e-rev-2-epr-2006-with-changes-and-commentary-22-may-2018/16808add21>



Director of the NAP. The staffing lists of the Medical Directorate, following the internal reorganization of the NAP in 2018, has been reduced from 10 positions to 9; the position of narcologist psychiatrist is vacant, thus the most common mental health problems in the penitentiary environment lack effective management. Organisationally, the NAP Medical Directorate bears responsibility for the activity of the healthcare services in prisons (including the prison hospital). The medical staff in prison institutions report to the Director of the prison, being subject to double loyalty in medical decision-making. Thus, priority is given to the official/unofficial position of the prison administration in the medical decision-making and not to the interests of the patient.

According to the Nomenclature of Departmental Medical and Health Institutions, the PMSI Medical Directorate of the Department of Prison Institutions (NAP) with code 2650 is established within the prison administration system, which provides hospital medical care of a therapeutic (375 beds) and surgical (45 beds) profile. Also, according to the mentioned Nomenclature, the PMSI Medical Directorate of DPI (NAP) provides specialized outpatient medical care.

The staffing lists for the medical personnel in the penitentiary system, as of 01.01.2021, provide for 249,5 positions, of which contractual staff – 119,5 positions (48,5%) and medical staff with special status (officers, non-commissioned officers) – 130 positions (51,5%). On 01.01.2021, 18,6% of the positions for the medical staff were vacant (47,5 positions, the vast majority being doctors – 31,25 positions).

No individual employment contracts are concluded with the medical staff, and 24-hour on-call shifts are not remunerated, being only entitled to additional days off on the basis of a report. Staff shortages in medical wards become more critical when the only doctor after a 24-hour shift takes a day off. As a result of staff overload, the core activity, the performance of duties of the position held and the quality of the medical act suffer considerably. This has/may have an impact on the treatment of persons detained in the penitentiary system.

Prisoners do not have insured status in the compulsory health insurance system.

The financing of healthcare is provided from the public budget (Ministry of Justice budget, NAP budget) and from other sources acceptable by law (donations, material aid, grants). The procedure for providing health care to persons detained in prison institutions is laid down in the Regulation on the provision of health care to persons detained in prison institutions approved by Order of the Minister of Justice No. 478 of 15.12.2006⁷⁰.

The medical directorate collects statistical data on cases of sickness of prisoners from all prison medical services, validates, aggregates and reports them to the Ministry of Health (or to the designated responsible authorities) in electronic and paper version.

⁷⁰ Order of the Ministry of Justice No. 478 of 15-12-2006 approving the Regulation on the provision of health care to persons detained in prison institutions https://www.legis.md/cautare/getResults?doc_id=63829&lang=ro



An increase in the overall morbidity of prisoners is observed, from 32 391 per 1000000 population in 2021, to 32 909 in 2022. The most common illnesses found in prisoners are diseases of the digestive system, followed by mental and behavioural disorders, and trauma and intoxication. The share of infectious diseases is stable compared to the previous year and is around 10% (2022), including tuberculosis and HIV infection.

Injuries and intoxications, in 2022, remain stable compared to the previous year and constitute around 10%, indicating an unsafe detention environment. The diseases of the digestive system point to a problem related to the quality and variety of the prisoners' food, and mental and behavioural disorders highlight the conditions of detention and the lack of specialised psychiatric care.

Analysis of the number of deaths referred to the diseases causing death highlights segments requiring urgent intervention by the authorities, as well as considerable investments in order to improve or change the situation.

Mortality among prisoners is decreasing compared to the previous year, thus in 2022, it was 0,35% (23 cases per 6,396 prisoners), 0,63% in 2021 (41 deaths per 6,429 prisoners), 0,83% in 2020 (56 cases per 6,716 prisoners), 0,54% in 2019 (36 cases per 6,776 prisoners), 0,41% in 2018 (29 deaths per 6,990 prisoners), however this decrease is not a consistent decrease in mortality, as there is an unstable fluctuation of the indicator. As regards the structure of mortality in prisoners in 2022, the digestive system diseases are in the forefront with 30,43%, followed by cardiovascular system diseases with 21,73%, and cancer and suicides with 17,39%. Each death case is sent to the forensic expertise and, subsequently, the information is forwarded to the Prosecutor's Office.

A positive aspect observed is the improvement of the coverage of services for detecting communicable diseases in prisoners upon entry into the prison system, which was insufficient in the previous period. Thus, the number of HIV tests increased from 4,496 (2021) to 5,586 (2022), and 20 and 26 new cases of HIV infection were detected accordingly. Thus, the number of prisoners who passed through the prison system in 2022 was of 9,282 persons (2,886 newcomers and 3,293 prisoners who left) and 60% of them were voluntarily tested for HIV infection compared to 13815 persons (2018) and only 16,5% were tested.

The approval of the Tuberculosis Control Program for 2022-2025 in the penitentiary system by order of the Ministry of Justice No. 277 of 09.11.2022, including the budget with the gradual takeover of expenses from the donor, is a positive step in the sustainability of the tuberculosis control measures in prisons. In accordance with the legal provisions, in the penitentiary administration system, the mandatory prophylactic radiological examination of all prisoners is conducted upon entry into the penitentiary administration system and every 6 months thereafter.



Thus, during the reporting period 9,146 chest X-rays were performed. During 2022 – 3,584 tests on tuberculosis microscopy (BAAR), investigations by GeneXpert method - 860 tests were performed. During the reporting period, 41 - new cases and 14 - relapsed cases of tuberculosis in prisoners were detected.

Therefore, the CfPT emphasizes the importance of maintaining screening for infectious diseases: HIV, viral hepatitis and tuberculosis and other diseases upon entry into the penitentiary system and during detention in order to control infectious diseases and their appropriate treatment.

Similarly, the CfPT found that **the quality of filling in the informed agreements and patient information with regards to each treatment prescribed is not conducted according to the requirements, especially for people with mental disabilities. In line with the provisions of the UN Convention on the Rights of Persons with Disabilities, in particular patients with mental disorders, special attention is recommended to be given by providing reasonable accommodation, in terms of time and language, to minimise mental impairment barriers in the decision-making process regarding the proposed treatment.**

The CfPT reminds that the qualitative and thorough completion of the free and informed consent is an important safeguard in preventing ill-treatment, and its absence may be considered a risk in terms of the violation of Article 3.

The relationship between the doctor and other health-care professionals and the prisoners should be governed by the same ethical and professional standards as those applicable to patients in the community, in particular: (a) The duty of protecting the prisoners' physical and mental health and the prevention and treatment of diseases on the basis of clinical grounds only; (b) Adherence to prisoners' autonomy with regard to their own health and informed consent in the doctor-patient relationship; (c) The confidentiality of medical information, unless maintaining such confidentiality would result in a real and imminent threat to the patient or to others; (d) An absolute prohibition on engaging, actively or passively, in acts that may constitute torture or other cruel, inhuman or degrading treatment or punishment, including medical or scientific experimentation that may be detrimental to a prisoner's health, such as the removal of a prisoner's cells, body tissues or organs⁷¹.

Given the complexity of the issue of departmental medicine affected by the impossibility of ensuring the principle of independence and safety of the medical act in accessing the healthcare services by persons deprived of their liberty (a fact noted also in the concluding observations of the UN Committee against Torture (CAT) on the

⁷¹ Rule 32 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules): <https://nettsteder.regjeringen.no/norlam/files/2017/08/Ansamlul-de-reguli-minime.pdf>. Resolution adopted by the UN General Assembly on 17 December 2015.

third periodic report of the Republic of Moldova)⁷², the CfPT recommends speeding up the process of accreditation of the healthcare services provided in Prison No. 16 or implementing the CAT (2017) recommendation on the transfer of responsibility for the health of prisoners to the Ministry of Health.



Release of prisoners on grounds of illness (according to Article 95 of the Criminal Code)

The release of prisoners on grounds of illness is conducted in accordance with the Regulation on the manner of presenting seriously ill persons deprived of liberty for release from the execution of the sentence, approved by the Order of the Minister of Justice No. 331/2006⁷³. This order was revised with the support of Council of Europe experts in 2020, however it has not been approved so far. The prison hospital is the only institution responsible for selecting and presenting seriously ill prisoners for examination to the Special Medical Commission of the NAP Medical Directorate. The determination of the diagnosis and adequacy of the list of serious illnesses, which are basis for presentation in the court on grounds of serious illness is conducted by the Prison Medical Advisory Board.

⁷² The National Report in the context of the third cycle of the Universal Periodic Review on compliance with the human rights. https://cancelaria.gov.md/sites/default/files/raport_upr_2021.pdf

⁷³ Ministry of Justice Order No. 331 of 06.09.2006 on the approval of the Regulation on the manner of presenting seriously ill persons deprived of liberty for release from the execution of the sentence https://www.legis.md/cautare/getResults?doc_id=38904&lang=ro



The CfPT is concerned for the limited use in practice of compassionate release from detention on grounds of serious illness.

During 2022, the Special Medical Commission of the NAP examined 10 files, which were submitted to the court, (in 2021 – 13 files), 3 persons died in the penitentiary system during the period of examination in the court (in 2021 – 9 persons), 3 persons are awaiting the decision of the court, therefore only 3 persons were released (in 2021 – 4 persons).

The situation is aggravated by the lack of palliative beds, which restricts the access to providing relief from suffering, improving the quality of life by controlling symptoms and pain, which can be categorized as inhuman treatments applied to a cancer patient. Similarly, the death of seriously ill prisoners not in the prison hospital, but in other prisons where there is a lack of medical care due to the lack of doctors in most prisons, the lack of staff trained in palliative care and the lack of appropriate detention conditions adapted for the seriously ill, are categorised as inhumane treatment.

Regrettably, **the provisions of Order No. 331/2006 do not apply to seriously ill prisoners who have a remanded in custody status**⁷⁴. We refer to the decision of the Equality Council⁷⁵ (based on the complaint of the Promo-LEX public association⁷⁶), which drew attention to the fact that “the situation of remand prisoners and convicted prisoners is similar: both groups concerned are deprived of their liberty and are in the custody of the Ministry of Justice. In this context, the Council refers to the European Court case law, which held that: **the failure to apply health protection measures to a person suffering from a serious illness, simply because he/she is remanded in custody and the procedures are applied only to convicted persons, constitutes discrimination, because the remanded and convicted persons are in similar situations.** The Equality Council found that there were no objective and reasonable impediments for the Ministry of Justice to supplement and/or adjust its own Order so as to establish a similar mechanism that would also apply to seriously ill persons on remand.”⁷⁷

⁷⁴ “The physician shall report to the prison director whenever he or she considers that a prisoner’s physical or mental health has been or will be injuriously affected by continued imprisonment or by any condition of imprisonment” - Rule 33 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) <https://nettsteder.regjeringen.no/norlam/files/2017/08/Ansamblul-de-reguli-minime.pdf>. Resolution adopted by the UN General Assembly on 17 December 2015. Respectively, the Nelson Mandela Rules do not differentiate between the procedural status of the prisoner (for example, convicted or remanded in custody).

⁷⁵ The Finding Decision of 10 October 2018 of the Council on the Prevention and Elimination of Discrimination and Ensuring Equality in Case No. 129/2018 (Cosovan vs. Chisinau Prison No. 16, National Administration of Penitentiaries, Ministry of Justice)

⁷⁶ <https://promolex.md/12396-organizatia-mondiala-impotriva-torturii-solicita-interventia-urgenta-a-autritatilor-republicii-moldova-in-cazul-lui-serghei-cosovan/?lang=ro>

⁷⁷ http://egalitate.md/wp-content/uploads/2016/04/Decizie_constatare_129_2018.pdf



Failure to develop mechanisms/systems capable of providing the medical care necessary to prevent the deterioration of a prisoner's health, conditions the violation of **the absolute right not to be subjected to ill-treatment**. The application of release from detention on grounds of serious illness has limited practical implementation due to the harsh selection criteria, but also due to the lengthy time taken by the courts to consider the applications.

Public funding of healthcare services is steadily increasing. In 2022, it amounted to approximately 19 million MDL, being budgeted approximately 15 million MDL in 2019 and, in 2016 – 6,5 million MDL. The Council mentions the progress achieved in providing prisoners with medicines and quality healthcare services. The budget for 2022 (around 21 million MDL) was distributed as follows – 5,1% for the procurement of medical equipment, 43,2% for the procurement of medicines and 53,5% for contracting advisory and diagnostic-curative services from the institutions subordinate to the Ministry of Health.

The Council notes the progress in initiating the process of accreditation of prison medical services. Thus, by NAP Order No. 140 of 06.08.2018 on the organisation of the self-evaluation process of the medical services within the prison system, the procedures for self-evaluation of medical units within the prison system were initiated and capital repairs began in all medical services to comply with the national accreditation standards⁷⁸. At the moment, there are 13 accredited and 1 conditionally accredited medical services that have received the health authorization for operation from the public health service.

At the same time, the **CfPT is concerned that the prison hospital, the only medical institution in the penitentiary system that provides inpatient services to prisoners does not have a health authorization to operate and has not been evaluated by the official authority responsible for the accreditation of health service providers** (only a self-evaluation was conducted jointly with the Medical Directorate), a procedure that confirms the quality of medical services. According to the provisions of **Law No 552/2001 on health evaluation and accreditation**, "...health evaluation and accreditation is conducted in order to determine, on the basis of standards developed and approved by the Ministry of Health, the capacity of medical and pharmaceutical service providers, regardless of the type of ownership, legal form of the organisation and administrative subordination, to provide the population with the respective assistance and to achieve the objectives provided by the Law on Health Protection No 411/1995, Law No 263/2005 on patients' rights and responsibilities, etc." The main purpose of health evaluation and accreditation is to improve the quality of services provided

⁷⁸ By NAP Order No. 33d of 26.10.18 on the implementation of the process of evaluation and accreditation of the medical services in the prison system, 1,364,000 MDL were allocated for the provision of furniture, computer equipment, boilers, air conditioners, psychometers, and the establishment of medical departments for the creation of sanitary conditions in accordance with the provisions of Government Decision No. 663 of 23.07.2010 for the approval of the Public Health Regulation on hygiene conditions for medical service providers.



to the population by the medical and pharmaceutical service providers. This way, in accordance with Article 3 (2) of the Law on Health Protection⁷⁹ “... *in the Republic of Moldova, the medical and pharmaceutical service providers evaluated and accredited in the manner established by this law have the right to conduct medical, sanitary and pharmaceutical activity*, which, *de jure*, places the activity of the hospital outside the national legal framework and violates the principle of quality and equivalence of medical services in places of detention.

The situation remains unchanged in this regard and the CfPT maintains its recommendation: It is necessary to change the legal status of this institution and its accreditation as a healthcare provider with the effective implementation of medical protocols, compliance with the sanitary-epidemiological regime and the appropriate equipment of a medical institution.

The provision of prisoners with medications has improved. At the same time, upon examination, expired medications were found, suggesting that the medication management scheme in the prison system needs to be strengthened. The Council notes that, the distribution of psychotropic medications to prisoners by hand, in the absence of clearly defined procedures regarding the administration of medications, remains unchanged. **Thus, the previous recommendations of the CfPT remain in force: establishing strict control of the medications used.**

In the penitentiary system, the syringe exchange and condom distribution programme is operational and available to prisoners in 15 prisons, including in the prisons in Tighina town, which is implemented via volunteers from among prisoners. This programme is not available only in Prison No. 10 for minors. ***The Council welcomes these preventive interventions and is seeking additional information on the implementation of these activities in different institutions, with the information being made public.***

Similarly, the **methadone** and buprenorphine **pharmacotherapy programme** for opioid addiction is available in the prison system, which is in place in 13 prisons. By the end of 2022, there were 101 drug addicted prisoners subjected to treatment, during 2022 - 32 new beneficiaries being included, and 29 beneficiaries abandoned the treatment. Also, 20 convicted persons benefited from the continuity of methadone substitution treatment by transferring the case from the Ministry of Health and 33 beneficiaries were released from detention.

By the end of 2022, **22** prisoners benefited from **buprenorphine** substitution treatment. During 2022, **31** new beneficiaries were included, **4** restarted the treatment, **13** beneficiaries abandoned the treatment and 8 persons were excluded for stealing.

The Council expresses its concern regarding the small number of patients enrolled in the treatment and the high rates of abandonment. The prisoners who accept pharmacotherapeutic treatment are frequently placed in conditions of isolation due

⁷⁹ Law No. 411/1995 on health protection
http://www.legis.md/cautare/getResults?doc_id=119465&lang=ro



to the influence of the criminal subculture, which may be a reason for the refusal of the treatment. Respectively, the Council considers that the problem of under-use of pharmacotherapeutic treatment for opioid addicted persons remains, and the persons seeking treatment have to be isolated, separated from the general mass of prisoners. **The CfPT is concerned about the administration's inaction in ensuring access of prisoners placed under common regime to effective, evidence-based treatment for opioid addiction.**

By the end of 2022 there were 196 HIV patients registered in the prison system, of which 26 new cases. 185 prisoners currently benefit from antiretroviral treatment, 26 new patients being included in the treatment and 7 restarted the treatment.

The problem with the lower-level medical staff positions (nurses), currently held by prisoners is maintained in order to ensure the good functioning of the medical ward. Likewise, the maintenance of the sanitary, hygienic and anti-epidemic regime within the institution requires the cleaning of medical rooms and there is a need for training nurses in this regard, including ensuring the certification. **We reiterate the importance of not involving prisoners in medical activities (drafting the lists upon admission of persons, distribution of medications, nursing).**

In Prison No. 16, the supervisors assist in the conduct of medical consultations, including the initial medical examination at the stage of admission of the prisoner into the institution. This fact **compromises the effective provision of the medical safeguard and flagrantly violates patients' right to confidentiality.**

At the institutional level, in the Prison No. 16, there is a risk management plan, however at the implementation level, the work safety of supervisors is not sufficiently ensured, especially of those who came into contact with prisoners who had COVID-19. In fact, the employees in question did not benefit from the salary increases for working in harmful conditions, from which the contractual medical staff did benefit.

The management of medical waste is conducted in accordance with DPI Order No. 2011 of 13.04.2015 on the approval of the Regulation on the management in the prison system of the medical waste resulting from the medical activity and the programmes for risk reduction and the Standard Operating Procedures "Management of medical waste". The CfPT welcomes the fact that hazardous waste resulting from medical activity is collected by contracted economic agents.

Situation of children/juveniles in prison institutions

Treatment of juveniles prisoners in prison institutions

During 2022, the CfPT visited 2 prison institutions where juveniles are detained: Rezina Prison No.17 and Chisinau Prison No.13. As in previous visits, the CfPT found that in prisons with a status of criminal prosecution isolator, children are detained in separate cells from adults, but in the same rooms/premises, and even on the same corridors. Detention in the same institution or/and in the same unit, or/and on the same corridor



(even if in separate cells) of juvenile prisoners with adult prisoners may negatively influence the behaviour of juveniles, including their development, also due to the failure to adapt the conditions in the institution to the needs of juveniles⁸⁰. Interaction between adults and juveniles takes place via communication/discussions through the windows of the cell.

Regrettably, the CfPT found that convicted juveniles are placed in the same cell with juveniles who are remanded in custody for the first time. The negative influence of some juveniles on others was felt through the obscene language, the arrogant and ironic behaviour manifested by some of them, as well as the superiority manifested by a juvenile who considers himself/herself to be an informal leader.

The CfPT draws attention to Rule No.11 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) with reference to the proper conduct of segregation procedures, so that different categories of prisoners are placed separately, taking account of their sex, age, the legal reason for their detention and the necessities of their treatment⁸¹.

In the CPT's view⁸², it would be far preferable for all juvenile prisoners, whether on remand or sentenced, to be held in detention centres specifically designed for persons of this age, offering regimes tailored to their needs and staffed by persons trained in dealing with young persons.

Interaction of juvenile prisoners with the administration and staff of places of detention. Inter-prisoner violence.

During the monitoring visit, the **CfPT did not receive any allegations of torture by prison staff towards juvenile prisoners**, which indicates an improvement of the overall situation. However, the **CfPT received allegations of verbal abuse on juvenile prisoners**.

Regrettably, cases of violence between juveniles were noted. Even during the CfPT's monitoring visit to Chisinau Prison No. 13, the Council members witnessed an abuse towards a juvenile, who was brought to the medical ward for examination. From the analysis of the medical file and the monitoring of the cell where the juvenile was detained, the CfPT found that although the bodily injuries were documented and fixed, the medical staff did not express any opinion on the origin of the injuries or the credibility of the juvenile's allegations, who was insisting that he hit himself in a chair. The CfPT found that the position of the injuries did not match the statements of the

⁸⁰ http://ombudsman.md/wp-content/uploads/2021/12/CPT_Raport-minori-in-penitenciare_2021.pdf

⁸¹ The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) - Rule No. 11; European Prison Rules (Recommendation Rec (2006)2 - point 18.8;

⁸² Report to the Government of the Republic of Moldova on the visit conducted in the Republic of Moldova by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) of 14 - 25 September 2015.



juvenile and it was more than obvious that the juvenile was punched in the face by another juvenile. Moreover, in the cell where the juvenile was placed, there were no chairs at all. The most worrying fact was that as soon as he was provided medical care the juvenile was placed back in the same cell where he was physically assaulted.

In this regard, the National Administration of Penitentiaries should pay again attention to the standards of the European Committee for the Prevention of Torture (CPT) with a view to improving the treatment of juveniles detained in prisons:[...] The custody and care of juveniles deprived of their liberty is a particularly difficult task. Particular attention should be given to staff training in the management of violent incidents, especially in verbal de-escalation to reduce tension and professional restraint techniques. [...] ⁸³

A concern for the CfPT is the increase of the number of self-harm cases among juvenile prisoners. In Prison No. 13, 10 juvenile prisoners were recorded to have self-harmed during a period of 9 months in 2022, compared to one juvenile during the same period of 2021, data that determines an unsafe environment for this category of prisoners.

Internal complaints mechanisms

The CfPT notes that juveniles have no knowledge on information regarding the procedures for filing a complaint, information on their rights and obligations.

The CfPT draws the attention of the prison administration to the fact that, in the light of the Nelson Mandela Rules⁸⁴, every prisoner should be allowed to make a request or complaint regarding his or her treatment, without censorship as to substance, to the central prison administration and to the judicial or other competent authorities, including those vested with reviewing or remedial power. Safeguards shall be in place to ensure that prisoners can make requests or complaints safely and, if so requested by the complainant, in a confidential manner.

Material conditions for the placement of juveniles

Detention conditions are unsatisfactory in both institutions visited, the bathroom door in one of the cells was damaged, the juveniles do not have lockers to keep their personal belongings. The bed linen was dirty and untidy, the juveniles stated that they received clean bed linen only upon entry to the prison, subsequently only through parcels from relatives. Some of the children were sleeping on the mattress itself, with no sheets. They had no bin for household waste. The beds were surrounded by quilts, probably to ensure privacy. Unsecured improvised electric cables run through the cell. In discussions with the CfPT, in Prison No. 13 and Prison No. 17, the juveniles mentioned the poor quality of the food, which is why, according to their statements, they do not

⁸³ CPT Standards, the Romanian version is available at the following address:

<https://www.coe.int/en/web/cpt/standards>

⁸⁴ See at: https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf



eat the food provided by the institution, but rather the food received from relatives (food parcels) and especially canned food. This places adolescents' health at risk and restricts their right to a varied menu necessary for their growth.

Daily activities

Juveniles can benefit from continuing their secondary education within the penitentiary institution, which are organised in cooperation with the territorial Education Directorate. The CfPT is concerned about the quality of the educational process provided to juvenile prisoners. In Rezina Prison No. 17 classes are held twice a week by a teacher from the Saharna-Noua Gymnasium, who teaches all the subjects.

Apart from the training classes, juveniles have no other activities to be involved into, except for some activities which are sporadically conducted (2-3 activities in the form of a drawing competition or a poetry recital every quarter).

The Council reiterates the CPT's finding during the 2015⁸⁵ visit that juveniles detained in Prisons No. 13 and No. 17 have no activities outside the cell, apart from one hour of school classes twice a week and daily outdoor exercises for two hours. We would like to point out that the lack of occupational activities is particularly harmful for juveniles, who have a certain need for physical activity and intellectual stimulation.

Situation of women in prison institutions



⁸⁵ <https://rm.coe.int/16806975da>



During 2022, the CfPT visited 3 prison institutions where female prisoners were detained: Rezina Prison No. 17, Chisinau Prison No. 13 and Pruncul Prison No. 16.

During the monitoring visits, ***the CfPT did not receive any allegations of torture and other ill-treatment by penitentiary staff towards female prisoners.***

The conditions in which the women are held in the criminal investigation isolators are satisfactory. The cells where the women in Prison No. 13 are held, were clean, in some cells the furniture was new, there were chairs, tables, cupboards, a refrigerator, an electric stove, a television, a kitchenette equipped with containers/utensils for cooking.

Daylight hardly gets in because of the small windows and bunk beds, and the artificial light is also poor, which is why, each inmate, on her own, has connected electricity to her bed.

However, the inmates complained that there were cockroaches in the cells and even rats come out of the sewage system. At the same time, it was complained that there are no conditions for washing and drying personal clothes (they get stolen on the lines from the cells), which is why the humidity in the cells is high.

The provision of personal hygiene items is centralized in all penitentiaries, conducted once a month and the kit consists of toilet paper (monthly), toothbrush and toothpaste (once every 3 months). Hygiene products are distributed upon request, but most have linen and hygiene products sent by relatives through parcels. CfPT considers it necessary to provide sufficient quantities and to revise the kit of hygiene products, by including other necessary products, such as shampoo.

Access to the bathroom is only once a week, the bathroom is in unsatisfactory condition, the terracotta on the walls is falling off, there are no shower heads and privacy is not observed.

The CfPT is concerned that access to the doctor is limited, female prisoners mentioned that the doctor visits the women's block, personally, once every 2-3 days.

The Council draws attention to Rule 2 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)⁸⁶, in order to ensure the practical application of the principle of non-discrimination, prison administrations shall take into account of the individual needs of prisoners, in particular the most vulnerable categories in prison settings. Measures to protect and promote the rights of prisoners with special needs are required and shall not be regarded as discriminatory.

⁸⁶ The United Nations Standard Minimum Rules for the Treatment of Prisoners, available in English at the following link:

https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf



In all the prison institutions visited, the CfPT found that women are not involved in activities, except for some sporadic actions, and, practically, they spend the whole day in the cell, except for the walking hours. They have partial access to books from the library, TV, radio (if the equipment is brought by relatives and provided that the prisoners have money on their peculium account to pay for the electricity consumed).

Situation of life-sentenced prisoners

During 2022, the CfPT visited 2 prison institutions where there are prisoners sentenced to life imprisonment: Rezina Prison No. 17 and Chisinau Prison No. 13.

At the end of 2022, 128 life-sentenced prisoners were detained in the penitentiary system⁸⁷. They are held in Rezina Prison No. 17 since 2001, in a specialized sector.

At the time of the CfPT's visit, 115 life-sentenced prisoners were detained in the penitentiary institution No. 17. The CfPT has received no complaints from life-sentenced prisoners regarding abuse by the institution staff or other prisoners. The problems mentioned by the convicted persons are related to medical assistance, problems related to the restriction of parcels with certain food products (potatoes, fruits), the poor quality of food, the lifting of certain tools used in occupational activities during searches.

Another problem found by the CfPT during the visit is the impossibility of life-sentenced prisoners to benefit from early conditional release on parole, even if they have served 30 years of life imprisonment and meet the requirements provided by the legislation. The CfPT draws attention to Recommendation REC (2003) 22 of the **Committee of Ministers to member states regarding one of the general principles according to which, in order to reduce the harmful effects of prison and to promote the reintegration of prisoners according to the conditions that aim to guarantee the safety of the outside community, the law should make conditional release accessible for all sentenced prisoners, including life prisoners. Similarly, it is necessary to regulate a special mechanism guaranteeing a first review within maximum 25 years after the imposition of a life sentence and regular reviews thereafter.**⁸⁸

The segregation of this category of convicted persons makes all life-sentenced prisoners to be perceived by the actors involved in the judicial process and the whole society as being the most dangerous to those around them. The CfPT draws the attention of the National Administration of Penitentiaries to the Report to the Government of the Republic of Moldova on the visit to the Republic of Moldova conducted by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), in the period 14 - 25 September 2015, point 90 states that the

⁸⁷ <http://www.anp.gov.md/index.php/rapoarte-de-bilant-semestriale-anuale>

⁸⁸ ECtHR judgement (Vinter and others vs. UK, §120 ; Bodein vs. France, §61, 2014).



CPT sees no justification for the systematic segregation of life-sentenced prisoners from the rest of the prison population and calls on the Moldovan authorities to take measures - including legislative measures - to establish a process of integration of life-sentenced prisoners into the general prison population.

The material conditions of detention were, in general, unsatisfactory, the furniture was old and mostly defective, the state of maintenance left much to be desired, and hygiene conditions were mediocre, with worn-out bedding. This image is also created due to the fact that many of the cells are filled with numerous personal belongings/objects of the prisoners which visually transform the spaces into a warehouse. The cells are equipped with separate sanitary annexes, the doorsteps (stair) are very high, which creates impediments for disabled and elderly persons. The prisoners have access to the bathroom once a week.

Convicted persons to life imprisonment have access to some walking areas on the roof of accommodation block No.1 for up to 2 hours a day, according to a schedule established by the administration. These areas are equipped in an appropriate manner (benches, protected areas, sports inventory etc.). **In this regard, the CfPT reiterates the recommendation that, to the extent possible, all life-sentenced prisoners should have regular access to the walking areas located at ground level.**

The CfPT highly appreciates the institution's involvement in delivery of high school training for life-sentenced prisoners, which started on 1 September 2021 and it is conducted in online format, 2 life-sentenced prisoners having already benefited from it. This is a good practice to ensure the right to education for persons deprived of liberty.

Similarly, the CfPT has observed that many life-sentenced prisoners conduct occupational activities in their own cells. In this regard, the CfPT recommends that the prison administration identifies as many spaces as possible for occupational activities for the prisoners, so that cells are not overloaded with materials and tools.

The Council recommends that the administration of the Prison No. 17 creates opportunities to involve convicted persons sentenced to life imprisonment, in both educational activities and work, whether remunerated or non-remunerated.



Situation of persons with special needs in prison institutions

A major concern of the CfPT is the situation of persons with disabilities in places of detention. The **CfPT permanently notes that the conditions of detention in all prisons visited are not adapted to the special needs of prisoners with disabilities**. For example, in Cricova Prison No. 4, the medical ward is located on the second floor of block 5. There are two entrances with free access for convicted persons, including directly from the prison yard. Neither entrance is accommodated for persons with disabilities, which may cause additional impediments in accessing the medical service. Some prisoners stated that they do not have access to the medical service due to its location and the access routes are troublesome for a person with disabilities or an elderly person. Another access impediment would be that in order to reach the medical service, they have to cross an area, through which the movement is controlled by the criminal subculture and a high number of prisoners are afraid to cross this area. This situation was also noted in other prison institutions.

The prisoners with locomotor disabilities do not have independent access to walking areas, places intended for cultural-educational activities (libraries, cultural rooms), sectors or rooms for visits, kitchens. Moreover, the sanitary blocks (with Asian-style toilets) in cells, barrack-type spaces, quarantines and medical wards are not accessible either to prisoners with locomotor disabilities or elderly prisoners. Lower-level nursing staff (nurses, orderlies) in the prison staff are not provided for, these duties being delegated to the housekeeping unit made up of other employed prisoners. This has led to a situation where one prisoner takes care of another prisoner in exchange for material goods (cigarettes, clothes, food).

The CfPT welcomes the fact that in Chisinau Prison No. 13, a cell for persons with locomotor disabilities has been adapted. The sanitary block in this cell meets the minimum standards to be independently used by the person with disabilities in a wheelchair. The cell and the sanitary block were accommodated following the decision of the Council for the Prevention of Discrimination and Ensuring Equality in Moldova⁸⁹. Although there is a cell for persons with disabilities, at the time of the visit to Prison No. 13, in a 16,5 sqm cell, which is not accommodated for persons with special needs, there were 8 persons detained, one of whom was a person with a 2nd degree disability, who had difficulty walking and could not use the toilet in this cell because it had a very high doorstep.

Therefore, the CfPT repeatedly notes that the accommodated cell is not used according to its purpose, but for the separation of prisoners, according to Article 206 of the Execution Code or Law No. 105/2008 on the protection of witnesses and other participants in the criminal trial, not considering the fact that in Chisinau Prison No. 13 there are permanently several persons with special needs detained.

⁸⁹ Decision of 11.12.2014 in case No. 155/14 (M.T. v. Department of Prison Institutions, Prison No. 13, National Social Insurance House) regarding discrimination by refusal to provide reasonable accommodation on grounds of disability, is available at: <http://old.egalitate.md/index.php?pag=news&id=836&rid=583&l=ro>



The European Court of Human Rights⁹⁰ in its decisions states that the state has the obligation to ensure adequate conditions of detention for prisoners with physical disabilities and should not deviate from this obligation by transferring responsibility to other prisoners. The conditions of detention of prisoners in respect of their physical disability and, in particular, their inability to independently access various prison premises, including sanitation facilities and the lack of any organised assistance for their mobility in daily life, thus reach the level of severity required to constitute a degrading treatment.

According to the Recommendations of the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)⁹¹, prison administrations shall make all reasonable accommodation and adjustments to ensure that prisoners with physical, mental or other disabilities have full and effective access to prison life on an equitable basis.

III.1.5. Situation in places of detention in institutions subordinated to the Ministry of Labour and Social Protection



⁹⁰ See the Decisions: Prince v. Great Britain, 2001; Vincent v. France, 2006; Mouisel v. France, 2002; Khudobin v. Russia, 2006; Xiros v. Greece, 2010; Kupczak v. Poland, 2009; Gori v. Albania, 2009; Logvinenko v. Ukraine, 2010; Jansinskis v. Latvia, 2010; RaffrayTadei v. France, 2010; Vasyukov v. Russia, 2012; Artynian v. Russia, 2012; Grzywaczewski v. Poland, 2012; Grmailovs v. Latvia, 2013; D.G. v. Poland, 2013, etc.

⁹¹ The United Nations Standard Minimum Rules for the Treatment of Prisoners, available in English at the following link: https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf



Under the Ministry of Labour and Social Protection there are 6 Temporary Placement Centres for Persons with Disabilities (TPCPD), which are managed by the National Social Assistance Agency. Until May 2018, these institutions were known as psychoneurological boarding houses. Of the 6 centres, 4 are for adults and 2 for children - girls and boys, respectively.

Pursuant to Government Decision No. 454/2018 on the reorganization of the National Social Assistance Agency⁹², the activity of *psychoneurological boarding houses*, renamed as *Temporary Placement Centres for Persons with Disabilities* (hereinafter referred to as *the Centre/TPCPD*), are managed by the **National Social Assistance Agency. The latter is an administrative authority subordinated to the Ministry of Labour and Social Protection. The purpose of the Centre⁹³ is to provide care and support services for the development of personal autonomy, self-service and socialisation skills of beneficiaries in order to facilitate the process of inclusion in the community⁹⁴.**

During 2022, the CfPT conducted 2 visits to institutions subordinated to the MLSP: Temporary placement centre for children with disabilities in Orhei Mun. and Temporary placement centre for persons with disabilities (adults) in Brinzeni.

Situation regarding the phenomenon of torture, inhuman and degrading treatment in Temporary Placement Centres for Persons with Disabilities (TPCPD)

Currently, in 6 TPCPD, 1,925 persons are institutionalized, and they have been living there for 5, 10 or even 30 years. Out of the total number, 250 persons are placed in TPCPD for children (girls) in Hincesti and 204 persons in TPCPD for children (boys) in Orhei. In fact, only 83 juveniles live in the children's centres, the others being adults.

a) The issue of legal representation

The Law No. 1402/1997 on mental health provides for the procedure of placement into psychoneurological institutions in line with Article 40 is possible under paragraph (1) letters a) - c), at the request of both the person and the guardian, in cases provided for by the law, when the person is unable to make or express the decision by himself/herself. ***In a legal sense, since 2 June 2018, in the Republic of Moldova, all persons have regained their full capacity of exercise, and the protection measures in the form of guardianship or curatorship have ceased by right⁹⁵.*** In line with the new civil

⁹² Government Decision No. 454/2018 regarding the reorganisation of the National Social Assistance Agency, accessible at: <http://lex.justice.md/md/375489/>

⁹³ MLSPF Order No. 204/2016, accessible at: https://msmps.gov.md/sites/default/files/skmbt_22316110709050.pdf

⁹⁴ Point 9 of the Framework Regulation

⁹⁵ Law No. 66/2017 regarding the amendment and completion of some legislative acts, Article XVII para. (1) and (4) <http://lex.justice.md/md/370424/>



legislation, the administration of the institution is not the default legal representative, and the majority of the beneficiaries are left without decision support and legal representation in necessary cases.

The CfPT notes that the procedure for authorising the guardians has not yet been drawn up by the government, and the institution's workers are unable to support the beneficiaries in their decision-making and representing these decisions by legal acts. This leads to considerable vulnerability of the beneficiaries to be de facto and de jure limited or deprived of their civil rights, including of the consent to placement (interference in the right to liberty) and other expressions of beneficiaries' wishes in various areas of life.

The CfPT considers that in the absence of legal safeguards when expressing the consent on placement, displacement of residents in the institution may seriously violate the civil and social rights of the beneficiaries. The Council recommends the Ministry of Labour and Social Protection and the Government to urgently develop the regulatory and procedural framework to ensure the support in decision-making and legal representation for ensuring the right to legal capacity on an equal basis with other persons, in line with Article 8, paragraph 2 of Law No 60/2012⁹⁶ on social inclusion of persons with disabilities.

b) Verbal and physical abuse

In the Brinzeni placement Centre, no standard procedure was found for dealing with conflict and physical or verbal violence, both between beneficiaries and from staff. The cases are not documented and are arbitrarily resolved by simple, verbal procedures, according to the statements of the administration. Most conflicts arise due to theft of personal belongings or due to alcohol consumption. There are no standard procedures for recording cases and the extent of personal injuries caused or of moral damage. Thus, the beneficiaries are at risk of damage to their physical and mental integrity.

The Centre keeps a Register for the record of bodily injuries in which the person on duty indicates very briefly what happened and what actions were taken. Analysing the contents of the register, we note that injuries usually occur as a result of falls (on stairs, in the bathroom) and that traumas are described very briefly and uninformatively, for example: "hit his/her head, ribs, left eye, right leg". In the section on measures taken, it is indicated that medical aid was provided, also bandages treated with a solution of brilliant green or the ambulance was called.

By analysing the Register, **the CfPT notes that mandatory training is required for the staff of the Centre in assessing/documenting/reporting bodily injuries.** The Register does not provide clarity on the causes of the injuries, and this raises serious questions and doubts with regards to the exposure of beneficiaries to ill-treatment.

⁹⁶ Law no. 60/2012, art. 8, para.(2) "Persons with disabilities shall enjoy legal capacity on an equal basis with other persons in all aspects of life, and, where appropriate, protection measures and legal assistance in the exercise of legal capacity, provided for by the legislation in force".



Apparently, all bodily injuries and traumas (which are not fixed and described by a doctor) occur due to the negligence of the beneficiaries, therefore ruling out any possible allegations of the beneficiaries as to the origin of the injuries.

The CfPT recommends that the staff of the Centre to be trained on the legal regulations concerning the responsibility of the institutions to record and report injuries occurred to persons in their custody.

In the Centre, the Register of conflicts between beneficiaries, which describes in a few words the situation and the measures taken, is also filled in. The Register shows the causing of the injuries between beneficiaries or the hitting of orderlies. The Register does not contain any information on the referral to the law enforcement authorities or the sanctioning of the persons responsible (if they can be held liable).

Although the Centre is intended, according to its structure and available means, for active involvement in rehabilitation activities, the impression is created that some beneficiaries are more likely to be required to perform certain unpaid work. The CfPT notes that no beneficiary is involved in work outside the Centre. The discussions with the beneficiaries show that the majority of them want to work in the private sector, in the households of the villagers, because they receive a monetary remuneration, which is more incentive. The administration prohibits the beneficiaries to go out to the locality (only accompanied by someone to the post office or the shop) and to work in the private sector, on the grounds that the beneficiaries are exploited, that they have no real capacities to physically work and that the money they earn is used to buy alcohol, which exposes them to aggressive behaviour. The administration's statements contradict the statements of the beneficiaries, because of the money earned the beneficiaries purchase necessary personal things, diversify their stay in the Centre, communicate with their peers in the community, participate in the social life, make use of their social potential and existential motivation through the freedom to make decisions regarding their personal life. **The administration of the Centres should provide personal support in taking decisions to engage in these activities in order to prevent exploitation and not to create impediments to the desire and need of the beneficiaries to activate outside the Centres.** At the same time, the administration should create incentive conditions for inclusion in the process of internal activities and avoid the punitive nature.

c) Safeguards in the context of involuntary placement

According to the Law on Mental Health, the opinion of the medical commission, with the participation of the psychiatrist, and issued on the basis of the application submitted by the guardian of the person suffering from mental disorders, in respect of which guardianship is instituted, serves as a ground for admission to a psychoneurological institution, contrary to the wish expressed by the beneficiary (involuntary admission)⁹⁷.

⁹⁷ Article 40 para. (1)



The framework regulation⁹⁸ provides additional safeguards against abusive placement⁹⁹. And, to date, this regulation is not complied with, from discussions with the beneficiaries of the centres many of them stated that they were placed against their will and would like to go home.

The CfPT finds violations of people's right to express their will, freedom to make their own choices and personal independence. In the temporary placement centre for children with disabilities in Orhei municipal, the majority of the residents of the institution are persons over 18 years old. Although they remained residents of the Centre, no one asked them for their opinion or consent to express their will or desire to stay or leave the Centre. At the moment, there is no question of the lack of legal capacity of the persons admitted to the Centre, but an informal paternalistic attitude is maintained. The management staff does not have a practice of seeking informed consent from the beneficiaries. Through the normative acts, the interests of the beneficiaries are represented by the legal representatives up to the age of 18 or the representative of the Centre beyond this age.

The CfPT notes that **there is no clear way of filing complaints** to or outside the administration. **It is not clear** to the members of the CfPT **how the beneficiaries are informed on the fact that they can complain in case of occurrence of a dangerous situation**, how they can objectively and independently file complaints, without bearing any consequences, if most of them cannot read and write. These facts are of concern to the CfPT on the grounds that the existence of efficient complaints procedures are a fundamental safeguard against ill-treatment. The staff presented the register of complaints, which has no record.

In TPCPD Brinzeni there were no information boards accessible to beneficiaries explaining their rights and/or the institutions where they can go to complain about certain things. Furthermore, the provision of telephone or postal communication remains at the discretion of the staff of the Centre who claim they do not restrict the right of beneficiaries to call or send/ receive mail.

The TPCPD Orhei beneficiaries may call home/relatives/friends only from personal mobile phones or from the social worker's landline. At the same time, the **Register of calls conducted is not available, and the conversations are not confidential, being made in the presence of the staff of the institution (except those made from the personal phone).**

⁹⁸ Note: The regulation operates with the notion of "Boarding House"

⁹⁹ The examination of eligibility for placement is conducted by the Multisectoral Working Group within the MHLSP (hereinafter - the Working Group), based on the package of documents submitted by the territorial social assistance structures. The decisions of the Working Group shall constitute the basis for the issuance of the entitlements for placement in the boarding house. The admission of the beneficiary to the Centre is made on the basis of the entitlement issued by the MHLSP, to which the set of documents of the beneficiary is attached. The director of the Boarding House prepares the Order of admission to the institution of the beneficiary and indicates the placement period, following the examination of the file by the multidisciplinary team within the institution.



d) Material conditions

The material conditions in the accommodation rooms remain below the satisfactory level.

The CfPT has noted the improvement of the living conditions in the TPCPD. The Temporary Placement Centre in Brinzeni has renovated a new block for the accommodation of beneficiaries.

In the institutions, we can observe the practice of accommodation in large groups of 8-13 persons in TPCPD Orhei and 2-4 persons in TPCPD Brinzeni, with individual beds. Although clean and furnished, the privacy and personal life of the beneficiaries is not maintained. One aspect highlighted during the visit was that the beds were made and that during the day the beneficiaries were not permitted in the bedrooms, without understanding where they could relax or spend time in privacy.

The bedrooms have enough natural and artificial light but are still poorly ventilated. Shared toilets and shower space are not separated, thus the individualization of privacy in the physiological process is not ensured.

The bathroom and toilets are not fully adapted to the needs of people with locomotor disabilities. To use the bathroom, some beneficiaries need the full assistance of care staff or other beneficiaries. The bathtubs, floors are not made of non-slip materials. The walls are covered with tiles and have a harsh and cold appearance. For a person with severe locomotor disabilities, the place seems dangerous enough to cause injuries.

The beneficiaries usually eat in the institution's canteen, for those who can walk. For people with mobility difficulties, food is brought to the ward, where buffets are set up. Some beneficiaries also need to be fed by the nurse, as they are unable to feed themselves. They may also receive food parcels from relatives, which are verified and kept by the care staff or have access to the local food shop (TPCPD Brinzeni).

The CfPT found that the menu in the food block does not provide adapted meals for persons with special medical or dietary conditions. Although the institutions provide the standard meals for the beneficiaries, there is a need for diversification.

The beneficiaries are provided with hygienic products, but they need to be assisted or trained in their use. There is a large number of beneficiaries who, due to their locomotor or intellectual disability, need to be assisted by care staff in using hygiene products or performing personal hygiene. In the TPCPD Orhei, the CfPT finds that one nurse, usually female, per 8-13 beneficiaries, does not fully manage to physically cover the personal needs of the beneficiaries. In some groups, where bedridden or severely locomotor impaired beneficiaries are placed, a single nurse has to supervise the beneficiaries, to change their diapers, feed them, wash them, dress/undress them, take them out for walks, etc. For a single person this task is disproportionately difficult, tiring and demotivating in terms of remuneration. Thus, **the CfPT notes the insufficiency of care staff and of adequate services provided to the beneficiaries, which violates**



human dignity. The Council calls for a review of minimum quality standards and staffing norms to ensure adequate care for beneficiaries with intellectual and locomotor disabilities.

e) Medical assistance

Some of the beneficiaries have health insurance policies, but the institution does not have access to the mandatory health insurance funds because it does not have a service contract with the National Health Insurance Company. According to the Law on Compulsory Health Insurance, the Government also offers insured status to persons with severe, serious or moderate disabilities who are domiciled in the Republic of Moldova and registered with the authorised institutions of the Republic of Moldova.

The CfPT closely examines the living conditions and treatment of persons with mental disabilities, and any inconsistencies in these areas can quickly lead to situations that can be considered as “inhuman or degrading treatment”. The state has a positive obligation to ensure that persons in its custody receive adequate and prompt medical assistance. **Regretfully, the CfPT establishes the failure to resolve this issue following the feedback submitted by the Ombudsman for Children’s Rights to the National Health Insurance Company (2017).**

In TPCPD Brinzeni, the Medical Service does not have a sanitary authorization to operate and it is not accredited. Likewise, the laboratory does not have an operating permit and its compliance has never been assessed. National and institutional clinical protocols, the regulation on the operation of the institution’s Medical Service are lacking, and there are no procedures for the medical waste management, the waste being destroyed by nurses through burning.

f) Providing care and support in the rehabilitation and social reintegration process

Although the purpose of the Centres is to provide services and support for the development of personal autonomy skills and to facilitate the process of social inclusion¹⁰⁰, the data provided and analysed conveys the image of an institution designed to segregate and isolate persons with intellectual and psychosocial disabilities from the community for a longer period of time, in some cases, for life.

Only one social worker is employed in TPCPD Brinzeni, which is insufficient in order to ensure a complex process of using psychosocial rehabilitation procedures. The CfPT found that the social worker, according to the job description, has two basic tasks: the record keeping of beneficiaries according to the register and the control and record keeping of beneficiaries’ personal files. None of the tasks in the job description mentions the Individualised Assistance Plan for beneficiaries, the social worker being

¹⁰⁰ National Programme for the deinstitutionalization of persons with intellectual and psychosocial disabilities in residential institutions managed by the National Social Assistance Agency, for 2018-2026. https://www.legis.md/cautare/getResults?doc_id=109067&lang=ro



responsible for the completion of documents, the registration of insurance policies, the registration of those newly admitted and discharged, as well as the registration of those deceased. Only one attribution where the evaluation of beneficiaries is indicated, but it is not clear in which context this evaluation is conducted. In the files that were studied by the team members, there is practically no planning of assistance activities during the period when the beneficiaries are placed in the Centre (although in the files there are assessments or individual assistance plans developed and implemented in the institutions where they were placed prior to coming to the Centre), which reflects a lack of individualized treatment, which negatively influences the process of recovery, rehabilitation and social reintegration of the persons who are placed in the institution.

The CfPT calls the attention of the MLSP to ensure the revision of the acts stipulating the services provided to the beneficiaries, so that the institution responds to the intended purpose and offers the spectrum of assistance services, tools to persons with intellectual and psychosocial disabilities to ensure the inherent right to live in the community, providing real possibilities for their rehabilitation and social reintegration.

The number of occupational activities is small and does not always correspond to the individual needs of the beneficiaries. Access to education and vocational rehabilitation are not provided. The services offered in the Centre do not help to achieve social integration and to ensure the right to independent living.

The CfPT notes the need to revise and diversify the occupational programmes as well as to initiate development and socialization activities that are useful and necessary for the beneficiaries.

III.1.6. Situation in places of detention in institutions subordinated to the Ministry of Health (MoH)

The psychiatric hospitals in Chisinau, Orhei and Balti, subordinated to the MoH, are self-financing, not-for-profit, public medical and sanitary institutions, which are part of the compulsory health insurance system. Psychiatric hospitals have the responsibility of monitoring, evaluating and integrating the psychiatric assistance service in the country through the National Coordinating Centre in the field of psychiatric assistance.

During 2022, the CfPT conducted a visit in the institutions subordinated to the MoH, the Psychiatric Hospital in Balti, and 2 monitoring visits to ward No.10 of Codru Psychiatric Hospital.

The Balti Psychiatric Hospital is an inpatient, single-specialty (psychiatry-narcology), republican level health care unit, whose main activity is the provision of hospital medical services in the field of mental health. The spectrum of medical services includes diagnostic and curative, rehabilitative and preventive services in the specialties of adult



and child psychiatry, narcology, as well as the provision of medical constraint measures with a regular supervision regime.

Consent to the provision of psychiatric assistance

Pursuant to Article 4 of the **Law No 1402/1997 on mental health**¹⁰¹, psychiatric assistance is provided at the voluntary request of the person or with his/her consent, except in the cases provided for by this Law. At the same time, the acceptance and refusal of treatment will be conducted on the basis of consent, except for the situation regulated by Article 11 paragraph of the Law 1402/1997, which stipulates that treatment may be conducted without the free consent of the person suffering from mental disorders or his/her legal representative, only in the case of application of coercive medical measures in accordance with the provisions of the Criminal Code, as well as in the case of hospitalization without free consent in line with Article 28 of the above-mentioned Law. In such cases, except in emergencies, the treatment will be applied under the decision of the committee of psychiatric doctors.

Involuntary placement procedure

Admission to psychiatric hospitals according to the legal framework may take place:

- with the patient's freely expressed consent;
- without the patient's consent, in civil proceedings;
- without consent, as a medical constraint measure in criminal proceedings.

Pursuant to Article 28 of Law 1402/1997 "A person suffering from mental disorders may be hospitalized in a psychiatric ward **without his/her free consent** or that of his/her legal representative, until a court decision is issued, if his/her examination or treatment is possible only under inpatient conditions and the mental disorder is serious and conditions:

- a) direct social danger;
- c) serious harm to his/her health if he/she is not provided psychiatric care".

The provisions of Article 28 letter (a) of the Law No. 1402/1997, whereby a person may be subject to forced institutionalisation if his/her state of health conditions a „direct social danger“, are to be repealed. Direct social danger is a circumstance that, in fact, can be achieved by attempt. It therefore falls under criminal proceedings with the possibility of applying medical constraint measures. The UN Committee on the Rights of Persons with Disabilities has recommended that the State reviews and repeals the legal provisions authorising forced psychiatric treatment and non-consensual psychiatric treatment on the grounds of disability.

The Law No. 1402/1997 provides the person suffering from mental disorders with certain safeguards against possible abuse in the case of non-consensual hospitalisation: the decision on involuntary placement and the term is taken by the court; examination

¹⁰¹ https://www.legis.md/cautare/getResults?doc_id=131976&lang=ro



of the request for forced placement within a limited period of 3 days; the right of the person to participate in the examination of the case or the judge coming to the person's location; the right to have an appointed or chosen lawyer; the possibility to appeal the decision on forced placement, etc.

The CfPT notes that although there are legal safeguards, often the involuntarily placed persons have not been informed on their rights, they have not had access to a lawyer, they have not had real possibility to challenge the decision, etc.

At the same time, although according to the law *the hospitalisation in a psychiatric ward without the free consent will last only for the period of maintenance of the grounds on which it was conducted*, often the patients' stay in the ward is excessively lengthy and the patient is not aware of the remedies to challenge the decisions for the extension of the stay in the ward. Verification of the need to extend hospitalisation is only conducted upon the expiry of 6 months after hospitalisation, an excessively long period of time for treatment (some mental illnesses are incurable, therefore the need for hospitalisation is only justified during periods of crisis or aggravation).

The civil legal framework regarding the limitation or lack of legal capacity of persons has been improved with the entry into force of the amendments to the Civil Code¹⁰² (01.03.2019). Thus Articles 31 and 32 of the Civil Code provide that: "No person may be limited in capacity of use and capacity of exercise, except in the case and in the manner provided by law. The total or partial waiving of an individual to the capacity of use or exercise, other legal acts aimed at limiting the person's capacity of use or exercise his or her rights are void. Under the conditions of this Code, a legal guardianship in the form of curatorship, provisional protection or guardianship may be ordered by a court decision, with regards to a natural person who, as a result of a mental illness or physical, mental or psychological deficiency, cannot fully be aware of his/her actions or express his/her will".

In criminal proceedings, medical constraint measures, provided for in Articles 99, 100 of the Criminal Code and Article 490 of the Criminal Procedure Code, may be applied to suspects, accused or defendants. The general rule imposes an obligation to ensure the placement of persons separately from institutionalised patients based on the informed consent. The court, periodically, but not less than once every 6 months, verifies the need for continuing the application of medical restraints¹⁰³.

The CfPT finds that the shortcomings found by the European Court of Human Rights in the David¹⁰⁴ and Gorobet¹⁰⁵ cases are maintained. The ***patients do not attend the court hearing and are not provided with legal assistance in order to file an appeal/recourse, and do not receive copies of the medical opinions and court decisions.***

¹⁰² https://www.legis.md/cautare/getResults?doc_id=136381&lang=ro#

¹⁰³ Article 501 Criminal Procedure Code

¹⁰⁴ 41578/05, judgement of 27.11.2007

¹⁰⁵ 30951/10, judgement of 11.10.2011



The court-appointed lawyers are present only at the court hearing where involuntary admission is decided. At the same time, the patients are not informed with regards to the procedures for leaving the hospital, the possibility and modalities of filing an appeal.

The CfPT also conducted 2 ad-hoc visits to monitor the observance of the rights of persons suffering from mental illnesses undergoing treatment by coercion at the Codru Psychiatric Hospital under Articles 99, 100 of the Criminal Code, following an incident – burning of ward property by patients hospitalized under a court order. Following these visits, the CfPT found numerous violations of patients' rights:

- Ward No. 10 of Codru Psychiatric Hospital is not secured so as to exclude escapes, neither the adjacent territory nor the interior of the building are sufficiently secured. No control is conducted at the entrance to the ward, which poses a risk to introducing prohibited products or objects.
- The ward does not have an internal Regulation for intervention in exceptional cases or a Protocol for ensuring the safety of patients and staff in extreme cases or an internal regulation of activity, which endangers the safety of patients and medical staff. The medical/auxiliary staff is not trained in crisis management, which sets a precedent for conflict situations and degrading treatment.
- The ward is not provided with security and escort intended for the escort of beneficiaries to courts, therefore the right to participate in the justice process is not fully complied with.
- At the first monitoring visit, the patients were detained in inhuman placement conditions because they were exposed to cold; placed in conditions of overcrowding, including in the corridor; clothing was not appropriate for the temperature; patients could not maintain personal hygiene as they had access to only one bathroom with one shower head; some of the patients did not have personal hygiene products.
- The patients are not provided with shampoo, toothpaste/toothbrush, detergent, towels, change of clothes. There are no records to prove the regularity of the distribution of hygiene products.
- As a result, minimum conditions of hygiene and living are not provided, creating the presumption of degrading treatment and lack of respect for human dignity.
- The fire instigator was held in degrading conditions, primarily, through his solitary confinement, which is contrary to CPT standards, which state that **solitary confinement should never be used as a punishment**. At the same time, we find that the conditions were degrading due to the lack of a sanitary block in the cell and fulfilling the biological needs and maintaining hygiene in the cell. Administering the treatment without the patient's consent and not informing the patient with regards to the medications administered, also constitutes a violation of the standards established by the CPT (point 41 of the General Report No. 8).
- The examination/documentation/assessment/reporting of bodily injuries after the incident on 27 October 2022 did not comply with the *Joint Order No.77 of 31.12.2013 on approving the Regulation on the procedure for identification, registration and*



reporting of alleged cases of torture, inhuman or degrading treatment, nor the provisions of the *Istanbul Protocol*. The patients were examined chaotically, in the cold, in the hallway of the institution, in the absence of a specially dedicated space, without ensuring privacy and confidentiality.

- The ward does not have a separate Register for the assessment of incidents, bodily injuries detected, which severely violates the patient's right to a secure environment.
- The ward lacks a clear system for filing complaints, or a register in which patient complaints would be recorded (there is no sealed mailbox accessible only to a postal worker). The patients do not have envelopes, stamps or other necessary supplies for submitting letters/complaints. Thus, the patient's right to correspondence and petitioning is restricted.
- Occupational activities are extremely limited, walking yards are not arranged, patients cannot contact relatives due to the lack of a phone to call from.

a) Treatment of hospitalised patients, verbal and physical abuse

During the visit no complaints from patients regarding abuse by hospital staff were received. It is commendable that no allegations of torture or ill-treatment committed by employees of the institution were found.

The Council notes that the Register of traumas and injuries for hospitalized patients documents the primary examination of the patient and the assessment of injuries, indicating the identity of the patient, the injuries detected, the circumstances of the occurrence of the traumas, the actions/indications of the doctor and the signature of the doctor. The documentation and assessment of the injuries is not in compliance with Order No. 77 of 31.12.2013, as the injuries are briefly described (bruising, contusion, wound on the cheek, face, etc.) without indicating the exact size and location. Furthermore, the register does not contain the patient's signature, therefore it is at the doctor's discretion whether or not to indicate the injuries.

The CfPT notes that **although the medical staff is informed of the provisions of Order No. 77/2013 approving the Regulation on the procedure for identifying, recording and reporting alleged cases of torture, inhuman or degrading treatment¹⁰⁶, there is no approved institutional procedure, which creates the impression of a superficial and mostly formal examination.** At the same time, **the discussions with the medical staff reveal confusion regarding the person responsible for the examination.** The examination is arbitrary in the case of gender differentiation. Thus, there is a difficulty in organising the physical examination when the examiner is not of the same gender as the patient. The difficulty is more marked after the working hours of the psychiatrists in the wards, when in the inpatient ward, only one psychiatrist is on-call.

¹⁰⁶ https://www.legis.md/cautare/getResults?doc_id=45990&lang=ro



b) Means of coercion

In psychiatric institutions, physical coercion (restraint of a beneficiary by staff using physical force - “manual control”), chemical coercion (forced administration of medication in order to control the patient’s behaviour), mechanical coercion (with bed sheets) may be used. The Law No. 1402/1997 allows the application of physical restraint and isolation¹⁰⁷ measures, under the permanent control of medical staff, only in the situations, in the manners and during the period when, in the opinion of the psychiatrist, the prevention by other methods of the actions of the person who poses a direct danger to himself/herself or to others, is not possible. The manners and period of application of physical restraint or isolation measures will be recorded in the medical documentation.

The Council notes that, in practice, ***pharmacological restraint is mainly applied.***

Application of restraint measures conducted in the presence of other patients. In such cases, the beneficiaries are not continuously and directly monitored by human contact, and a video/audio surveillance camera is missing, and they are also missing in the hallways of the wards or residential areas.

c) Safeguards in the context of involuntary treatment

In institutions, free and informed consent for medical examination and treatment is not requested. The CfPT emphasises that placement without patient consent does not automatically constitute consent to examination and treatment. Patients are often administered medical treatment without being made aware of what substance is being administered, without being explained the need for it or the risks of adverse effects.

d) Material conditions

In the wards of the Balti Psychiatric Hospital, there is a nurses’ station in the patients’ wing, salons, sanitary group, cafeteria, occupational therapy cabinet and an exit to the area dedicated for walks. In the salons, the windows were closed, the key being at the medical staff. The salons were equipped with bedside tables for personal belongings. The bed linen is changed once a week, usually on the day the patients take a bath. But some patients reported that their bed linen had not been changed for two weeks.

The Council notes that some (supervision) salons are overcrowded and individual space rules (6 sqm) are not complied with. Overall, the conditions in the salons are satisfactory, the rooms are clean, airy, the beds have mattresses, clean bed linen, artificial lighting at night and natural lighting during the day. The toilets and bathrooms were generally clean but not all were provided with dividers in order to ensure privacy or adjusted to the needs of persons with disabilities.

¹⁰⁷ Article 29 of Law No. 1402/1997 on the mental health.



Visibly better material conditions were found in the children's ward, which has recently been renovated and much of the furniture is new.

Bathing rooms in most wards were closed, with hospital staff stating that once a week patients could take a bath with warm water. Taking into account the fact that the institution is a medical facility, as well as the large number of women hospitalised, the **CfPT is of the opinion that limiting access to the bathroom once a week does not meet hygiene standards and could raise presumptions of ill-treatment.**

The walks take place in an area outside the ward, bounded by a high metal fence, which has been provided for this purpose since the hospital was designed (in 1977). Access is direct from each ward, but access from the wards at the upper floors being more difficult, as they are not provided for the movement of disabled persons.

The hospital provides each patient with basic hygiene products: soap, shampoo, toilet paper, toothpaste and toothbrush. At the same time, patients are allowed to receive parcels with hygiene products from relatives. It is gratifying that, as of 2022, the institution has procured personal hygiene products, including for women (sanitary pads).

In some wards on the upper floors, in the walking areas, patients dry their clothes/underwear on the iron racks that provide fencing for the area. Thus, **the CfPT found that patients do not have the conditions to wash their clothes (washing machine, detergent) and no specially designed spaces for drying clothes.**

e) Medical assistance for beneficiaries

The medical assistance is provided in the clinical wards according to the established profile. In each ward, at the time of the visit, there was a psychiatrist, a senior nurse, a procedural nurse and post nurse. The CfPT considers that the number of medical and supervisory staff is insufficient in relation to the number of patients in the ward (more than 30 patients). The patients in the supervision ward were supervised by the nurses. The psychologist conducting the testing and counselling of patients was also working in the ward. The data of medical and psychological examinations are recorded in the electronic patient record in the hospital's internal information system. The psychological tests are procured by the psychologist from own sources. No standard set of tests and procedures is purchased and distributed at institutional level.

The CfPT recommends the development of a standardised protocol for the psychologist's activity and the quantification of the activity.



IV. RECOMMENDATIONS OF THE COUNCIL FOR THE PREVENTION OF TORTURE



Parliament

Government

1. Active involvement in monitoring and facilitating the implementation of the recommendations of relevant international and national institutions regarding the observance of the rights of persons to be free from torture and other ill-treatment.
2. Improve the legislation in order to motivate economic agents to create jobs in prison institutions and providing opportunities for employment for convicted persons.

Ministry of Justice

National Administration of Penitentiaries

1. Review the procedures for the allocation and placement of prisoners so that they are detained under equal, non-discriminatory conditions, by observing the minimum standards of detention. Appropriate separation of prisoners taking into account gender, age, the legal grounds for their detention and the needs for their treatment.
2. Implement a Strategy (actions) to reduce the criminal subculture, with a view to eliminate the practice of involving prisoners in decision-making processes in prison institutions (maintaining order, distribution to sectors), providing equal and non-discriminatory treatment to all persons detained in prison institutions and excluding any form of discriminatory treatment of persons deprived of their liberty.
3. Develop and implement policies for attracting, motivating and retaining staff in prison institutions, not only to fill vacancies, but also to increase the number of staff in order to organise and functionally achieve the objectives of the penitentiary system.
4. Improve general living conditions, applied to all prisoners without exception, including conditions related to lighting, ventilation, temperature, sanitary conditions, food, drinking water, access to fresh air and exercise, personal hygiene, health care, etc.
5. Review the medical staff regulations in line with the standards provided in Order No. 100 of 10.03.2008 on Medical Staff Regulations.
6. Provide the necessary number of psychiatrists and psychologists with the necessary training in psychotherapy and the use of standardised tools to diagnose and intervene in case of prisoners with mental health problems. Develop some procedures for collaboration among specialists to provide integrated services for persons with mental health problems.



7. Provide opportunities/rights to persons who are isolated under Article 206 of the Enforcement Code so that they can benefit from satisfactory living conditions, occupational activities, walks and other facilities in the same conditions as other categories of prisoners.
8. Ensure the salary, as well as the remuneration of overtime work and by accumulation of work for medical staff in line with the national provisions, excluding differences between the contractual medical staff and medical staff with special status. Reviewing the status of doctors employed in the penitentiary system in order to make the payment of the on-call shifts possible, not just to offer days off.
9. Reorganise the prison health system in order to ensure the independence of the medical act and to ensure the access of the prisoners to accessible, acceptable, available and quality medical services, so as to ensure non-discriminatory access to safe, confidential and timely medical assistance, in accordance with health needs.
10. Continuous training of medical and non-medical staff in the field of documentation of bodily injuries, alleged acts of torture on the provisions of the Istanbul Protocol ("Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment") and the (joint) Order No. 77 of 31.12.2013 of the General Prosecutor's Office on the approval of the Regulation on the procedure for identification, registration and reporting of alleged cases of torture, inhuman or degrading treatment.
11. Diversify the vocational-technical orientation programmes depending on the needs and skills of convicted persons, as well as labour market requirements.
12. Conduct interventions and reintegration activities by means of assessment and treatment that reduce the convicted person's risk of recidivism (the risk-need-responsivity (RNR) model¹⁰⁸)).
13. Detention and placement of all minors, regardless of whether they have been detained or sentenced in the detention centre specially designed for this age group (Goian Prison No. 10), offering regimes adapted to their needs, with staff trained in dealing with youth.
14. Involve all life-sentenced prisoners in both educational activities and work, whether remunerated or non-remunerated.
15. Assess the needs and develop a penitentiary system-wide plan for accommodating prison institutions for the prisoners with disabilities, both in terms of infrastructure and through the provision of care staff.

¹⁰⁸ <https://rm.coe.int/2-combaterea-relelor-tratamente-in-penitenciare-final/1680722471>, page 45



Ministry of Internal Affairs

General Police Inspectorate

1. Review and improve the legal framework/operational procedures that would detail the algorithm for the application of physical force/special means and firearms at institutional level, depending on the stage (taking into custody, arrest, detention, transportation, trial, etc.), person (adult, minor, women, persons with disabilities, elderly and sick persons), need for application.
2. Ensure the documentation of bodily injuries in line with the Istanbul Protocol and the Joint Order No. 77/2013 of the General Prosecutor's Office on the approval of the Regulation on the procedure for identification, registration and reporting of alleged cases of torture, inhuman or degrading treatment.
3. Systematically conduct trainings for the TDI medical staff (initial and continuing) on the medical activity within TDIs.
4. Develop/improve and implement an efficient and standardised mechanism to guarantee the right of persons taken into custody/detained to address confidential requests/complaints to the bodies protecting the rights: Prosecutor's Office, People's Advocate (Ombudsman), NGOs, etc.
5. Ensure the possibility for persons taken into custody to make confidential telephone calls in order to contact their lawyer or notify the custody. Establish registers in this regard.
6. Exclude the cases of placement in temporary detention for more than 72/48 hours.
7. Regulate the status of premises (technical/operational) previously used as cells.
8. Identify and arrange the premises intended for holding the persons taken into custody in police inspectorates until they are taken over by the escort service.
9. Provide persons taken into custody/detained with permanent drinking water and quality food 3 times a day by complying with sanitary conditions (in disposable casseroles), including to detained persons during transportation and court hearings.
10. Further purchase of special vehicles adapted to the minimum standards for transporting detained persons in terms of material, security, safety and health conditions for all the isolators of the MIA.
11. Guarantee the medical examination of persons upon each entry and exit to/from the place of detention.
12. Develop and approve of waste management procedures resulting from the medical activity in line with the provisions of Law No. 209/2016 regarding waste, including the development of the Management Framework Plan (recommendation maintained).
13. Develop and implement the management of medicines within the TDI, including the ordering, delivery, distribution, storage and safe disposal procedures. Exclude the practice of dispensing the medicines by non-medical staff.



Ministry of Internal Affairs

(versus institutions subordinated to the National Inspectorate for Migration and the Centre for Temporary Placement of Foreigners (CTPF))

1. Review the normative acts regarding the activity of the Centre for Temporary Placement of Foreigners in order to identify the solutions for the employment within the Centre of a doctor/nurse, based on the status of the CTPF determined by the Law No. 52/2014 as a place of detention, where people can be detained even for up to 12 months. Establish a permanent 24/7 medical station within the premises of the CTPF in order to comply with the safeguard of medical examination upon each entry and exit to/from the institution, but also ensuring the access of persons placed for medical assistance in reasonable terms.
2. Identify solutions for hiring a translator within the Centre or allocate an annual budget for covering the translation services depending on the CTPF needs.
3. Identify financial resources or allocate them to adjust/accommodate access into the CTPF, of common spaces (bathroom, toilet, walking area) and of a room to the needs of persons with special needs.
4. Ensure the confidentiality of medical documentation and exclude the access of non-medical staff to the medical data of the persons placed in the CTPF.
5. Training of the medical staff on the documentation and reporting of bodily injuries in line with the provisions of the Istanbul Protocol and the Regulation regarding the procedure for identifying, recording and reporting of alleged cases of torture, inhuman or degrading treatment, approved by the Order of the General Prosecutor's Office No. 77 of 31.12. 2013.
6. Develop the Regulation on the provision of medical assistance to persons in public custody with the inclusion of the list of primary medical documentation (forms, registers) and operating procedures in line with the international recommendations regarding health in places of detention and the national standards.
7. Ensure proper management of medicines (insurance procedures, record keeping, verification, disposal of expired medications), including compliant storage conditions (lockable and/or dark cabinets, refrigerator).
8. Develop operational procedures for the conduct of persons on hunger strike.
9. Comply with medical recommendations and continuity of treatment and examination in the dynamics. Ensure the operation of the medical office premises in accordance with the national standards. (Sanitary regulation on hygiene conditions for health service providers).
10. Record of the telephone conversations of the persons taken into custody by establishing special registers in this regard.
11. Update and place information on the rights and obligations of the persons in public custody in public places, in rooms/courtyard/visitation room, including information on the mandate of the CfPT and/or other institutions responsible for protecting their rights.



12. Establish and fill in the Register of information on the rights and obligations of individuals and of the Register of notification of third parties regarding the placement.
13. Equip the CTPF with means of communication (laptop, telephone) with internet access to ensure free communication of the persons in custody with their relatives/lawyer. Set up a space for the disciplinary isolator, which would comply with national or international norms and standards. Alternatively, remove the deficiencies detected in the current isolator (small window, toilet missing divider, lack of bell).
14. Ensure the management of waste resulting from the medical activity in line with the legislation in force by developing standard procedures and providing special recipients for collecting hazardous waste.
15. Identify several occupational activities (including newspapers, radio, replenishing the book stocks in the library) in order to maintain the mental health of prisoners.
16. Adjust/accommodate the access to the centre and of a cell to the needs of persons with special needs. At the same time, adjust/accommodate common spaces (bathroom, space for walking) to the needs of persons with special needs.

Ministry of Health

(versus psychiatric hospitals)

1. Develop and implement minimum quality standards of medical services and hospitalization conditions in line with international norms by compliance with human rights in providing services to patients undergoing treatment based on free consent, as well as to those undergoing treatment through coercion.
2. Develop a common standard operating instruction with the General Police Inspectorate and psychiatric hospitals for managing crisis situations, with the training of the staff employed to develop the skills to undertake actions in crisis situations, including cases of violence and violence related to the abuse of alcohol or other prohibited substances.
3. Transpose at national level and into practice the CPT standards regarding the application of coercive measures, reviewed in 2017 through the development of normative procedures/mechanisms on this subject.
4. Develop a security mechanism, both for the protection of patients and the staff employed.
5. Develop the criteria for the evaluation of the general mental state in accordance with the patient's clinical picture to the real needs to continue the treatment through coercion or change the form of application of the punishment, the use of guidelines for substantiating the conclusion submitted to the court with informing the patient about the state of health, the reason and purpose of the request.
6. Exclude the cases of joint placement of persons undergoing coercive treatment with those undergoing regular treatment.



7. Ensure access to outdoor walks at least once a day for all patients, avoiding restrictions of the right to freedom of movement.
8. Ensure the documentation of cases of violence/bodily injuries in accordance with the joint Order No. 77 of 31.12.2013 on the approval of the Regulation on the procedure for the identification, registration and reporting of alleged cases of torture, inhuman or degrading treatment. Continuing staff training versus the content and applicability of the joint Order No. 77/2013.
9. Provide the hospital rooms with specially designed places for the storage of personal belongings.
10. Ensure unlimited patient access to the bathroom and separate the toilet spaces to ensure privacy.
11. Diversify the occupational activities.
12. Provide quality and qualified medical assistance by supplementing the number of medical staff vacancies.
13. Procure means of transport (ambulance) that would comply with the quality standards and the destination.
14. Provide all the wards with information boards regarding patient rights/obligations and the mandate of the CfPT and/or other institutions empowered with human rights protection tasks.
15. Avoid the overcrowding of rooms that do not comply with the minimum accommodation standards, in cases where other rooms are free.
16. Expand the range of therapeutic activities, especially psychosocial rehabilitation, so as to prepare patients for an autonomous lifestyle and their return to their families. Ergotherapy should play an important role in the rehabilitation programme, providing a motivating action, an assessment of comprehension and communication skills, the accumulation of specific skills and improving the perception of one's own image.
17. Ensure the conditions for physical accessibility in institutions for persons with disabilities.

Ministry of Labour and Social Protection /NSIH

(versus subordinated institutions: Temporary Placement Centres for Persons with Disabilities (adults/juveniles))

1. Regulate the status of the temporary placement centres and ensure the compliance of the activities according to the determined status (social, medico-social, socio-medical, psycho-social etc.).
2. Develop the Regulation establishing the authority empowered to authorise the conditions and the procedure for authorising and carrying out the activity of the authorised guardian.
3. Review the legal framework that regulates the number of approved staff in order to increase the number of persons employed, in particular, social workers, psychologists, educators, speech therapists, doctors, physiotherapists/



rehabilitation therapists, nurses to ensure individualized assistance for beneficiaries and multidisciplinary involvement in the process of assisting cases. Ensure the remuneration of the work so that the positions are financially motivating.

4. Develop and approve the occupational therapy programmes for the real needs of persons with disabilities regarding independent living in the community.
5. Ensure the presence of the beneficiaries in the meetings of the multisectoral commission of the Ministry of Labour and Social Protection in order to determine a decision in accordance with the expressed desire of the beneficiary.
6. Ensure the access of beneficiaries to family doctor services, specialized services and services granted according to national programmes (mental health, diabetes, tuberculosis, STIs etc.). Undertake measures to access NHIC funds in order to provide beneficiaries with quality medical services.
7. Ensure the medical examination of the beneficiaries upon each entry and exit to/from the institution.
8. Develop and implement a sexual education programme with access to contraceptive methods or facilitation of procreation.
9. Develop and implement standard procedures regarding the resolution of conflict situations and physical or verbal violence.
10. Review the procedures for submitting, recording and resolving complaints to ensure the rights of beneficiaries based on the principle of responsiveness.
11. Review and implement occupational therapy programmes to the real needs of persons with intellectual and psychosocial disabilities according to the development of skills necessary for independent living in the community.
12. Ensure the access of beneficiaries to legal and social services for appealing the decisions for placement in temporary placement centres, the institutionalization process and provide the necessary support to guarantee opportunities for living in the community or family.
13. Indisputable insurance of the beneficiaries' rights regarding the access outside the institution, the right to engage in remunerated work relationships, the right to practice and participate in religious ceremonies. The placement centres should have decisional support mechanisms for beneficiaries and assistance regarding their engagement in social relations.
14. Conduct activities to inform beneficiaries in an accessible language with regards to their rights and responsibilities, the procedure for leaving the institution, as well as awareness-raising activities regarding the risks of unplanned leaving of the institution, the need to administer medication treatment, as well as the risks/adverse reactions, ensure the delivery of the legal documents with information in an accessible language about their content.



Ministry of Defence

(versus Military Command of the National Army)

1. Review the legislation to expressly include the observance of basic safeguards upon placement in disciplinary isolators, as well as expressly introducing the possibility to appeal the decision on the establishment of arrest to independent institutions (including the provision of free state-guaranteed legal aid);
2. Training of the staff responsible for documenting and reporting alleged acts of torture on the provisions of the Istanbul Protocol ("Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment") and the (joint) Order No. 77 of 31.12.2013 of the General Prosecutor's Office regarding the approval of the Regulation on the procedure for identification, registration and reporting of alleged cases of torture, inhuman or degrading treatment.
3. Filling the vacant position of medical personnel to ensure the access of detainees to medical examination and the necessary medical assistance.
4. Establish and make available to the military personnel in custody a clear and predetermined mechanism for notifying on the place and fact of detention. Ensure the functionality of postal services in order to ensure their contact with the outside, but also in order to ensure a transparent mechanism for sending complaints to institutions empowered to protect the human rights.
5. Review the schedule/daily regime of the military personnel arrested by providing sufficient time for rest or other activities, providing the library with newspapers, magazines, books.
6. Conduct repairs in detention cells, facilitating access to daylight by changing the windows.
7. Equip the cells with a sanitary block, washbasin with access to water. Renovate or replace the shower heads, separate the bathroom and the toilet areas in order to ensure the privacy of arrestees.
8. Ensure cell lighting in compliance with the sanitary requirements.
9. Repair the kitchen/room where the military personnel have their meals with the change of furniture and tableware.

Union of Lawyers

National Legal Aid Council

1. Strengthen the capacities of lawyers who provide free state-guaranteed legal aid in the application of national and international standards on the protection of persons against torture and ill-treatment.
2. Strengthen the capacities of the National Legal Aid Council in representing persons with mental disabilities.
3. Ensure that the lawyers appointed by the National Legal Aid Council coordinate and decide the strategy per case in accordance with the will of the beneficiary for the state-guaranteed legal aid.

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