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Moldova: Authorities must immediately provide essential healthcare to two detainees, one of them gravely-ill

The Moldovan authorities are breaching their human rights obligations in denying essential medical treatment to detainees Serghei Cosovan and David Davitean. Serghei Cosovan is gravely-ill with cirrhosis in Penitentiary Institution Number 16, and David Davitean has not received adequate medical care and treatment following serious injuries he sustained whilst in detention as a result of alleged ill-treatment by prison staff in Penitentiary Institution Number 13.

The Moldovan penitentiary system suffers from chronic shortages of qualified medical staff and facilities. Detainees with serious medical conditions must, therefore, receive specialised treatment in external facilities. Amnesty International has gathered evidence to demonstrate that both Serghei Cosovan and David Davitean require this urgent, essential and external specialist medical treatment and yet are failing to receive it.

Since April the authorities running Penitentiary Institution Number 16 have repeatedly denied emergency surgery and post-surgery treatment in a specialised medical facility to 46 year-old Serghei Cosovan, who is gravely ill after suffering haemorrhaging as a result of his pre-existing cirrhosis of the liver condition. His cirrhosis, which is life-threatening, is not being treated adequately in detention.

In late June the Penitentiary Institution Number 13 authorities also declined treatment and hospitalisation to David Davitean, a 32 year-old man of Armenian descent who suffered multiple injuries including two broken arms and a nose as result of alleged beatings in detention by prison staff. The Prosecutor's Office of Chisinau has not pressed charges concerning these allegations of ill-treatment. This is despite the fact that both the National Administration of Penitentiaries (ANP) and the office of the People's Advocate (Ombudsman of Moldova), confirm David Davitean's injuries.

Amnesty International wrote to the General Prosecutor's Office of Moldova on 18 July to seek information about investigations into the cases of Serghei Cosovan and David Davitean, but has yet to receive a reply. We continue to urge the General Prosecutor's Office to enact a prompt, impartial and effective investigation into David Davitean's allegations of ill-treatment in detention, publish its findings and to prosecute those who it finds responsible to ensure justice for the victim, accountability and to deter future ill-treatment.

The Ministry of Justice of Moldova and the National Administration of Penitentiaries must also act immediately to provide urgent medical and hospital care and treatment for both Serghei Cosovan and David Davitean.

The Moldovan authorities are obliged under international law to ensure that every person has the right to adequate provision of medical care and treatment without discrimination, including those in detention. The medical care should be of the highest attainable standard and be comparable to what people can access if not in detention. No person should be discriminated against in receiving access to quality medical care, including on the basis of their current legal status.

Emergency surgery for life-threatening haemorrhages denied

Serghei Cosovan, a Moldovan businessman and former local councillor of Codru city, was placed in pre-trial detention in Penitentiary Institution Number 16 in Chisinau on 26 September 2017, on charges of fraud and abuse of office. His pre-trial detention has been extended several times.

While in detention Serghei Cosovan's pre-existing cirrhosis worsened, resulting in repeated haemorrhages, which required surgery. During the first months of his detention Serghei Cosovan had to be transported by ambulance at least three times to an external medical facility for emergency surgery to treat his cirrhosis, which can result in extensive internal bleeding. Following each surgery, the medical professionals that performed it recommended that Serghei Cosovan not be in detention, be admitted to a specialised hospital, and be constantly monitored by specialists as his cirrhosis has entered its final stage and is life-threatening.

Based on the above recommendations, Serghei Cosovan's lawyers made numerous attempts to change his remand to judicial supervision, with reference to Order 331 of the Ministry of Justice of Moldova from 2006 stipulating that some seriously ill prisoners should be exempt from punishment. On 24 April, a court in Chisinau acknowledged that the order should be extended to cover pre-trial detainees and ordered Serghei Cosovan released and put under house arrest, underscoring the seriousness of his health condition and the urgent medical treatment required. However, as Serghei Cosovan was leaving the detention centre, officers from the Police Department of Chisinau Municipality rearrested him, informed him that he was being investigated for new fraud allegations, and remanded him for 72 hours. On 27 April, a court ordered Serghei Cosovan to be placed in pre-trial detention again, and he was returned to the detention centre the same day. Since then the authorities have not granted Serghei Cosovan's lawyers' requests for urgent medical treatment in an external medical facility, in accordance with the UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules). On 6 July a court in Chisinau sentenced him to 7 years in jail, once again disregarding his grievous health condition.

The failure of the Moldovan authorities to provide access to adequate health care for Serghei Cosovan violates his right to health and may amount to inhuman or degrading treatment with a potential threat to his right to life. If the authorities hold a seriously ill person in detention, they must guarantee conditions that meet his individual needs. Detainees such as Serghei Cosovan, who require specialised physical or mental treatment, must be transferred to specialised institutions or outside hospitals when such treatment is not available in prison.

Denial of treatment following allegations of ill treatment

David Davitean, a Moldovan of Armenian descent convicted of robbery in 2017, has repeatedly complained of ill-treatment in Penitentiary Institution Number 13 – most recently on 21 June 2018. David Davitean sent a letter to Amnesty International claiming that unidentified prison staff beat him for over four hours and hit him more than 40 times with a metal pipe, breaking both of his arms and nose. David Davitean was brought to an emergency hospital but not offered adequate medical care, including casts for his broken limbs. He suspects that the policemen who were guarding him instructed the medical staff not to treat his injuries. On 25 June, following intervention from his parents, David Davitean was brought to the Institute of Neurology and Neurosurgery in Chisinau, where specialists confirmed his injuries and recommended urgent hospital treatment including casts. The administration of Penitentiary Institution Number 13 rejected this recommendation.

Responding to reports of the beating, the National Administration of Penitentiaries and the Prosecutor's Office of Chisinau acknowledged David Davitean's bodily injuries and ordered an internal investigation. They nonetheless quickly determined no wrongdoing and stated that Davitean has not made any formal complaints about ill-treatment. On 4 July, 13 days after the

alleged beating, representatives of the People's Advocate (Ombudsman of Moldova) visited Davitean in detention and stated that he had bruises and that his arms were swollen. In a public statement, the People's Advocate queried the findings of the previous internal investigation by the ANP and the Prosecutor's Office of Chisinau and urged a further enquiry, which has not begun at the time of writing.

Amnesty International considers that the response by the Moldovan authorities to David Davitean's injuries violates his right to the highest attainable standard of physical and mental health, as laid out in General Comment 14 on the International Covenant on Economic, Social and Cultural Rights by the UN Economic, Social and Cultural Rights which has been ratified by Moldova.¹ David Davitean's injuries should have been immediately examined by an independent doctor able to diagnose and treat without interference from the authorities, in a manner consistent with the Istanbul Protocol.²

Background:

In 2017, The UN Committee against Torture (CAT) noted concerns about the state of the medical care provided to detainees in Moldova's penitentiary system. In their report, they recommended that the Moldovan authorities intensify their efforts to hire and train medical staff, establish and implement procedures, and place the hospital medical units under the supervision of the Ministry of Health, ensuring compliance with the accreditation requirements. Standards for the provision of medical care are set out in a number of international documents. In particular, Rule 27(1) of the Mandela Rules provides for the transfer of sick prisoners who require specialist treatment to specialized institutions or civilian hospitals.

The importance of provision of medical care in places of detention is further reiterated in the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Principle 24 states that medical care and treatment shall be provided whenever necessary [to a detained or imprisoned person] free of charge. More detailed criteria were developed by the European Committee for the Prevention of Torture (CPT) in its 3rd General report. In particular, paragraph 38 states that "a prison health care service should be able to provide medical treatment and nursing care ... in conditions comparable to those enjoyed by patients in the outside community."

The European Prison Rules of the Council of Europe states in paragraph 40.5 that "All necessary medical, surgical and psychiatric services including those available in the community shall be provided to the prisoner for that purpose". Moreover, paragraph 46.1 states that "Sick prisoners who require specialist treatment shall be transferred to specialised institutions or to civil hospitals, when such treatment is not available in prison." The denial of medical care may in certain circumstances may amount to torture or other ill-treatment.

Public Document

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¹ General Comment 14 on the International Covenant on Economic, Social and Cultural Rights (ICESCR), available here http://www.un.org/ga/search/view_doc.asp?symbol=E/C.12/2000/4 (accessed 25 July 2018). Moldova ascended to the ICESCR on 26 January 1993.

² Istanbul Protocol – Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, available at <https://www.ohchr.org/Documents/Publications/training8Rev1en.pdf> (accessed 25 July 2018);