

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

CPT/Inf (2020) 27

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

Since April 2011, reports on CPT visits to the Republic of Moldova are published under an automatic publication procedure.

Strasbourg, 15 September 2020

CONTENTS

EXECUTIVE SUMMARY.....	4
I. INTRODUCTION	9
A. The visit, the report and follow-up.....	9
B. Consultations held by the delegation and co-operation encountered	10
C. Immediate observations under Article 8, paragraph 5, of the Convention.....	11
D. Monitoring of places of deprivation of liberty	12
1. National Preventive Mechanism	12
2. Prosecutorial Supervision.....	13
II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED.....	14
A. Police	14
1. Preliminary remarks	14
2. Ill-treatment.....	15
3. Safeguards against ill-treatment.....	16
4. Conditions of detention	21
B. Prisons.....	23
1. Preliminary remarks	23
2. Ill-treatment.....	26
a. ill-treatment by staff	26
b. inter-prisoner violence and intimidation.....	27
3. Conditions of detention	32
a. material conditions.....	32
b. regime	34
4. Health-care services	36
5. Other issues	39
a. admission of women	39
b. prison staff	40
c. contact with the outside world.....	41
d. discipline.....	42
e. complaints procedures	44

C. Psychiatric institutions	45
1. Preliminary remarks	45
2. Ill-treatment	46
3. Patients' living conditions	47
a. Chişinău Psychiatric Hospital	47
b. Forensic Psychiatric Expertise Ward of the Centre for Forensic Medicine	50
4. Treatment	51
5. Staff	53
6. Means of restraint	54
7. Safeguards	56
a. placement and review	56
b. safeguards during placement	59
D. Social care institutions	62
1. Preliminary remarks	62
2. Ill-treatment	64
3. Residents' living conditions	64
4. Staff and care provided to residents	67
5. Means of restraint	70
6. Safeguards	71
a. placement and review	71
b. safeguards during placement	74
APPENDIX I LIST OF ESTABLISHMENTS VISITED BY THE CPT'S DELEGATION...	75
APPENDIX II LIST OF THE NATIONAL AUTHORITIES, OTHER BODIES AND NON- GOVERNMENTAL ORGANISATIONS MET BY THE CPT'S DELEGATION	76

EXECUTIVE SUMMARY

During the 2020 periodic visit, the CPT's delegation examined the treatment and safeguards afforded to persons deprived of their liberty by the police, as well as the conditions of detention in three prisons for adult prisoners (Taraclia, Cahul and Chişinău). It also carried out a targeted follow-up visit to Goian Juvenile Prison. In addition, the delegation visited two psychiatric establishments (Chişinău Psychiatric Hospital and the forensic psychiatric expertise ward in Chişinău) and two temporary placement centres for persons with disabilities (TPCPD) in Bălţi and in Bădiceni.

The co-operation received by the delegation throughout the visit, from both the national authorities and staff at all the establishments visited, was excellent. However, the principle of co-operation also requires that recommendations made by the Committee are effectively implemented in practice. Although the CPT noted the tangible progress achieved in several areas, it is regrettable that several of its long-standing recommendations remain unaddressed. This concerns in particular the persistence of a prison sub-culture that fosters inter-prisoner violence and impairs the living conditions of those prisoners who are deemed by the informal prison hierarchy to be "humiliated", as well as the regime offered to both remand and sentenced prisoners and the low staffing levels in prisons.

Police custody

The CPT is pleased to note that further progress has been made since its 2015 visit as regards the treatment of detained persons by the police. In the course of the visit, the delegation received hardly any allegations of recent physical ill-treatment by police officers. However, the considerable number of cases of alleged police ill-treatment reported to the Special Unit at the Prosecutor General's Office to combat torture and ill-treatment and their recent increase leave no room for complacency. The CPT recommends that the Moldovan authorities pursue their efforts to combat ill-treatment of detained persons by police officers and remain vigilant concerning any information indicative of ill-treatment.

As regards fundamental safeguards against ill-treatment, the right of access to a lawyer is still not guaranteed by law as from the outset of deprivation of liberty and some allegations were heard that, in practice, this right was only granted after the first questioning of a criminal suspect by the police. The CPT calls upon the Moldovan authorities to ensure, including by amending the relevant legislation, that persons in police custody are able to effectively benefit from the right of access to a lawyer as from the moment they are obliged to remain with the police. Concerning the right of access to a doctor, persons were medically examined by a feldsher or at a hospital before their placement in a police temporary detention isolator. However, several recommendations are made as regards the medical confidentiality and thoroughness of medical examinations, as well as the recording of injuries. Further, a few allegations were heard that persons in police custody were informed of their rights only after their first questioning and the CPT encourages the Moldovan authorities to continue their efforts to ensure that all persons detained by the police are fully informed of their fundamental rights as from the very outset of their deprivation of liberty.

The CPT welcomes the general trend towards improving material conditions in police detention facilities and notes that the newly refurbished facilities seen by its delegation offered very good material conditions. However, the other temporary detention isolators visited still displayed a number of shortcomings.

Prisons

In all the establishments visited, the majority of prisoners interviewed by the delegation made no allegations of ill-treatment by staff. However, at Chişinău Prison, the delegation did receive a few allegations of recent physical ill-treatment (e.g. punches and kicks) by prison officers. Further, in all three prisons for adults visited, a few allegations were received of excessive use of force by staff when dealing with agitated inmates and, at Chişinău and Taraclia prisons, of excessively tight handcuffing, including, in the latter establishment, of handcuffing behind the back in a squatting position to a fixed object. Several recommendations are made to remedy this situation, including by delivering a firm message that ill-treatment of prisoners is unlawful and unacceptable and will be punished accordingly, that no more force than is strictly necessary should be used to control violent and/or recalcitrant prisoners and that where it is deemed essential to handcuff a given inmate, the handcuffs should under no circumstances be excessively tight and prisoners should not be handcuffed to fixed objects.

The findings of the visit showed that the problem of inter-prisoner violence and intimidation among the adult male inmate population remained as acute as ever and was, as in the past, largely linked to the well-established informal hierarchies in the country's prison system. Although inmates were regularly found with injuries indicative of inter-prisoner violence, these cases remained unreported, due to the climate of fear and intimidation by inmates at the top of the informal prison hierarchy, as well as a general lack of trust in the staff's ability to guarantee prisoner safety.

In the CPT's view, the continuing failure of Moldovan authorities to ensure a safe and secure environment for prisoners is directly linked to a number of factors, notably the chronic shortage of custodial staff, reliance on informal prisoner leaders to keep control over the inmate population and the existence of large-capacity dormitories. At the same time, there is no proper risk and needs assessment of prisoners upon admission, nor a classification of inmates to identify in which prison, block or cell prisoners should be placed. As regards more particularly prisoners considered to be "untouchable" by the informal hierarchy, they continued to live in a state of constant fear and humiliation. As already stressed in the past, the CPT considers that their situation could be considered to constitute a continuing violation of Article 3 of the European Convention on Human Rights.

In the light of these findings, the CPT formulates a series of recommendations and calls upon the Moldovan authorities to take resolute action, without further delay, to prevent inter-prisoner violence and intimidation throughout the prison system.

Despite some improvements to the material conditions at Chişinău Prison, overall, the conditions of detention in the establishment remained unsatisfactory, including in terms of state of repair, hygiene, ventilation and access to natural light, as well as overcrowding in some cells. On a more positive note, material conditions at Cahul and Taraclia prisons were on the whole satisfactory. However, in all three prisons, the delegation came across cases of uneven distribution of inmates between cells; indeed, this was an indicator of a strong informal prison hierarchy at the establishments visited. The CPT recommends, *inter alia*, that inmates be evenly distributed in cells, the objective being to offer at least 4 m² of living space per prisoner in multiple-occupancy cells.

Concerning the regime offered to prisoners, despite the efforts made at Taraclia and Cahul prisons to offer organised activities to sentenced prisoners, a significant proportion of them were not engaged in any purposeful activity. The situation was even less favourable for adult remand prisoners at Cahul and Chişinău prisons; the majority of them spent 22 or 23 hours locked up in their cells, being offered nothing even remotely resembling a programme of meaningful activities. The Committee

recommends that the Moldovan authorities redouble their efforts to increase the number of sentenced prisoners taking part in organised activities and put in place a programme of activities for remand prisoners. The aim should be to ensure that all prisoners, regardless of their legal status, are able to spend a reasonable part of the day outside their cells, engaged in purposeful activities of a varied nature.

Health-care staffing resources in all three prisons visited were inadequate and the CPT recommends that the vacancies be filled and that the number of nursing staff at Chişinău Prison be increased. Recommendations are also made as regards proper recording of injuries and confidentiality of medical examinations.

At Chişinău and Taraclia prisons, the delegation encountered a number of prisoners who appeared to have mental health problems or thoughts of self-harm, including suicide, and who had been held in conditions akin to solitary confinement for months or even years on end. The Committee recommends that all prisoners with mental health problems held at Chişinău and Taraclia prisons be thoroughly assessed by a psychiatrist. Where appropriate, they should be transferred, cared for and treated in a suitable environment with sufficient qualified staff to provide them with the necessary assistance.

Further, the CPT remains concerned that acts of deliberate physical self-harm are still considered to be a disciplinary offence; the Committee reiterates its recommendation that the Moldovan authorities review the approach vis-à-vis such prisoners.

As regards more generally solitary confinement as a disciplinary measure, it may still be imposed on certain categories of prisoner for up to 20 days and for up to three days on sentenced juveniles. The Committee reiterates its recommendation that the Moldovan authorities decrease the maximum period of disciplinary solitary confinement for a given offence to 14 days (and preferably lower) and abolish entirely disciplinary solitary confinement for juveniles.

The CPT formulates a number of other recommendations regarding various additional prison-related issues, such as to develop a specific admission procedure for women prisoners, to increase the visit entitlement for sentenced prisoners and to ensure that remand prisoners are entitled to receive visits as a matter of principle, as well as to allow for more frequent telephone calls for all prisoners.

Psychiatric institutions

As regards ill-treatment, the vast majority of patients interviewed by the delegation during the visit stated that they were treated correctly and respectfully by staff. That said, at Chişinău Psychiatric Hospital, the delegation heard a few allegations of staff having slapped or roughly pushed patients and of verbal abuse of patients by staff. The CPT recommends that the management of Chişinău Psychiatric Hospital remain vigilant and remind staff that any form of ill-treatment of patients, including verbal abuse, is unacceptable and will be punished accordingly.

Instances of inter-patient violence appeared to be rare and the delegation's findings indicate that staff intervened rapidly and adequately.

The CPT notes the improvements made to the material conditions at Chişinău Psychiatric Hospital. However, a number of the shortcomings identified by the CPT during its previous visits persisted. In particular, all the premises were bare and austere, no improvement was observed as regards the equipment in patients' rooms which was still limited to beds and a few bedside tables and conditions in several rooms were cramped. Further, the communal toilets and shower rooms were in a poor state of cleanliness and repair and still provided very little privacy to the patients.

Material conditions on the forensic psychiatric expertise ward remained the same as during the CPT's previous visits; no efforts had been made to remedy the austere and impersonal physical environment, to better equip patients' rooms and to fully partition the sanitary annexes from the rest of the room.

Further, all patients' rooms on the expertise ward were still equipped with CCTV cameras. The CPT recommends that the Moldovan authorities re-consider the routine installation and use of CCTV cameras within patients' rooms; the use of CCTV surveillance should always be based on an individual risk assessment and should be reviewed on a regular basis.

As was the case in the past, psychiatric treatment was mainly pharmacological and for the vast majority of patients, there were no structured psycho-social rehabilitative activities. No individual treatment plans were prepared for the patients. The CPT reiterates its recommendation that, at Chişinău Psychiatric Hospital, a range of therapeutic options be developed and individual treatment plans drawn up for all patients. Further, at least some structured activities should be provided to patients under forensic psychiatric assessment.

On a positive note, the hospital had a sufficient range and quantity of the necessary medication and the provision of somatic care did not pose a major difficulty.

At Chişinău Psychiatric Hospital, the staffing levels of nurses and orderlies and their presence on the wards were still insufficient and there was no staff who could provide psycho-social rehabilitative activities to patients. Although there was now a full-time psychologist on each ward, there appeared to be very little interaction and co-ordination between his or her work and the work of the health-care staff. The CPT recommends, *inter alia*, that various categories of staff work together in multi-disciplinary teams to provide treatment and care to patients.

On the forensic psychiatric expertise ward, the staff/patient ratio was satisfactory. However, patients on this ward were guarded by prison officers who were entitled to enter the ward and intervene on their own initiative. The CPT reiterates its recommendation that this category of staff only intervene on the ward at the request and under the authority of health-care staff.

In both establishments visited, recourse to means of restraint was duly recorded in dedicated registers and the duration of the restraint measure was usually short. However, although new restraint belts had been procured at Chişinău Psychiatric Hospital, patients were still fixated to their own beds with sheets and towels, sometimes in view of other patients. On the forensic psychiatric expertise ward, prison officers deployed on the ward sometimes used metal handcuffs to restrain agitated patients. The CPT recommends that if it is necessary to restrain a patient, only equipment designed to limit harmful effects (preferably, purpose-made padded cloth straps) should be used.

As was the case in the past, although a number of patients were *de facto* deprived of their liberty, the civil involuntary placement procedure was rarely applied in practice. The CPT formulates recommendations with a view to ensuring that the procedures provided for by the relevant legislation are duly complied with and that the legal safeguards are genuinely effective. As regards forensic patients, the procedural time limits for the review of the placement by the court were in general complied with. However, the patients were usually not heard in person by the court, nor did they receive the respective court decision.

Social care institutions

In the two establishments visited, the CPT's delegation heard no credible allegations of recent ill-treatment of residents by staff. On the contrary, most residents whom the delegation interviewed stated that they were treated correctly by staff and spoke positively of their attitude towards residents. Episodes of inter-resident violence occurred from time to time in both establishments and mainly concerned individual residents with challenging behaviour. However, the findings of the visit indicate that staff intervened immediately and adequately to calm down the situation and to prevent further escalation.

As regards material conditions, in both establishments visited, residents' rooms/dormitories were generally clean, tidy and well-lit and ventilated. The CPT also notes the efforts made to improve the state of repair of the premises. However, conditions in several residents' rooms were crowded, which was particularly true for the large-capacity dormitories in the Bădiceni TPCPD. Moreover, several sanitary facilities in both establishments were in a poor state of repair and often did not provide sufficient privacy.

Particular mention is made of the situation of bed-ridden residents in Bădiceni TPCPD who had to comply with the needs of nature and were routinely undressed, washed and even bathed in the dormitory, in the presence and with the assistance of other residents. The CPT recommends that urgent steps be taken to ensure the privacy of these residents.

Staffing levels of ward-based staff (i.e. nurses and orderlies) and their presence on each shift were clearly insufficient and only allowed them, despite their best efforts, to take care of the basic needs of the residents. The range of activities was clearly insufficient and the majority of residents did not benefit from any organised activity whatsoever.

In the Bălți TPCPD, agitated residents were on occasion fixated to a bed with bedsheets, sometimes in combination with chemical restraint, but resort to restraint was quite rare. In the Bădiceni TPCPD, only chemical restraint (if necessary, in combination with manual restraint) was used. However, neither establishment had internal guidelines on the use of restraint and resort to chemical restraint was not entered in the register of restraint. Moreover, in the Bădiceni TPCPD, auxiliary technical staff with no health-care duties were sometimes called upon to intervene and to help nurses and orderlies manually restrain agitated residents. The CPT sets out a number of principles which should be followed when resort is had to the restraint of agitated residents and recommends that they be effectively implemented in practice.

As regards placement of residents in the establishments, the CPT concludes that, while the residents were *de facto* deprived of their liberty, their placement and stay was not accompanied by any appropriate safeguards. The Committee recommends that the Moldovan authorities put in place a clear and comprehensive legal framework governing the involuntary placement and stay of residents (including situations in which the restrictions imposed amount to *de facto* deprivation of liberty) in social care homes.

I. INTRODUCTION

A. The visit, the report and follow-up

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a visit to the Republic of Moldova from 28 January to 7 February 2020. The visit formed part of the CPT’s programme of periodic visits for 2020 and was the Committee’s sixteenth visit to the country.¹

2. The visit was carried out by the following members of the CPT:

- Julia Kozma (Head of Delegation)
- Djordje Alempijević
- Georg Høyer
- Elsa Bára Traustadóttir
- Tinatin Uplisashvili.

They were supported by Ardita Abdiu (Head of Division) and Petr Hnátík of the CPT’s Secretariat and assisted by:

- Vadym Chovgan, Lawyer, Penitentiary Reform Lead, Support to Ukraine's Reforms for Governance, Ukraine (expert)
- Andres Lehtmets, Head of the Centre of Psychiatry, West Tallinn Central Hospital, Estonia (expert)
- Denis Berliba (interpreter)
- Octavian Bodorin (interpreter)
- Sergiu Buftac (interpreter)
- Elena Dolghii (interpreter)
- Alexandru Melenciuc (interpreter)
- Natalia Romandas (interpreter).

¹ The CPT has previously carried out six periodic visits (in 1998, 2001, 2004, 2007, 2011 and 2015) and nine ad hoc visits (in 2000, February/March 2003, November 2003, 2004, 2005, 2006, 2009, 2010 and 2018) to the Republic of Moldova. The reports on these visits and related Government responses are available (if published) on the CPT’s website: <https://www.coe.int/en/web/cpt/republic-of-moldova>

3. A list of the establishments visited by the delegation is set out in Appendix I to this report.
4. The report on the visit was adopted by the CPT at its 102nd meeting, held from 30 June to 3 July 2020, and transmitted to the Moldovan authorities on 27 July 2020. The various recommendations, comments and requests for information made by the CPT are set out in bold type in the present report. The CPT requests the Moldovan authorities to provide within six months a response containing a full account of action taken by them to implement the Committee's recommendations and replies to the comments and requests for information formulated in this report.

B. Consultations held by the delegation and co-operation encountered

5. In the course of the visit, the delegation held consultations with Viorica Dumbrăveanu, Minister of Health, Labour and Social Protection, Alexandru Holostenco and Djulieta Popescu, State Secretaries for Health, Labour and Social Protection, Eduard Serbenco, State Secretary for Justice, Vladimir Cojocaru, Director of National Administration of Penitentiary, Ianuş Erhan, State Secretary for Internal Affairs, Vadim Cojocaru, Head of the General Police Inspectorate, high-ranking representatives of the Special Unit at the Prosecutor General's Office to combat torture and ill-treatment and other senior officials from the aforementioned Ministries and services.

The delegation also met Mihail Cotorobai, People's Advocate (Ombudsperson) and Maia Bănărescu, Ombudsperson for the Protection of Children's Rights, as well as senior representatives of the Ombudsperson's office and representatives of the National Preventive Mechanism (NPM) established under the Optional Protocol to the UN Convention against Torture (OPCAT). Further, the delegation had a meeting with representatives of non-governmental organisations active in areas of concern to the CPT.

A list of the national authorities, other bodies and non-governmental organisations met by the delegation is set out in Appendix II to this report.

6. The co-operation received by the delegation throughout the visit, from both the national authorities and staff at all the establishments visited, was excellent. The delegation enjoyed rapid access to all the establishments it wished to visit (including those which had not been notified in advance), was able to interview in private persons deprived of their liberty and was provided with the information it needed to accomplish its task.

The CPT also wishes to express its appreciation for the assistance provided before, during and after the visit by its liaison officer, Ms Stela Branişte, of the Ministry of Justice, and her team.

7. The CPT has repeatedly stressed that the principle of co-operation as set out in Article 3 of the Convention establishing the Committee is not limited to facilitating the work of visiting delegations but also requires that recommendations made by the Committee are effectively implemented in practice.

In this respect, the CPT's delegation observed tangible progress in several areas, in particular as regards the treatment of persons deprived of their liberty by the police and the improvements in material conditions in the newly-renovated police detention facilities.

However, it is regrettable that several of the CPT's long-standing recommendations remain unaddressed. This concerns in particular the phenomenon of prison sub-culture, the resulting inter-prisoner violence and the accompanying living conditions for those prisoners who are deemed by the informal prison hierarchy to be "humiliated", as well as the regime offered to both remand and sentenced prisoners and the low staffing levels in prisons.

Having regard to Articles 3 and 10, paragraph 2, of the Convention,² the CPT once again urges the Moldovan authorities to take concrete action to address the recommendations made by the Committee in this and previous visit reports, including as regards the specific issues highlighted above.

8. Further, it is a matter of serious concern that, particularly at Cahul Prison, prisoners were allegedly advised by staff not to make any complaints to the delegation and that staff attempted to "de-brief" prisoners who had been interviewed by the delegation. Moreover, staff at Taraclia Prison failed to prevent the informal prison hierarchy from intimidating prisoners not to talk to the delegation and from "de-briefing" prisoners who had done so, despite being aware of the intimidation taking place.

The Committee stresses in this respect that any type of intimidation, reprisal or other prejudice against a person deprived of his or her liberty for seeking to communicate or having communicated with the CPT or attempts to find out what inmates tell visiting delegations during private interviews are entirely incompatible with the principle of co-operation (and, in the latter case, in blatant contradiction with Article 8, paragraph 3, of the Convention).

C. Immediate observations under Article 8, paragraph 5, of the Convention

9. During the end-of-visit talks with the Moldovan authorities on 7 February 2020, the CPT's delegation outlined the main facts found during the visit. On that occasion, the delegation made an immediate observation under Article 8, paragraph 5, of the Convention, and requested that the Moldovan authorities take urgent steps to ensure that the privacy of bed-ridden residents in the Temporary Placement Centre for Persons with Disabilities in Bădiceni is ensured when they comply with the needs of nature and when they are undressed to be washed and bathed. This could be achieved, for example, by using mobile screens or curtains to partition their bed from the rest of the room for the necessary period of time. Further, staff should not be assisted by other residents when carrying out these tasks.

² Article 3 reads as follows: "In the application of this Convention, the Committee and the competent national authorities of the Party concerned shall co-operate with each other".

Article 10, paragraph 2, reads: "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter".

The Moldovan authorities were requested to provide, within one month, a confirmation that the immediate observation has been implemented and an account of the concrete steps taken in this respect.

The immediate observation was subsequently confirmed in a letter of 16 March 2020 from the Executive Secretary of the CPT.

10. By letter of 1 July 2020, the Moldovan authorities provided comments on various issues raised by the delegation during the end-of-visit talks; regrettably, they have failed to provide any concrete information on any measures taken in respect of the immediate observation made by the CPT's delegation (see also paragraph 165).

D. Monitoring of places of deprivation of liberty

1. National Preventive Mechanism

11. By virtue of the 2014 Law on the People's Advocate (Ombudsperson),³ the function of the National Preventive Mechanism (NPM) under the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) was vested in a newly-established Council for the Prevention of Torture ("the Council").⁴

The Council is composed of seven members: the Ombudsperson (who is the President of the Council), the Ombudsperson for the Protection of Children's Rights and five members representing civil society. These five members are chosen in a selection process organised by the Ombudsperson's Office and are appointed for a non-renewable term of five years. The Council may recruit experts to participate in its visits.

12. At the time of the previous periodic visit to Moldova carried out by the CPT in September 2015, works were still underway to establish the NPM and the Committee recommended that the Moldovan authorities intensify their efforts in this respect.

Subsequently, the first Council was appointed in October 2016 and a specialised division was created within the Ombudspersons' Office with the task of providing the necessary information and methodological assistance to the members of the Council. According to the relevant regulations, the resources needed to carry out the tasks of the Council should be included in a separate budget line within the budget of the Ombudsperson's Office.

The CPT takes note of this development.

³ [Law no. 52 of 3 April 2014.](#)

⁴ Moldova ratified OPCAT in 2006. Initially, the function of the NPM was carried out by the Parliamentary Advocates and the Consultative Council for the Prevention of Torture.

13. That being said, the information received from several interlocutors met by the CPT's delegation during the 2020 visit and the information available in the public domain indicates that the practical operation of the NPM poses a number of challenges. In particular, there appeared to be a certain lack of co-ordination of the activities among the various parts of the NPM structure and diverging opinions on their part about their respective roles, functions and powers, as well as about the expected level of co-operation and mutual support. It is noteworthy in this connection that "preventive" and "monitoring" visits to places of deprivation of liberty were independently carried out by both the NPM and the Ombudsperson, acting in his separate capacity.⁵

The delegation was also informed that, in 2019, the Ombudsperson submitted a legislative initiative to the Ministry of Justice to review the current structure of the NPM and to establish a new model for its functioning. The initiative was pending before the Ministry at the time of the visit.

The CPT would like to receive the comments of the Moldovan authorities on these issues, including more details about the legislative initiative to establish a new model for the functioning of the NPM.

2. Prosecutorial Supervision

14. According to some interlocutors, following the reform of the Prosecutor's Office carried out in 2016, supervision of places of detention was excluded from the prosecutor's authority. However, it would appear that there were different interpretations in practice of the relevant legal framework. **The CPT would like to receive more information on the current role of the prosecutors in supervising various places of deprivation of liberty, in particular police stations and prisons.**

⁵ In addition, unlike the NPM, the Ombudsperson carried out "fact-finding" visits, for example on the basis of an individual complaint.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police

1. Preliminary remarks

15. The basic legal framework governing deprivation of liberty by the police, as laid down by the Code of Criminal Procedure (CCP) and the Code of Administrative Offences (CAO), has remained unchanged since the CPT's last periodic visit in 2015.

It is recalled that persons suspected of having committed a criminal offence can be detained by the police for up to 72 hours (up to 24 hours in the case of juveniles).⁶ By the expiry of this period, the suspect must be presented to a judge who shall decide whether he/she is to be remanded in custody, be made subject to another preventive measure (e.g. house arrest, bail), or released. Within the first three hours of the moment of deprivation of liberty, the police are required to draw up a protocol of detention and inform the prosecutor.⁷

As a general rule, persons suspected of having committed an administrative offence can be detained by the police for a maximum period of three hours; as regards offences punishable by an administrative prison sentence, the period in question is 24 hours.⁸ Foreign nationals may be detained under aliens legislation (e.g., illegal stay, illegal border crossing) for up to 24 hours.⁹ Persons may also be detained by the police for identification purposes, for a period not exceeding six hours.¹⁰

16. In contrast to the situation observed during earlier CPT visits, the delegation did not as a rule observe detention periods in police establishments exceeding 72 hours; it would appear that persons remanded in custody by courts were in general promptly transferred to a remand prison. The visit also revealed that the longstanding practice of returning remand prisoners from prisons to police temporary detention isolators (TDIs) for further questioning had been virtually abandoned. The CPT welcomes these positive developments.

That said, the delegation noted that persons remanded in custody by a judge were occasionally kept in a TDI as, reportedly, they could not be admitted to remand prison until they were in possession of an identification document. As a result, the persons concerned could spend several days (e.g. up to 13 days in the cases seen by the delegation) in police custody before their identification documents were issued. **The CPT recommends that the Moldovan authorities take appropriate steps to remedy this situation.**

⁶ Article 166 (5) of the CCP.

⁷ Article 167 (1) of the CCP.

⁸ Article 435 (1) and (2) of the CAO.

⁹ Article 435(2)(b) of the CAO.

¹⁰ Article 166 (5¹) of the CCP.

17. During the visit, the delegation was informed about certain institutional and capacity building developments, notably, the introduction of standard operating procedures for the entire custody process, transportation and medical assistance for those held in custody, as well as legal safeguards. Further, continuous and multi-disciplinary training for police officers, investigators and TDI staff, as well as training of trainers, was reportedly carried out for on-duty police officers and investigators.

Furthermore, guidelines have been developed for police intervention and a joint order by the chief of police and the prosecutor's office obliges police officers and other public officials to report any allegation of ill-treatment to the prosecutor's office within 24 hours.

2. Ill-treatment

18. The CPT is pleased to note that further progress has been made since its 2015 visit as regards the treatment of detained persons by the police. In the course of the visit, the delegation received hardly any allegations of recent physical ill-treatment by police officers, be it at the time of apprehension or during subsequent questioning, from persons who were, or recently had been, in police custody. On the contrary, many persons stated that they had been treated respectfully, both during arrest and at the police station. Further, no allegations of ill-treatment were received in respect of police officers working in TDIs.

That said, the delegation received some allegations of unduly tight handcuffing (sometimes leaving marks on the wrists). In this connection, the CPT must recall that excessively tight handcuffing can have serious medical consequences (for example, a severe and/or permanent impairment of the hands).

19. While the CPT's delegation heard only very few allegations of police ill-treatment, the Special Unit at the Prosecutor General's Office to combat torture and ill-treatment, continues to receive numerous complaints of police misconduct. Moreover, although before 2016, the prosecutors had seen a certain decrease in the number of complaints of ill-treatment by the police, between 2018 and 2019, the number of complaints rose significantly. According to the statistics provided to the CPT's delegation during the visit, the number of "reports" (i.e. either complaints or cases scrutinised ex officio) processed by the Special Unit increased from 687 in 2018 to 876 in 2019.¹¹ In 86 of the latter cases, a criminal investigation was initiated (including in eight cases of suspected torture).¹²

The considerable number of cases of alleged police ill-treatment reported to the Special Unit and their recent increase, as well as the number of criminal investigations consequently initiated leave, in the CPT's view, no place for complacency.

In the light of these considerations, **the CPT recommends that the Moldovan authorities pursue their efforts to combat ill-treatment of detained persons by police officers and remain vigilant to any information indicative of ill-treatment. It should be reiterated to police officers that any form of ill-treatment of detained persons is unlawful and unacceptable and will be punished accordingly.**

¹¹ It should be noted that the vast majority of these cases concerned the police and the rest prison officers.

¹² The other cases were classified by the authorities according to the national legislation and for the purpose of the statistics as "suspicion of use of force to extract confession" and "ill-treatment".

Further, **steps should be taken to ensure that whenever it is deemed necessary to handcuff a person, the handcuffs are in no circumstances excessively tight and are applied only for as long as is strictly necessary.**

In addition, **the CPT would like to be informed of the outcome of the 86 criminal investigations initiated in 2019 by the Special Unit at the Prosecutor General's Office which concerned ill-treatment by police officers (see above) and of the disciplinary/criminal sanctions imposed.**

3. Safeguards against ill-treatment

20. The CPT recalls that the fundamental safeguards against ill-treatment (namely, the right to have one's detention notified to a relative or another third party and the rights of access to a lawyer and to a doctor) should apply from the very outset of a person's deprivation of liberty. These rights should be enjoyed not only by persons detained in connection with a criminal or administrative offence, but also by those obliged to remain with the police for other reasons (e.g. as a witness or for identification purposes).

21. As regards notification of custody, those detained by the police are entitled to have a person of their choice immediately informed of their apprehension and their place of detention.¹³ Further, the officer who draws up the protocol of detention (within three hours of apprehension) shall immediately, and at the latest within six hours, give the detained person the possibility of notifying the place of his/her detention to a close relative or another third party, or shall notify them him-/herself.¹⁴ In certain situations, the exercise of this right may be delayed for up to 12 hours with the permission of the judge, except in the case of detained juveniles.¹⁵

The CPT positively notes that the practical implementation of the right of notification of custody did not appear to pose any particular problem.

22. As regards the right of access to a lawyer,¹⁶ the relevant legal provisions remained unchanged since the 2015 visit. It is recalled that a detained person has the right to have confidential legal counselling by a defence lawyer prior to the first questioning as a suspect.¹⁷ The person concerned shall have the right of access to a lawyer of his/her choice as of the moment of being informed that he/she is a suspect; those who cannot afford to pay for a lawyer are entitled to free legal aid.¹⁸ In this connection, the criminal investigative body shall, within one hour¹⁹ from the time of apprehension of a person, request the relevant territorial branch of the National Legal Aid Council to appoint a defence lawyer who is obliged to provide legal assistance within two hours.²⁰

¹³ Article 64(2) as amended in 2014 and (12) as amended in 2012, of the CCP.

¹⁴ Article 173(1) of the CCP.

¹⁵ Article 173(4) of the CCP: This delay is provided only when necessary to prevent serious risk to life, freedom or physical integrity of a person, to ensure the secret of the initial stage of the criminal investigation, to impede prejudicing the criminal procedures or commission of another crime or to protect victims of crimes.

¹⁶ Article 17(3) of CCP: The suspect's right to be assisted or represented by a defence counsel of their choice - and Article 17(1); referring to the obligation of the investigative body of the court to ensure the right of access to a lawyer is guaranteed by the state and independent of the investigative body.

¹⁷ Article 64 (2)(4) of the CCP.

¹⁸ Article 64 (2)(5) of the CCP.

¹⁹ Article 167(1¹) of the CCP.

²⁰ See CPT/Inf (2017) 4, page 9; and Decision of National Legal Aid Council No. 7 of 24 February 2015.

The Committee remains concerned that the right of access to a lawyer is still not guaranteed by law as from the outset of deprivation of liberty and that formally the relevant legislation continues to guarantee this right only to those already declared to be a suspect.

23. The relevant legal provisions also stipulate that the participation of a lawyer (and of a legal representative) in criminal proceedings shall be mandatory when the suspect is a juvenile.²¹ Further, the questioning of a juvenile suspect shall always be conducted in the presence of a lawyer and of a teacher or a psychologist.²²

24. It is positive that the majority of detained criminal suspects interviewed confirmed that they had been granted right of access to a lawyer shortly after they had been deprived of their liberty by the police. Most of them benefitted from the presence of a state-appointed lawyer at some stage during their custody, including during questioning, and had been able to communicate with the lawyer in private.

However, some persons interviewed during the visit stated that right of access to a lawyer had been granted only after their first questioning had taken place. Further, a few allegations were also heard that detained persons were not given the opportunity to consult with their lawyer in private.

Moreover, one juvenile (aged 16 years) met by the delegation stated that he had been questioned by the police without the presence of either a lawyer or another trusted adult; such a state of affairs would be unacceptable.

The CPT once again calls upon the Moldovan authorities to amend the provisions of the Code of Criminal Procedure regarding the right of access to a lawyer, so as to ensure that this right is guaranteed from the very outset of deprivation of liberty. Further, practical steps should be taken to ensure that persons while in custody are able to effectively benefit from the right of access to a lawyer (including the right to speak with the lawyer in private and to have him/her present during interviews) as from the moment they are obliged to remain with the police.

Particular care should be taken to ensure that juveniles are not questioned without the presence of a lawyer and another trusted adult being present in order to assist them, as required by law.

25. The delegation was also made aware of the limited availability of state-appointed lawyers in certain districts whereby it appeared that only one defence lawyer was engaged for an entire district.²³ As acknowledged by police officers, this situation could put at risk a detained person's right to ready access to a lawyer.

The CPT trusts that the Moldovan authorities take appropriate steps – in consultation with the National Legal Aid Council – to ensure that, as required, persons deprived of their liberty by the police have effective access to free legal aid. The Committee would like to be informed of the concrete steps taken by the Moldovan authorities in this regard.

²¹ Article 69(1)(4) and Article 480 (1) of the CCP.

²² Article 479 (2) of the CCP.

²³ For instance, this was the reportedly the case in Taraclia.

26. Pursuant to the CCP,²⁴ detained persons should have access to a doctor, including access to independent medical assistance, immediately after their apprehension. Further, according to the Enforcement Code,²⁵ all detained persons in a TDI should undergo a medical examination immediately upon entry to and exit from the place of detention, as well as upon their request during the stay in a TDI. The provisions require that the medical examination shall be conducted under conditions of confidentiality. Moreover, the CPT welcomes the issuing of Order No. 444 of 15 November 2019 by the General Police Inspectorate which introduced Standard Operating Procedures regarding the provision of medical care in TDIs.

In general, persons were medically examined by a feldsher or at a hospital before their placement in a TDI. Moreover, if they so requested (or when their state of health so required), they were provided with emergency medical care.

27. However, it is a matter of serious concern that, despite the requirements laid down in Order No. 444,²⁶ confidentiality of medical examinations and medical records in TDIs was still not always guaranteed. In particular, the delegation was informed that medical examinations of detained persons were often performed in the presence of a police officer; further, the delegation noted that copies of medical examination results were sometimes attached to the administrative files of detained persons, thus being accessible to non-medical staff, and that medical files were accessible to police officers. Moreover, medical examination rooms in the newly refurbished TDIs were routinely equipped with CCTV cameras.

The CPT reiterates its recommendation that the Moldovan authorities take steps to ensure that all medical examinations of persons in police custody are conducted out of the hearing and – unless the health-care professional concerned expressly requests otherwise in a given case – out of the sight of police officers and that medical data are, as a rule, not accessible to non-medical staff.²⁷

Further, **the CPT has serious reservations as regards the installation and use of CCTV cameras in the examination rooms. Such arrangements are highly intrusive and detrimental to the establishment of a doctor-patient relationship. In the Committee's view, when it is exceptionally necessary, at the request of medical staff, to carry out a medical examination in the sight of custodial staff (of the same sex as the person who is being examined), other arrangements should be put in place to preserve as much as possible the confidentiality of the examination and the therapeutic doctor-patient relationship.** Another possibility might be the installation of a call system, whereby a doctor would be in a position to rapidly alert custodial staff in those exceptional cases when a detained person becomes agitated or threatening during a medical examination.

²⁴ Article 64 (2) (15¹) of the CCP.

²⁵ Article 175¹(2) of the EC.

²⁶ Sections 7.8 and 7.9 provide that a medical examination should be performed by medical staff in a specially equipped room under conditions of full confidentiality and prohibit the presence of any third person who is not medically specialised. Only in exceptional cases and at the request of the medical staff, special safety measures can be taken if necessary.

²⁷ Health-care staff may inform custodial officers about the state of health of a detained person; however, the information provided should be limited to that necessary to prevent a serious risk for the detained person or other persons, unless the person concerned consents to additional information being given.

28. Further, several detainees stated that their medical screening was performed in a superficial manner and was based only on a few questions and answers. Medical staff confirmed that physical examination of newly arrived detainees would be performed only if a specific complaint of ill-treatment was received or if the person concerned claimed that he or she had bodily injuries.

The delegation noted that Order No. 444²⁸ provides a form for examination of bodily injuries in which the account by the detained person as regards any possible injuries, detailed medical findings and the health-care professional's opinion on the consistency between the two should be recorded. However, the form did not contain "body charts" for marking traumatic injuries.

29. In the light of the above, **the Committee recommends that the Moldovan authorities take further steps to ensure that:**

- **in line with the national legislation, all persons admitted to a police TDI are thoroughly screened by a health-care professional without delay; the screening should include a full physical examination, even if there are no explicit allegations of ill-treatment made by the person concerned;**
- **the records drawn up following the medical examination contain: (i) a full account of objective medical findings based on a thorough examination, (ii) an account of statements made by the person concerned which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment), and (iii) the health-care professional's observations in the light of (i) and (ii), indicating the consistency between any allegations/statements made and the objective medical findings;**
- **any traumatic injuries observed in the course of medical examination are photographed in detail and that the photographs are kept, together with the "body charts", in the detained person's individual medical file;**
- **the results of every examination, including the above-mentioned statements and the health-care professional's conclusions, should be made available to the detained person and his/her lawyer;**
- **special training is provided to health-care professionals working in TDIs; in addition to developing the necessary competence in the documentation and interpretation of injuries as well as ensuring full knowledge of reporting obligations and procedures, that training should cover the technique of interviewing persons who may have been ill-treated.²⁹**

30. As in the past, health-care staff working in TDIs continued to be institutionally dependent on the police; they were employed by the Ministry of the Interior and also provided care to police officers. **The CPT must reiterate that this dual loyalty is likely to give rise to an obvious conflict of interest and that it is therefore preferable for health-care staff working in all police TDIs to be independent of the police.**

²⁸ Annexe No. 3 to the Order.

²⁹ Reference is made in this context to Chapter IV of the 1999 United Nations Manual on Effective Investigations and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Istanbul Protocol").

31. The delegation received a few allegations that persons in police custody were informed of their rights only after their first questioning had taken place (prior to being placed in a TDI, which was several hours after the moment of deprivation of liberty); further, some of them claimed that their rights were explained by their lawyer and not by the police officers. On a more positive note, the majority of those interviewed affirmed that they had been provided with a written form stipulating, *inter alia*, that they had received information on their rights and duties. These forms were usually given out during the first hours of custody.

In a number of police stations, the delegation witnessed posters outlining the basic rights of detained persons in Romanian, Russian, English and Gagauz, which were displayed in the custody areas.

The CPT encourages the Moldovan authorities to continue their efforts to ensure that all persons detained by the police are fully informed of their fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). This should be ensured by the provision of clear verbal information at the very outset and be supplemented at the earliest opportunity (i.e. upon arrival at police premises) by the provision of a written form setting out the detained person's rights in a straightforward manner. This form should be available in an appropriate range of languages.

32. Overall, the delegation noticed that custody records of apprehended persons in all visited facilities were not unified (in the form and the type of information recorded). Moreover, in some of the records examined by the delegation, the date and the time of entry/exit from TDIs were not filled in; consequently, it was impossible to trace the precise length of police custody.

Further, in some police stations that did not have a functional TDI, the stay of persons brought in by the police or summoned to the police station was either not registered at all or the record did not contain the reason for the stay and its length.

At the final meeting with the authorities, the delegation was informed that all these concerns would be remedied through a new system of electronic custody records. Reportedly, this new IT system was being developed as a joint initiative between the Ministry of Justice and the Ministry of the Interior, with the aim of unifying all the custody records used in TDIs. Further, by letter of 1 July 2020, the Moldovan authorities informed the Committee that the new electronic custody records system had been put in place and replaced the existing registers.

The CPT notes the information provided by the Moldovan authorities and would like to be provided more details on the new electronic system. In particular, the Committee would like to receive confirmation that:

- **whenever a person is taken or summoned to a police establishment, for whatever reason, his/her presence will always be duly recorded. In particular, the records should specify who was brought in or summoned, by whom, upon whose order, at what time, for what reason, in which capacity (suspect, witness, etc.), to whom the person concerned was handed over and when the person left the police premises;**
- **relevant information on the implementation of the fundamental safeguards against ill-treatment (i.e. when the person was informed of his/her rights; when his/her detention was notified to a third person, when he/she had contacts with a lawyer, a doctor or a representative of a consular service) will also be recorded.**

4. Conditions of detention

33. The CPT welcomes the general trend towards improving material conditions in police detention facilities in the Republic of Moldova. At the outset of the visit, the delegation was informed by representatives of the Ministry of the Interior that a number of old sub-standard TDIs had been closed down and that other ones were currently under refurbishment or had already been renovated; by the end of 2020, 15 newly refurbished TDIs were expected to become operational.

34. As observed by the delegation during the visit, the newly refurbished detention facilities (e.g. Cahul, Cimișlia and Hîncești) offered very good material conditions. In particular, cells in these establishments were sufficiently large³⁰ and adequately equipped, including fully partitioned sanitary annexes (containing a toilet, a sink and a shower). Each of these TDIs was also equipped with a courtyard where detained persons could take outdoor exercise.

35. However, as regards the other TDIs visited, they displayed a number of shortcomings. At the TDI in Chișinău, in-cell toilets were not fully partitioned and the two newly renovated shower facilities were dirty; in Fălești and Florești, the delegation's findings included: insufficient cell size for the intended occupancy,³¹ poor ventilation, insufficient access to natural and artificial light, unpartitioned in-cell toilets, poor state of hygiene, lack of call bells in the cells, absence of bedding and lack of hygiene items for the detained persons.

The delegation was particularly concerned about the deplorable state of hygiene of the toilet (located in the corner of the outdoor exercise yard) at Florești police station and the lack of privacy due to the missing doors.

Moreover, in some police stations (e.g. Chișinău and Fălești), artificial lighting in the cells was kept switched on at night.

36. In the light of the above, **the CPT recommends that the Moldovan authorities pursue their efforts to improve conditions of detention in police TDIs. In particular, measures should be taken to ensure that:**

- **cells have sufficient lighting (including access to natural light);**
- **lighting in cells is always appropriately dimmed at night;**
- **sanitary facilities are kept clean;**
- **in-cell toilets in multiple-occupancy cells are fully partitioned (i.e. from floor to ceiling);**
- **all detained persons have access to a soap and toilet paper; those held for longer than 24 hours should also be provided with a basic sanitary kit (including a towel, toothpaste and a toothbrush); and**
- **if the TDI in Florești is still in use, the aforementioned deficiencies concerning the toilet be immediately remedied.**

³⁰ Single- and double-occupancy cells measured some 8 and 12 m² respectively.

³¹ In Fălești, double-occupancy cells measured 6.5 m² and cells for four persons measured 13 m²; in Florești, the double-occupancy cells measured 6 m².

37. When visiting TDIs which had decommissioned cells, the delegation noted that some of them were not sealed and properly dated, making it very difficult to trace their last day of use. **The Committee considers that decommissioned cells in TDIs should be sealed to avoid any misunderstanding.**

38. In all police inspectorates with a non-functioning (closed) detention facility, the delegation received complaints from officers that they encountered problems keeping apprehended persons in a safe place before their transfer to a functioning TDI. Given the absence of any holding facility for short-term custody, the police had to use their offices to keep those persons for a few hours. In this regard, representatives of the Ministry of the Interior assured the delegation that, by the end of 2020, approximately one hundred holding cells would be available and operational in various police inspectorates.

The CPT recommends that the Moldovan authorities pursue these efforts as a matter of priority and would like to receive detailed information on the progress made in this respect.

B. Prisons

1. Preliminary remarks

39. In the course of the 2020 visit, the delegation examined the situation in three prisons for adults, namely Prison No. 1 in Taraclia, Prison No. 5 in Cahul and Prison No. 13 in Chişinău. It also carried out a targeted follow-up visit to Prison No. 10 (Goian Juvenile Prison) in order to examine the steps taken to tackle the phenomenon of inter-prisoner violence.

Taraclia Prison, located in the southern part of Moldova, was visited by the CPT for the first time. With an official capacity of 336 places,³² it was accommodating 303 sentenced male adult prisoners at the time of the visit. With the exception of a few large-capacity dormitories in Block 1, prisoner accommodation was provided in cells designed to hold a maximum of ten persons. The prison structure comprised six blocks (Nos. 1, 1/1, 2, 3, 4 and 5). Block 1 accommodated staff offices, and classrooms, as well as cells and dormitories for prisoners; the separate Block 1/1 housed those considered by the informal prison hierarchy to be part of the “humiliated” or “untouchable” category.³³ Blocks 2 and 3 mainly accommodated prisoners placed by the court in a closed type prison regime, while those held under the initial regime (mostly recently-arrived prisoners) and those under protection³⁴ were held in Block 4. Block 5 was occupied by working prisoners and those placed by the court in a semi-closed prison regime and contained the medical infirmary annexe.

Since its establishment with one single block (1978), the prison has seen many changes in the intervening years. In 1980, the prison was closed and then brought back into service in 2004 with three new blocks – 2, 3 and 4 (Block 4 was completed in 2012). Moreover, outdoor facilities in the establishment include internal courtyards with some greenery and plants in each block, some blocks having benches and weightlifting equipment. The prison has welding and carpentry workshops, a coypu and rabbit farm, with a spacious and well-equipped kitchen and a modern church built in 2019. However, considering its location (a former swamp area) and water supply shortages in this particular region,³⁵ the entire establishment has depended on water transportation, using a poor infrastructure to supply the only accessible well situated in one of the block’s courtyards (see paragraph 68).

Cahul Prison was last visited by the CPT in 2001. The prison had an official capacity of 170 places and at the time of the visit it had an occupancy of 150 prisoners including 13 women and two male juveniles. Of these, 76 were on remand including five women and the two male juveniles; the rest were sentenced prisoners. The prison structure consisted of five “posts” (units). Post 1 accommodated women; Post 2 was reserved for new arrivals³⁶ and prisoners placed under initial regime, as well as those deemed “untouchable” and *de facto* under protection, Post 3 held juveniles,

³² Official capacity is calculated on the national standard of at least 4m² of living space per prisoner in multiple-occupancy cells.

³³ In the prison slang, these persons were referred to by various terms, including “*opushennye*” (“*опущенные*”) and “*obizhennye*” (“*обиженные*”) and were considered to be on the lowest rank of the informal prison hierarchy for various reasons (e.g. their previous criminal record, especially sex offenders, for reasons of sexual orientation or serious violations of the prison subculture, such as having physical contact with other “untouchables” or failing to pay debts.

³⁴ Ensuring the personal safety of convicts – Article 206 of the Enforcement Code.

³⁵ Taraclia District’s water supply system depends on 400 public wells that are reportedly of poor quality, which has been significantly affecting the water supply to the prison itself.

³⁶ New arrivals admitted to any penitentiary establishment are held in admission (often multiple-occupancy) cells which are commonly referred to as “quarantines”. The maximum duration of placement in a “quarantine cell” is 14 days.

some inmates under *de facto* protection and male adults; Post 4 accommodated male adults; and Post 5 included the dormitories for working prisoners. Accommodation in Posts 1 to 4 was provided in cells for up to six inmates.

*Chişinău Prison*³⁷ has been visited by the CPT many times in the past. With an official capacity of 570 places, it was accommodating 855 prisoners at the time of the visit,³⁸ of whom 645 were on remand (including 53 women and twelve male juveniles) and 197 were sentenced prisoners. In addition, four persons were serving an administrative sanction, and nine inmates were in transit or had been taken for a court appearance.³⁹

Goian Prison, previously visited by the CPT in 2015 and 2018, remains the country's only prison for sentenced male juveniles. With an official capacity of 64 places, the establishment was accommodating 25 juveniles and eight young adults (i.e. aged over 18) at the time of the visit.

40. According to the official statistics of the Moldovan National Prison Administration, on 1 January 2020, the prison population stood at 6,716 (including 1,114 on remand), compared to 7,381 at the time of the CPT's previous visit in 2018. The official capacity of the prison estate (calculated on the basis of 4 m² of living space per prisoner) was 6,735 places.⁴⁰

However, despite these figures and the continuing reduction in the overall number of prisoners in recent years, the Moldovan authorities acknowledged that prison overcrowding has continued to represent a significant challenge, in particular in remand prisons. At the outset of the visit, representatives of the Ministry of Justice expressed their intention to tackle this phenomenon by both expanding the prison estate and reducing further the size of the prison population. Information was provided on the measures taken or envisaged by the authorities in this regard, where, in particular, reference was made to:

- the construction of a new remand prison in Chişinău with a capacity of 1,536 places, which was expected to replace Prison No. 13. However, the delegation was informed that the construction works had been postponed yet again and that the opening of the new prison was not envisaged before 2024;⁴¹
- the provision of additional budgetary funds (40 million Moldovan Lei) to advance the construction of a new remand prison in Bălţi. According to the authorities, the additional funds would allow for progress to be made in the construction during 2020, while its finalisation was planned for 2022;

³⁷ Chişinău Prison is the largest and one of the oldest prisons in the country (dating from the 1850s). Its replacement by a new prison has long been planned and is still awaiting the execution of a 39-million-Euro loan (awarded in 2013 by the Council of Europe Development Bank).

³⁸ At the time of the 2015 periodic visit, Chişinău Prison had an official capacity of 1,000 places and was accommodating 1,186 inmates (including 81 women); during the 2018 ad hoc visit, the capacity had been reduced to 576 and the occupancy was 976 prisoners (including 71 women).

³⁹ The prison structure divides into three Blocks (1-3), with several posts in each block (16 in total). Block 1 had a few cells for 4 to 6 persons and dormitories with 16 to 18 beds. In Block 2, half of the cells were for 4 to 6 persons, and the other half for 10 to 14. Block 3 had smaller cells holding 4 persons each (mainly for former law enforcement officers and prisoners in need of segregation). On the third floor of Block 3, there were three cells for juveniles. The women's ward had cells containing between 4 and 14 beds.

⁴⁰ The statistics are available at <http://www.anp.gov.md/>.

⁴¹ The implementation of the plans to construct a new remand facility in Chişinău has been repeatedly postponed. In their response to the report on the CPT's June 2018 visit, the Moldovan authorities had indicated that the construction works were planned to be carried out in the period July 2019-June 2022 (see CPT/Inf (2019) 10, page 5).

- the construction of a new wing in Leova Prison, which was due to open by the end of February 2020, bringing into service an additional capacity of 110 places; and
- the planned opening in March 2020 of a separate accommodation block for juvenile remand prisoners at Goian Prison, which would increase the capacity of the prison from 64 to 96 places.

Whilst acknowledging the steps taken thus far to address the phenomenon of prison overcrowding, **the CPT must reiterate its recommendation that the Moldovan authorities pursue vigorously their efforts in this regard, by making increased use of alternatives to imprisonment and measures facilitating the reintegration of prisoners into society.**⁴²

41. As regards more specifically the situation at Chişinău Prison, the CPT was very concerned to note that the construction of a new prison in Chişinău had once again been postponed. Bearing in mind the generally poor material conditions prevailing at Chişinău Prison, as well as its structural deficiencies, the Moldovan authorities must be unwavering in their efforts to bring the new remand facility into service at the earliest possible opportunity and close down the old prison.

The Committee urges the Moldovan authorities to attach a very high priority to the construction and commissioning of the new remand prison in Chişinău. It would like to receive a timetable for the construction of this establishment.

42. The CPT learned that, in January 2019, the Moldovan authorities had introduced a compensatory mechanism⁴³ which provided for a reduction of sentences and/or monetary compensation for those detained in conditions contrary to Article 3 of the European Convention on Human Rights.⁴⁴ Most notably, the delegation was informed that the implementation of this mechanism had resulted in the immediate release of approximately 500 prisoners and a reduction of the sentences of some 3,000 prisoners. However, it would appear that judges usually did not examine the conditions of detention on the spot but relied solely on the information provided by the prison administration.

The delegation was informed that a new law amending this mechanism was being prepared and was expected to be submitted to the Parliament in the near future.

By letter of 1 July 2020, the Moldovan authorities provided further details of the legislative amendments and indicated that the amendments were the subject of a consultation process and would subsequently be submitted to the Government. Most notably, the draft proposes the creation of specialised commissions⁴⁵ to evaluate the conditions of detention at the level of each penitentiary institution and to provide judges with the relevant information. **The CPT would like to be informed of any developments as regards the amendments to the compensatory mechanism.**

⁴² In so doing, the authorities should be guided by the relevant Recommendations of the Committee of Ministers of the Council of Europe: Recommendation R (99)22 concerning prison overcrowding and prison population inflation, Recommendation Rec(2003)22 on conditional release (parole), Recommendation Rec(2006)13 on the use of remand in custody, Recommendation Rec(2010)1 on the Council of Europe Probation Rules, and Recommendation Rec(2017)3 on the European Rules on community sanctions and measures.

⁴³ Law No. 163, July 2017 (which entered into force on 1 January 2019).

⁴⁴ The new remedy falls within the competence of investigative judges and is available to both remand and sentenced prisoners, as well as to those serving administrative sentences.

⁴⁵ The commissions should be composed of representatives of the prison system, representatives of the National Preventive Mechanism and representatives of civil society.

2. Ill-treatment

a. ill-treatment by staff

43. In all the establishments visited, the majority of prisoners interviewed by the delegation made no allegations of ill-treatment by staff.

However, at Chişinău Prison, the delegation did receive a few allegations of recent physical ill-treatment (e.g. punches and kicks) by prison officers, apparently as a punishment following an earlier incident (for having verbally insulted staff). The delegation was informed that this case had been brought to the attention of the prosecutor's office, in early January 2020.⁴⁶ However, until the time of the CPT's visit, the prosecutors' office had not visited the establishment or made any contact with the aim of investigating the incident. **The CPT would like to receive updated information on this case and on whether there was any follow-up from the prosecution services.**

44. Further, in all three prisons for adults visited by the delegation, a few allegations were received of excessive use of force by staff when dealing with agitated inmates. Moreover, at Chişinău and Taraclia prisons, a few allegations were heard of excessively tight handcuffing. Notably, in Taraclia, the delegation received credible allegations of tight handcuffing behind the back, in a squatting position and to a fixed bedframe (for approximately two hours).

In addition, at Cahul Prison, the juvenile remand prisoners complained about the use of disrespectful language against them (using derogative names) by certain staff members.

45. In the light of the above, **the CPT recommends that a firm message be delivered at regular intervals to the management and staff at Chişinău Prison that ill-treatment of prisoners is unlawful and unacceptable and will be punished accordingly. It should also be reiterated to prison officers in all prisons that no more force than is strictly necessary should be used to control violent and/or recalcitrant prisoners and that once prisoners have been brought under control, there can be no justification for them being struck.**

Further, where it is deemed essential to handcuff a given inmate, the handcuffs should under no circumstances be excessively tight and should be applied only for as long as is strictly necessary. Prisoners should never be handcuffed to fixed objects and/or kept in a stress position; in the event of an inmate acting in a highly agitated or violent manner, the person concerned should be kept under close supervision in an appropriate setting.

Moreover, steps should be taken to ensure that staff at Cahul Prison receive the clear message that all inmates, including juveniles, are to be treated with respect and that all forms of ill-treatment, including verbal abuse, will be the subject of appropriate sanctions.

46. The CPT considers that the use of video recording may, if properly regulated, constitute an important safeguard against abusive use of force by prison staff. In addition, the use of portable video equipment in particular will help to protect prison staff from potential false allegations of ill-treatment.

⁴⁶ The incident had taken place on 7 January 2020.

47. In the course of the visit, the delegation had an opportunity to examine certain aspects of a very recent incident involving the use of force by staff at Chişinău Prison. The delegation was surprised to learn that the relevant CCTV recordings of the incident had already been erased (i.e. approximately three weeks after the incident). Moreover, the delegation was unable to obtain clear information from the management of the prison on the retention period of CCTV footage.⁴⁷ In this connection, it was claimed that the storage capacity of servers in the establishment was not sufficient to ensure that all records could be stored for longer than a few weeks.

As regards portable video equipment, the delegation noted that video recordings made by the body-worn cameras of the prison officers involved in the above-mentioned incident were incomplete; they only captured the beginning of the intervention by prison staff and did not include the actual use of force against prisoners. This was due to the cyclical mode of recording in body cameras, providing incomplete footage, which could be of little evidential value in investigations into such incidents.

The CPT recommends that the Moldovan authorities take steps at Chişinău Prison (and, where appropriate, in other prison establishments in the country) to maximise the potential of the video recording system, in the light of the above remarks. More particularly, both CCTV and body-worn camera footage should, as a rule, be stored for at least 30 days, and in the event of a violent incident or any instance involving allegations of ill-treatment, the footage should be preserved for a period sufficient for it to be used as evidence in case of need.

b. inter-prisoner violence and intimidation

48. The problem of inter-prisoner violence and intimidation in Moldovan prisons has long been a source of serious concern for the CPT. In the report on its 2018 ad hoc visit, the Committee called upon the Moldovan authorities to take determined action to address this problem, in particular by taking effective measures to tackle the related phenomenon of an informal prison hierarchy.

The findings of the CPT's delegation during the 2020 visit showed that the problem of inter-prisoner intimidation and violence among the adult male inmate population remained as acute as ever and was, as in the past, largely linked to the well-established informal hierarchies in the country's prison system.

49. According to medical files examined by the delegation at Cahul, Chişinău and Taraclia prisons, inmates were regularly found with injuries indicative of inter-prisoner violence, such as haematomas around the eyes and, albeit to a lesser extent, with more serious injuries (e.g. a broken arm). As had been the case in the past, practically all the cases of inter-prisoner violence remained unreported,⁴⁸ due to the climate of fear and intimidation created within the establishments by inmates who were at the top of the informal prison hierarchy, as well as a general lack of trust in the staff's ability to guarantee prisoner safety. Unsurprisingly, many of the prisoners met by the delegation were very reluctant to speak about the circumstances in which they had sustained their injuries, and some

⁴⁷ Reference was made to Order No. 101 of 10 April 2018 by the Director of Chişinău Prison, according to which the retention period was up to 30 days.

⁴⁸ The prisoners concerned usually stated that they had sustained those injuries accidentally (e.g. by falling out of bed, or by bumping into a metal grille or a window frame).

were visibly scared.⁴⁹ On a few occasions, the delegation was followed by prisoners who tried to put pressure on other inmates in order to prevent them from talking freely with the delegation. Nevertheless, a number of inmates in each of the prisons visited did provide accounts of beatings, threats of violence and extortion by other inmates, as well as sexual assault. At Chişinău Prison, the delegation heard an allegation that a sex offender had been deliberately placed in a cell with prisoners known for violence toward sex offenders (so called “*press-khata*”). The prisoner concerned claimed that he had been severely beaten and raped by his cellmates, apparently as a punishment for his sex offender profile. However, the prisoner did not submit a complaint due to fear of retaliation.

50. Despite the vehement denials of the Moldovan authorities in their responses to the CPT’s previous visit reports, it was again clear that there was tacit collaboration between the management of the prisons visited and the informal prisoner hierarchies as regards maintaining order among inmates and ensuring the “smooth operation” of the establishments. Most strikingly, the informal hierarchy had a say in the initial “classification” and placement in cells of newly admitted prisoners,⁵⁰ as well as in a decision as to which prisoners were to be permitted to work. This helped the informal leaders to constantly enrol “unexperienced” prisoners into the informal community of inmates, offering protection and other support in exchange for their money and loyalty. This arrangement also meant that informal leaders were free to use intimidation and a “reasonable” level of violence against those who refused to contribute to an illegal collective fund (“*obshchak*”) managed by the informal hierarchy’s leader.⁵¹

51. As regards more particularly prisoners considered to be “untouchable” by the informal hierarchy, they continued to live in a state of constant fear and humiliation. Once again, the delegation received many complaints from such prisoners of frequent verbal abuse and demeaning behaviour by other inmates. Some of them even feared that they would be raped as a punishment for the offences they were accused or convicted of. As was the case in the past, these prisoners were compelled to perform “dirty” work (such as cleaning toilets and collecting rubbish) and were required by the hierarchy’s internal rules to avoid any physical contact with other inmates. Further, being rejected by the mainstream prison population, they were not permitted to work with other inmates or to access communal areas, such as the gym, library or chapel. Moreover, with the notable exception of Taraclia Prison,⁵² inmates in this category were being held in the most sub-standard conditions to be found in the prisons.

⁴⁹ One of them, when interviewed in his cell, stopped responding verbally and started writing his answers (while trembling), underlining that the “hierarchy” could be eavesdropping and that he could be punished for talking to the delegation.

⁵⁰ The allocation of newly admitted inmates into different cells was carried out according to the prisoners’ status in the informal prison hierarchy, which depended on their criminal record and other factors such as willingness to participate in the subculture life by means of financial contributions or stating their intention to work in prison (which was discouraged by the prison subculture). At Cahul Prison, newly arrived prisoners were allegedly taken by prison staff to the main informal prison leader so that he could perform their “designation” according to the subculture rules. At Chişinău Prison, the admission cells were located next to the cells occupied by informal prison leaders, where the holes in the connecting walls (measuring approximately 10 cm in diameter) apparently served as communication channels. At Taraclia, informal prison leaders reportedly met newly arrived prisoners at the main prison gates.

⁵¹ It was often the case that newly arrived inmates were offered basic items of necessity by informal leaders; in return, they would later be required to make contributions to the “fund”. In addition, it was common practice for prisoners who received a parcel from relatives to be asked to share it with “senior” prisoners and the “fund”.

⁵² At Taraclia Prison, such inmates were being held in a separate accommodation block which offered generally adequate conditions of detention.

As already stressed in the past, the CPT considers that the situation of the above-mentioned category of prisoner could be considered to constitute a continuing violation of Article 3 of the European Convention on Human Rights, which prohibits *inter alia* all forms of degrading treatment and obliges State authorities to take appropriate measures to prevent such treatment, including by fellow inmates.

52. The delegation noted that, in the prisons for adults visited, a certain number of inmates had been separated from the mainstream prison population and placed in designated units at their own request, pursuant to Article 206 of the Enforcement Code.⁵³ It was clear that for many of these prisoners such a form of self-imposed segregation – which usually entailed an impoverished regime for prolonged periods (in some cases for years on end) – was the only way to escape potential aggressors.⁵⁴

53. Similar to the situation observed during previous CPT visits, there was a limited number of custodial staff in all the prisons visited. Needless to say, prison staff cannot be expected to exercise their authority in an appropriate manner under such circumstances. As the CPT has repeatedly stressed, the level of staffing must be sufficient to enable prison officers to supervise adequately the activities of inmates and support each other effectively in the performance of their tasks (see paragraphs 87 and 91).

54. According to the Enforcement Code,⁵⁵ persons convicted for the first time shall be kept separate from those who have previously been imprisoned. However, the delegation observed that this rule was rarely observed in any of the establishments visited. Those inmates without previous experience of imprisonment were a primary target for exploitation, extortion and manipulation by informal prison leaders.

55. Further, at Chişinău and Cahul prisons, newly admitted sex offenders, LGBTQI+ persons and those suffering from learning disabilities, were not separated from the mainstream population but were initially held in a “quarantine” (admission) cell with other prisoners and were subsequently placed in the mainstream prison population. Consequently, they were exposed to a particularly high risk of being assaulted by other prisoners. Preventing such acts should be one of the priorities when combating inter-prisoner violence. The solution that is often adopted is to separate such prisoners from the rest of the prison population.⁵⁶

⁵³ Article 206 of the Enforcement Code provides for the obligation to ensure the protection of convicts when there is a risk of danger to their personal security; any convict has the right to file a request to ensure his/her personal security. In return, prison authorities are expected to take immediate protection measures.

⁵⁴ At the time of the visit there were 76 prisoners being held under such protection at Chişinău Prison. At Cahul, at the time of the visit, no prisoners were officially being held under protection in accordance with Article 206. However, a number of prisoners who did not wish to be subject to the informal prison hierarchy were kept *de facto* under segregation in specific cells. At Taraclia, those under Article 206 protection were held in segregation in Block 4 and, at the time of the visit, there were 34 persons (some in accordance with Article 206 and some for other reasons).

⁵⁵ See Article 205(d).

⁵⁶ See paragraph 27 of the 11th General Report on the CPT’s activities (CPT/Inf (2001)16). It is noteworthy in this context that at Taraclia Prison, the prisoners referred to as “untouchables” were held in a separate accommodation in Block 1/1, protected from other inmates who could cause them harm.

56. At Taraclia Prison, the delegation was informed that, while placement in a quarantine cell upon admission was theoretically mandatory for everyone, staff would make exceptions for those newly arrived prisoners who did not wish to be placed therein. Such exceptions were made on the basis that a newly arrived prisoner agreed to be subject to the informal prison hierarchy.

57. In the CPT's view, the continuing failure of Moldovan authorities to ensure a safe and secure environment for prisoners is directly linked to a number of factors, notably the chronic shortage of custodial staff, reliance on informal prisoner leaders to keep control over the inmate population and the existence of large-capacity dormitories. At the same time, there is no proper risk and needs assessment of prisoners upon admission, nor a classification of inmates to identify in which prison, block or cell prisoners should be placed. The increased vulnerability of some prisoners (such as sex offenders, persons with mental health issues or drug dependencies) clearly calls for the need to identify potential risks and vulnerabilities in order to prevent these prisoners from being subject to violence and exploitation by other inmates.

58. In the light of the above, the CPT once again calls upon the Moldovan authorities to take resolute action, without further delay, to prevent inter-prisoner violence and intimidation throughout the prison system. This will require, in particular, putting in place a system of appropriate risk and needs assessment, classification and allocation of individual prisoners with a view to ensuring that prisoners are not exposed to other inmates who may cause them harm (duly taking into account the risk certain prisoners may pose to other inmates by promoting or imposing the informal prison hierarchy), providing prisoner accommodation based on smaller living units, setting up an effective recruitment and training system for prison staff and ensuring continuous staff supervision (including at night) in detention areas.

In this connection, certain concrete measures should also be taken as a matter of urgency to address the phenomenon of the informal prison hierarchy, such as:

- **putting a definitive end to the practice of using informal prison leaders to maintain good order in prisons. Consideration might also be given in this context to segregating the informal leaders and their close circle from the rest of the prison population, on the basis of a proper individual risk and needs assessment;**
- **depriving informal prison leaders of the possibility to access newly arrived prisoners and perform their "caste designation". In this context, it should be reiterated to prison staff that any staff member facilitating such contacts will be sanctioned accordingly;**
- **putting an end to the practice of prison management relying on input from the informal prisoner hierarchy when carrying out admission procedures;**
- **ensuring that prisoners who are exposed to the risk of abuse by fellow inmates (including LGBTQI+ persons, prisoners suffering from learning disabilities and sex offenders) and those who do not (or no longer) wish to be involved in the prison subculture receive the management's full support, including, if they so request, by being accommodated in separate units, offering adequate conditions and regime;**

Further, **the CPT recommends that the Moldovan authorities fully implement national legislation as regards the separation of first-time offenders from re-offenders. Consideration could be given in this context to designating special wings/posts within existing facilities to accommodate the former.**

59. As regards the juvenile inmates held at Goian Prison, the delegation noted that the number of instances of inter-prisoner violence continued to decrease. Further, the atmosphere among juvenile prisoners appeared to be generally free of tension. As transpired from the interviews with both staff and inmates, conflicts between the juveniles were infrequent and mainly related to football and other sports matches.

That said, the delegation observed that the prison subculture had not been fully eradicated in this establishment,⁵⁷ and the castes of informal prisoner leaders and “untouchables” could still be discerned among the juveniles. Inmates in the latter category were mainly employed to clean the communal toilets and corridors and were only allowed to distribute food to other “untouchable” prisoners. Moreover, it appeared that, just like their adult counterparts, the juvenile “prison leaders” used other inmates to clean their cells and asked for a share of their food parcels, in return for “protection” from other inmates.⁵⁸

The situation described above is of serious concern to the CPT. **The Committee recommends that the Moldovan authorities take appropriate steps at Goian Prison to prevent any form of exploitation of inmates and to ensure that no juvenile prisoner is in a position to exercise power over other juveniles. Further, juveniles should be encouraged to report any such practices to the prison management.**

60. At Goian Prison, while there was no apparent participation of the hierarchy in the “classification” of newly arrived inmates, the delegation heard accounts that duty officers would occasionally allow a juvenile “prison leader” to visit admission cells and have a conversation with the newly admitted prisoners concerning their designation according to the informal rules. This would be unacceptable. **The CPT would welcome the Moldovan authorities’ comments on this matter.**

61. The Director of Goian Prison expressed her concern to the delegation that, when arriving from the remand sections of prisons for adults, many of the juveniles would have already been “contaminated” by the prison subculture and stressed the importance of limiting their exposure to adult prisoners. The CPT shares this point of view. **It would like to receive confirmation that the planned additional block for juvenile remand prisoners at Goian Prison has now been brought into service (see paragraph 40). The Committee trusts that this will make it possible throughout the country to put an end to the detention of juveniles in remand facilities for adults and wishes to receive updated information in this respect.**

⁵⁷ The delegation saw a number of drawings and pictures on the walls of cells displaying signs of adherence to the prison subculture (including slogans like “Long live the thieves!”).

⁵⁸ Some juveniles confirmed that they had asked the informal prison leaders for protection rather than approaching the prison management.

62. As already indicated above (see paragraph 39), there were eight young adults at Goian Prison at the time of the visit, benefiting from the Enforcement Code provisions⁵⁹ which allow inmates to remain in a juvenile institution up to the age of 23. The CPT welcomes this positive practice. In particular, when placed in juvenile institutions, prisoners should be allowed to stay there for as long as possible based on their behaviour and individual risk and needs assessment, unless there are justified risks that they may pose a threat to other inmates. Such an approach is all the more appropriate in the case of young sex offenders who are usually exposed to a significantly higher risk of violence and exploitation in prisons for adults.

3. Conditions of detention

a. material conditions

63. The CPT noted that some improvements to the material conditions at *Chişinău Prison* had been made since the 2018 ad hoc visit (such as the renovation of most of the cells in Block 1⁶⁰). Further, the delegation was informed that refurbishment works were underway in a number of cells in Block 3, notably those located in the basement level and in the female unit.

That said, the overall conditions of detention in the establishment remained unsatisfactory and may give rise to an issue under Article 3 of the European Convention on Human Rights. As in the past, many cells were in a poor state of repair, had very limited access to natural light (due to the fact that the already small cell windows were covered with multi-layer metal grilles) and were poorly ventilated.⁶¹ Further, the general state of hygiene left much to be desired, and complaints were heard in a number of cells about infestation by cockroaches and rats. In addition, the in-cell toilets in several multiple-occupancy cells were still only partially partitioned.

The CPT was also concerned to note that many remand prisoners continued to be held in overcrowded cells, with living space per inmate often being significantly below the national minimum standard of 4 m². The level of overcrowding was particularly high in cells located in the basement level in Block 1 (Cells Nos. 1 to 8). For example, the delegation saw two cells, holding six prisoners each, which only measured some 8 and 8.5 m² (excluding the toilet area). In Block 3, a cell measuring some 15 m² was holding eight prisoners. In this connection, the delegation was puzzled by the fact that several recently renovated four-bed cells in Block 3 were either empty or held only one person.⁶² It is also a matter of concern that a number of cells in the basement of Blocks 1 and 2 were very narrow (1.6 to 1.8 metres between opposite walls).

⁵⁹ Articles 219 and 254 of the Enforcement Code.

⁶⁰ The capital repairs included: increasing the size of cell windows, removing parts of the multi-layer metal grilles covering the windows, full partitioning of in-cell sanitary annexes and provision of new beds and mattresses.

⁶¹ In their response to the report on the CPT's 2018 visit, the Moldovan authorities stated that "since the old building design does not provide for a forced ventilation system, at this point it is impossible for it to be ensured" (CPT/Inf (2019) 10, page 6).

⁶² The prison management was not in a position to provide any convincing explanation for this state of affairs.

64. The CPT has already urged the authorities to give a very high priority to the construction of the new remand establishment in Chişinău (see paragraph 41). Pending the entry into service of the new prison, **the Committee calls upon the Moldovan authorities to intensify their efforts in bringing material conditions of detention at Chişinău Prison to an acceptable level. In particular, urgent measures should be taken to ensure that:**

- **the minimum standard of 4 m² of living space per prisoner in multiple-occupancy cells (not counting the area taken up by any in-cell sanitary facility) is duly respected. In this regard, efforts should be made to achieve a more even distribution of persons between cells, priority being given to the overcrowded cells in the basement level of Block 1;⁶³**
- **all prisoner accommodation is kept in an acceptable state of repair and hygiene and regular disinfection of the premises is carried out;**
- **all cells have adequate access to natural light and are properly ventilated;**
- **in-cell sanitary facilities are fully partitioned (i.e. from floor to ceiling).**

65. As regards the narrow cells located in the basement level in Blocks 1 and 2, at the end-of-visit talks with relevant authorities the delegation requested that those cells be either enlarged, with a view to ensuring that there is a distance of at least two metres between the opposite walls, or withdrawn from service as prisoner accommodation. **The CPT would like to receive information on actions taken to address this request.**

66. Material conditions of detention at *Cahul and Taraclia* prisons were on the whole satisfactory. The great majority of inmates in both establishments were accommodated in cells/dormitories which offered sufficient living space and were in an adequate state of repair and cleanliness, well-lit and ventilated and suitably equipped.

However, as at Chişinău Prison, the delegation came across cases of uneven distribution of inmates between cells. For instance, while certain privileged inmates at Cahul Prison lived in spacious cells with up to 8 m² of living space per person, in some other cells a living space of some 12 m² was shared by up to six prisoners.⁶⁴ Similarly, at Taraclia Prison, the delegation saw cells of 15 to 18 m² used for single occupancy, whereas a cell measuring some 12 m² was holding five prisoners. It was obvious to the delegation that such a stark contrast between conditions of detention was an indicator of a strong informal prison hierarchy at the establishments visited.⁶⁵

⁶³ Reference is made in this context to the document “Living space per prisoner in prison establishments: CPT standards” (CPT/Inf (2015) 44, <https://rm.coe.int/16806cc449>), and the [White Paper on Prison Overcrowding](#) – CM(2016)121-add3, 23 August 2016.

⁶⁴ Unsurprisingly, the most overcrowded cells at Cahul Prison, which, in addition, offered poor conditions in terms of hygiene, were occupied by those on the lowest rank of the informal hierarchy.

⁶⁵ It should be noted that the differences in material conditions were not limited to cell occupancy rates; the delegation also observed striking differences as regards cell equipment and furnishings.

The CPT recommends that the Moldovan authorities take immediate steps at Cahul and Taraclia prisons (as well as in all other prisons where a similar situation prevails) to ensure that inmates are evenly distributed throughout the available accommodation, the objective being to offer at least 4 m² of living space per prisoner in multiple-occupancy cells.

67. At *Cahul* Prison, some of the cells occupied by the so-called “humiliated” prisoners were in a poor state of hygiene. The delegation also noted that several cells located in Block 4 of *Taraclia* Prison, which were accommodating inmates with mental health problems, were dilapidated and dirty. **The CPT recommends that steps be taken to remedy these shortcomings.**

68. At *Taraclia* Prison, the management indicated that there were problems with the supply of drinking water and that it had to be transported by water tankers and stored in a reservoir.⁶⁶ However, it transpired from the information gathered by the delegation that this process was managed and paid for by hierarchy leaders (from the “collective fund”), who also apparently controlled inmates’ access to potable water. Indeed, many prisoners interviewed by the delegation complained about the shortage of drinking water. This is unacceptable; such a basic commodity as drinking water must be provided to inmates free-of-charge by prison management/staff. **The CPT recommends that the Moldovan authorities take appropriate measures at Taraclia Prison to guarantee a regular free-of-charge supply of drinking water.**

69. Further, the Committee has misgivings about the manner in which food was distributed to inmates, namely in buckets placed on the floor. **Steps should be taken in all prisons to ensure that food is served to inmates using appropriate equipment (such as food containers and trolleys).**

70. In none of the three prisons visited were inmates supplied with basic personal hygiene items (e.g. toilet paper, soap, toothpaste, etc.). It appeared that some of them, especially newly arrived prisoners, had to rely on the informal prison leaders to obtain such items. Further, at *Chişinău* Prison, the delegation received complaints from female prisoners that they had access to a shower only once per week.

The CPT recommends that steps be taken in the prisons visited (and, where appropriate, in other prisons in the country) to ensure that all inmates are provided free of charge with adequate quantities of essential personal hygiene products (including sanitary towels for women) and are able to take a hot shower at least twice a week.

b. regime

71. It is positive that the great majority of sentenced prisoners at *Taraclia* Prison could benefit from an open-door policy and move freely around their respective accommodation block (including the adjoining outdoor area) throughout the day. Further, at *Cahul* Prison, sentenced women were allowed to associate freely within their detention unit and had ready access to a courtyard for most of the day.

⁶⁶ Taraclia Prison is located in a swamp area and the running water is not potable.

The delegation also noted that efforts were being made in both establishments to offer organised activities to sentenced prisoners. As regards work, about 45 inmates at Taraclia Prison⁶⁷ were employed in the establishment's general services (kitchen, laundry, boiler house, etc.) as well as in the carpentry and welding workshops and the coypu/rabbit farm located within the prison premises. At Cahul Prison,⁶⁸ approximately 30 sentenced prisoners worked in general services and in a carpentry workshop. That said, in both prisons, the delegation met a number of prisoners who were willing to work but were refused work due to a lack of vacancies; they were at best offered unpaid work.

As regards other activities, the delegation was informed that 56 inmates at Taraclia Prison were enrolled in vocational training courses (carpentry, welding, etc.).⁶⁹ However, the delegation learned that, following a recent policy change, prisoners could no longer acquire two or more professions; as a result, inmates who had already completed a vocational course were prevented from attending additional courses. At Cahul Prison, no vocational training or educational courses were on offer at the time of the visit, and the delegation only heard accounts of occasional group therapy sessions (e.g. violence reduction, preparation for release, health education, etc.) and twice-weekly religious services. It is also a matter of concern that, except for football matches played in the summer months, hardly any organised sports or recreational activities were available to prisoners in both establishments.⁷⁰

Consequently, in each of the two prisons, a significant proportion of sentenced prisoners were not engaged in any purposeful activities. It is of all the more concern that, at Cahul Prison, the only regular out-of-cell activity available to male prisoners was daily outdoor exercise of one hour, which was taken in small yards of an oppressive design.

72. The situation was even less favourable for adult remand prisoners at *Cahul Prison*; with the exception of about a dozen prisoners who performed unpaid jobs, these inmates were locked up in their cells for 22 to 23 hours a day,⁷¹ with nothing to do other than sleep, watch television or read.

As regards adult remand prisoners held at *Chişinău Prison*, the CPT was very concerned to note that, despite specific recommendations repeatedly made by the Committee in previous visit reports, there had still been no change to their regime. The vast majority of these prisoners continued to spend up to 23 hours a day confined to their cells, being offered nothing even remotely resembling a programme of meaningful activities.

73. In the light of the preceding paragraphs, **the CPT recommends that the Moldovan authorities redouble their efforts to increase the number of sentenced prisoners taking part in organised activities at Cahul and Taraclia prisons. The Committee calls upon the Moldovan authorities to put in place a programme of activities, including work and vocational training opportunities, for remand prisoners at Cahul and Chişinău prisons. The aim should be to**

⁶⁷ It is recalled that at the time of the visit, there were 303 prisoners.

⁶⁸ There were 150 prisoners at the time of the visit.

⁶⁹ Participation in vocational courses has recently become a prerequisite for early release. The delegation was told that this policy change had considerably contributed to the motivation of prisoners to take part in such activities.

⁷⁰ Both prisons possessed indoor gyms. However, it transpired from interviews with inmates that these had been funded by the informal leaders and were only accessible to prisoners belonging to the hierarchy's higher levels.

⁷¹ Female remand prisoners were allowed to stay outdoors for two hours according to Article 215 of the Enforcement Code.

ensure that all prisoners, regardless of their legal status, are able to spend a reasonable part of the day outside their cell, engaged in purposeful activities of a varied nature (such as work, preferably with vocational value, education and sport). The Committee also recommends that steps be taken at Cahul Prison to make the existing outdoor areas sufficiently large to enable prisoners to exert themselves physically.

74. The CPT's delegation observed that, at Cahul and Taraclia prisons, some inmates worked in a contaminated and unventilated environment (i.e. a boiler house and a welding workshop) and were not provided with proper means of protection. For instance, the welder in Taraclia Prison was not provided with rubber shoes, gloves or a protective suit. In addition, proper electrical insulation was absent in the welding workshop, as a result of which the welder reportedly sustained occasional electric shocks. **The CPT recommends that the Moldovan authorities provide special means of protection to those prisoners working in hazardous jobs (such as a boiler house and a welding workshop) which require specific safety measures.**

75. During the visit to Chişinău and Cahul prisons, the CPT paid particular attention to the situation of juvenile remand prisoners. In both establishments, these prisoners were accommodated separately from adult inmates, although the twelve juveniles held at Chişinău Prison at the time of the visit were accommodated together with seven young adults in three cells.⁷²

At Chişinău Prison, according to the information provided by staff, ten juveniles attended general education classes for one hour, four days a week. They were also offered other activities, such as civic education and board games (chess and draughts), organised by a prison psychologist several times per week. In addition, juveniles had access to outdoor exercise for two hours per day. That said, it quickly became clear from discussions with staff and interviews with inmates that most of the juveniles took little interest in education and were more willing to learn the informal hierarchy rules from their adult counterparts.

At Cahul Prison, at the time of the visit there were only two juveniles,⁷³ who were subjected to the same impoverished regime as the adults. In particular, no schooling was on offer due to the absence of an educator in the prison.

The CPT has in the past expressed its misgivings as regards the policy of placing juveniles who are remanded in custody in adult prisons. **In the Committee's view, it would be far preferable for all juvenile prisoners 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.** In this regard, reference is made to the remarks in paragraph 61.

4. Health-care services

76. In the course of the visit, the delegation carried out an evaluation of the health-care services in Chişinău, Cahul and Taraclia prisons. It should be noted from the outset that health-care staffing resources in all three prisons were inadequate.

⁷² Most of the juveniles had been in the prison for several months, and a few for more than a year.

⁷³ Both were admitted about a month prior to the CPT's visit.

At *Chişinău* Prison, the medical team included four full-time doctors (a head doctor, a general practitioner, a psychiatrist and a TB specialist) and four other specialists (an ophthalmologist, a gynaecologist, a radiologist and a dentist) working on a part-time basis. They were supported by nursing staff (i.e. feldshers and nurses⁷⁴) covering 8.5 posts, as well as two laboratory/X-ray technicians and a pharmacist. One general practitioner's post was vacant at the time of the visit.

At *Cahul* Prison, the health-care staff consisted of a full-time head doctor,⁷⁵ a part-time gynaecologist and a part-time radiologist. They were assisted by three full-time nursing staff, a laboratory/X-ray technician and a pharmacist. The posts of a general practitioner, a psychiatrist and a dentist, as well as two posts of nursing staff were vacant at the time of the visit.

Taraclia Prison had one full-time general practitioner⁷⁶ and two part-time psychiatrists (working together the equivalent of 75% of a full-time post). As regards nursing staff, although the prison had five full-time posts, only one post was filled at the time of the visit.⁷⁷ In addition, the prison contracted a part-time pharmacist externally.

The CPT recommends that the Moldovan authorities take steps to ensure that the vacant general practitioner post at Chişinău Prison and the vacant posts of a general practitioner, a psychiatrist and a dentist at Cahul Prison are filled without delay. The Committee trusts that the necessary arrangements will be made at Cahul and Taraclia prisons to find replacements for the outgoing doctors in due course.

Further, the CPT must once again reiterate its recommendation that the number of nursing staff at Chişinău Prison be increased, notwithstanding the further decrease in its inmate population. Steps should also be taken to fill the vacant post for nursing staff at Cahul and Taraclia prisons, priority being given to the latter establishment.

77. Health-care facilities were found to be generally satisfactory in all the establishments visited. In particular, the health-care unit of Chişinău Prison had benefitted from major renovation since the CPT's last visit. In this context, the delegation noted that the metal bar partitions separating inmates from health-care staff during medical examinations had finally been removed. This is a welcome development.⁷⁸

However, as had been the case during previous visits, none of the prisons visited had basic life-saving equipment, such as a defibrillator. **The CPT reiterates its recommendation that steps be taken to supply every prison health-care service in the country with such equipment and to provide regular training in resuscitation techniques to prison health-care staff.**

78. The delegation also noted that there was no electrocardiography (ECG) machine at Chişinău Prison, and at Cahul Prison the ECG machine was broken. Further, the dental X-ray machine was out of order in the otherwise well-equipped dental surgery at Chişinău Prison. **Steps should be taken to remedy these shortcomings.**

⁷⁴ "Asistență medicală" in Romanian.

⁷⁵ The delegation was informed that the head doctor was about to take a prolonged leave of absence; however, it appeared that no replacement has been found.

⁷⁶ The general practitioner was approaching retirement.

⁷⁷ As a result, no health-care staff were present in the establishment at night and for most of the weekend.

⁷⁸ At the time of the visit, the health-care unit at Taraclia Prison was undergoing refurbishment.

79. The initial medical screening of newly arrived inmates in the prisons visited was as a rule conducted by a member of nursing staff (reporting to a doctor) shortly after admission and usually included a general physical examination. Further, screening for various transmissible diseases (such as syphilis, hepatitis B/C and HIV), including systematic TB screening,⁷⁹ was arranged for the inmates entering the prison system. In addition, newly arrived inmates were usually seen by a psychologist, in order to assess the risk of suicide. That said, at Cahul Prison, a number of inmates indicated that they had not been physically examined upon admission.

80. As regards the recording of injuries (on admission or whilst in prison), the medical records examined by the delegation at Chişinău and Cahul prisons contained a fairly detailed description of any lesions observed and related statements made by the inmates. Moreover, it was usual practice for photographs to be taken of injuries. However, the delegation noted that, at Taraclia Prison, in most cases injuries were not described in sufficient detail. Further, in none of the prisons visited were the health-care professional's conclusions recorded as regards the consistency between the injuries observed and the statements made by the prisoner concerned as to the origin of the injuries.

As for the reporting of injuries, the delegation noted that in all prisons visited, all cases of inmates bearing injuries were registered in the trauma register by health-care staff and were reported to prison management through a designated form (which also included a body chart). Reportedly, the prison management would then inform the prosecution office.

81. In the light of the above, **the CPT reiterates its recommendation that the Moldovan authorities take the necessary steps (including through the issuance of instructions and the provision of training to relevant staff) to ensure that in all the prisons visited and, as appropriate, in other prisons in the country:**

- **all newly arrived prisoners are subject to a comprehensive medical examination by a doctor (or a nurse reporting to a doctor) within 24 hours of admission;**
- **the record drawn up after the medical examination of a prisoner contains: (i) a full account of objective medical findings based on a thorough examination, (ii) an account of statements made by the person which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment), and (iii) the health-care professional's observations in the light of (i) and (ii), indicating the consistency between any allegations of ill-treatment made and the objective medical findings. The record should also contain the results of additional examinations performed, detailed conclusions of specialised consultations and a description of treatment given for injuries and of any further procedures performed;**
- **any traumatic injuries observed in the course of medical examination are photographed in detail and that the photographs are kept, together with the "body charts", in the detained person's individual medical file;**
- **the results of every examination, including the above-mentioned statements and the health-care professional's conclusions, should be made available to the prisoner and his/her lawyer.**

⁷⁹ In addition to the TB screening upon admission, all prisoners were screened every six months thereafter.

82. The CPT is concerned by the continued lack of respect for medical confidentiality in Moldovan prisons, despite the specific recommendations repeatedly made by the Committee in previous visit reports. The information gathered during the 2020 visit suggested that doctor-inmate consultations in the prisons visited were usually carried out in the presence of custodial staff. **The CPT calls upon the Moldovan authorities to ensure that all medical examinations of prisoners (whether upon arrival or at a later stage) are conducted out of the hearing and – unless the doctor or nurse concerned requests otherwise in a particular case – out of the sight of prison officers.**

83. At Chişinău and Taraclia prisons, the delegation encountered a number of prisoners who appeared to have mental health problems or thoughts of self-harm, including suicide, and who had been held in conditions akin to solitary confinement for months or even years on end (see also paragraph 98).

The Committee recommends that all prisoners with mental health problems held at Chişinău and Taraclia prisons be thoroughly assessed by a psychiatrist. Where appropriate, they should be transferred, cared for and treated in a suitable environment with sufficient qualified staff to provide them with the necessary assistance. Moreover, in the CPT's view, these prisoners should be provided with appropriate human contact and should not be held in conditions akin to solitary confinement.

84. As regards screening for drug use and dependency, the approach varied from one prison to another. In *Taraclia* Prison, blood and urine testing took place only upon suspicion of drug use and was carried out at the local hospital. In *Cahul* Prison, kits for urine testing (administered by nursing staff) were no longer available at the time of the visit, however the delegation was informed that testing had been carried out only when a prisoner was undergoing methadone treatment. At *Chişinău* Prison, only urine tests were carried out at the prison's health care unit.

The Committee considers that these procedures should be further improved (for example by increasing the possibility of blood and urine testing and the recording of relevant clinical data).

85. Further, as had been the case during previous visits, the prison health care staff at Chişinău was involved in urine sample collection and testing for disciplinary purposes. The CPT must stress once again, that this essentially non-medical task can affect the therapeutic relationship between health care staff and patients. **The Committee reiterates its previous recommendations that prison health care staff not be involved in the collection and testing of urine samples for disciplinary purposes.**

5. Other issues

a. admission of women

86. At *Chişinău* Prison, the delegation met a few women prisoners who had reportedly been victims of domestic violence, none of whom had undergone any initial needs and risk assessment taking into account their history of domestic violence.

In the CPTs view, when dealing with women offenders, a number of factors need to be taken into account and assessed, including any sexual and/or other gender based violence that they might have suffered previously, the state of their mental health and health-care needs; the level of drug or alcohol dependency; the specific health-care needs of women; caring responsibilities for their children and/or their families and the likelihood of post-release victimisation and abandonment.

The CPT recommends that the Moldovan authorities develop a specific admission procedure for women prisoners, taking into account the above precepts. The results of the admission procedure should be incorporated into the women prisoners' individual sentence plan and taken into account in the provision of health care.⁸⁰

b. prison staff

87. Once again, the CPT found inadequate levels of staffing in all the prisons visited. In addition to the already existing deficiencies in staffing that have plagued every prison in the country, the situation has been further negatively affected by the 2019 Moratorium⁸¹ for a one-year period in all public institutions on filling the vacant positions registered as of 30 November 2018. The delegation was informed by the authorities that out of 2,951 positions in all the 17 penitentiary facilities, 536 positions remained vacant. The delegation learned that prison officers were sometimes required to work two consecutive 24-hour shifts (with no compensation) supervising two or three surveillance posts, instead of one.

The CPT reiterates its recommendation that the Moldovan authorities address staffing levels in prisons as a matter of priority.

88. At *Chişinău* Prison, out of some 208 positions, 81 were vacant at the time of the visit. Regarding prison staff exclusively working within the detention units, out of 82 positions, only 51 were filled. Further, the delegation observed that only one male custody officer was assigned to the surveillance post for women as well as being assigned to a surveillance post for men, which meant that for most of the time, women could not seek assistance in case of need. **The CPT calls upon the Moldovan authorities to urgently take steps to address the current staffing situation in Chişinău Prison, especially when considering the prison size and its remand nature. Further, the CPT recommends that at least one female custodial staff member be present at all times in any unit holding female prisoners.**

89. At *Cahul* Prison, the staffing levels were comparatively better, however still not satisfactory due to the lack of staff in certain key positions. Out of 108 custodial staff positions, 34 positions were vacant.

90. The delegation was informed that at *Taraclia* Prison, 34 posts for custodial staff were vacant. Further, five custodial staff members worked on 24-hour shifts within the prison perimeters.

⁸⁰ Reference is made in this context to the CPT's Factsheet on Women in Prison, available at <https://rm.coe.int/168077ff14>.

⁸¹ On 30 November 2018, a previous moratorium was established on the employment of staff in public institutions financed from the state budget and on the vacant positions registered on 30 November 2018, which was expected to last until 30 November 2019.

91. An overall low staff attendance diminishes the possibilities to control and directly contact prisoners. Further, in order to maintain even a basic level of security and regime delivery in the establishment, staff frequently have to work overtime. This state of affairs can easily result in high levels of stress and the premature burnout of staff, a situation which is likely to exacerbate the tension inherent in any prison environment (see also paragraph 53).

The CPT recommends that the Moldovan authorities substantially increase the number of prison officers employed to guarantee staff safety and the physical and mental integrity of inmates. Further, the 24-hour shift system should be reviewed considering that such a pattern will inevitably have a negative effect on professional standards; no-one can perform in a satisfactory manner the difficult tasks expected of a prison officer for such a length of time.

c. contact with the outside world

92. The legal framework for visit entitlement for adult convicted prisoners provides for one short-term visit (from one to four hours) per month and one long-term visit (from twelve hours to three days) every three months. As an incentive, prisoners may earn additional (up to two) short- and long-term visits as a reward for good behaviour.⁸²

The CPT wishes to emphasise that contacts with the outside world, in particular visits from families and other relatives, remain of crucial importance for the social rehabilitation of prisoners and for counteracting the damaging effects of imprisonment. **The Committee therefore recommends that all prisoners benefit from a visiting entitlement of at least one hour every week.**

93. The CPT remains concerned that, despite the specific recommendations⁸³ made by the Committee, remand prisoners still had to receive prior authorisation for each visit from the competent investigating authority or the court. Such an authorisation was also required for other forms of communication such as written correspondence or telephone calls. **The CPT reiterates its recommendation that the Moldovan authorities take the necessary steps to ensure that remand prisoners are entitled to receive visits as a matter of principle. The same principle should be applied to other types of contact of remand prisoners with the outside world. Any refusal by the competent authority to permit such contacts should be specifically substantiated by the needs of the investigation, require the approval of a body unconnected with the case at hand and be applied for a specified period of time, with reasons stated.**

94. At *Taraclia* Prison, the room for short-term visits was too small, thus limiting further the privacy of the meeting which would take place in the presence of a prison officer. The visit room measured 15 m² and contained three tables for simultaneous visits. Moreover, the delegation learned that not all long-term visit rooms and the communal kitchen could be used by the “untouchable” prisoners. **The CPT recommends enlarging the visit premises for short-term visits in Taraclia Prison or providing an additional room for such visits; all prisoners should be able to benefit equally from the premises for long-term visits.**

⁸² See Article 243, para 1 (e), of the Enforcement Code as amended by LP191 of 23.09.16, OG369-378/28.10.16.

⁸³ See CPT/Inf (2012) 3, paragraph 103; CPT/Inf (2016) 16, paragraph 130.

95. In general, male prisoners were allowed to make a telephone call of up to twenty minutes every two weeks and women were allowed to make weekly telephone calls. **The CPT recommends that all prisoners be allowed to make more frequent telephone calls.**

96. At *Cahul* and *Chişinău* prisons, the delegation observed a waiting line of prisoners' relatives standing outside the prison (in cold weather conditions) to deliver parcels through a window. **The CPT invites the Moldovan authorities to review the procedure of receiving food and clothing parcels from prisoners' relatives.**

d. discipline

97. The legal framework regarding disciplinary measures has remained unchanged since the CPT's last periodic visit.⁸⁴ It should be recalled that solitary confinement as a disciplinary measure may be imposed for a maximum of 20 days on prisoners in the closed-type prison, 15 days in open and semi-closed type prisons, ten days on remand prisoners,⁸⁵ three days on sentenced juveniles and seven days on sentenced women. Pregnant prisoners, mothers with a child aged less than three years and juveniles on remand cannot be subject to disciplinary solitary confinement.⁸⁶

Further, the catalogue of disciplinary measures provides for a suspension of the right to short- and long-term visits for a number of offences.⁸⁷

The Committee reiterates its recommendation that the Moldovan authorities decrease the maximum period of disciplinary solitary confinement for a given offence in closed, semi-closed and open prisons to 14 days (and preferably lower) and abolish entirely disciplinary solitary confinement for juveniles. Further, steps should be taken, including by revising the relevant legislation, to ensure that disciplinary punishment of prisoners does not lead to a total prohibition of 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.

98. The CPT remains concerned that acts of deliberate physical self-harm are still considered to be a disciplinary offence and may lead to a sanction of solitary confinement.⁸⁸ Further, self-harming prisoners must still bear the costs of any treatment, with the exception of cases of hunger strike.⁸⁹ Disciplinary solitary confinement continued to be used for acts of self-harm.

⁸⁴ Articles 246 and 246¹ of the Enforcement Code.

⁸⁵ Article 306 of the Enforcement Code.

⁸⁶ Article 306(7) of the Enforcement Code.

⁸⁷ Articles 246(1)(c), 245(2)(3), 242¹ and 242² of the Enforcement Code.

⁸⁸ Article 242²(8) of the Enforcement Code.

⁸⁹ Article 232 (6) of the Enforcement Code.

The CPT wishes to reiterate that acts of self-harm frequently reveal conditions of a psychological or psychiatric nature and should be approached from a therapeutic rather than a punitive standpoint. In this context, all cases of self-harm should be assessed medically immediately after the incident to evaluate the extent of lesions and to assess the psychological state of the prisoner. The Committee also considers that obliging self-harming prisoners to pay for the medical care provided is totally inappropriate. **The CPT reiterates its recommendation that the Moldovan authorities review the approach being taken vis-à-vis prisoners who have committed acts of self-harm, in the light of the above remarks. The relevant legal provisions should be changed accordingly.**

99. With regard to disciplinary solitary confinement, at Cahul Prison, the prison management informed the delegation that such a measure was never applied due to the absence of a dedicated cell. Taraclia Prison had six disciplinary cells (five located in Block 3 and one located in Block 4). At the time of the visit, there were three inmates held in the disciplinary solitary confinement cells. At Chişinău Prison, there were five disciplinary cells (three located in Block 3 and two in the two other blocks); there were no persons being held in disciplinary solitary confinement at the time of the visit.

100. Material conditions in disciplinary solitary confinement cells varied between and within the prisons. Despite some renovations of two of the disciplinary cells in the basement of Block 3 of Chişinău Prison, one of them measured a mere 4.5 m² (including a sanitary annexe of 0.7 m²) and the other measured 6.8 m² (including the sanitary annexe of 1.5 m²).

Furthermore, all the disciplinary cells at Chişinău Prison were situated in the basement, which resulted in poor natural lighting, aggravated by the two layers of metal grilles on the windows. The cells were not equipped with call bells and in some of them, there was no running water or in-cell artificial lighting. The prisoners did not have any means of rest during the day as there was no proper chair and the bed was folded up against the wall during the day.

At Taraclia Prison, the delegation found that the five cells in Block 3 were in a poor state of repair and hygiene, possessed no access to running water and had very poor or no bedding. The conditions in the only disciplinary cell in Block 4 were found to be acceptable.

The CPT recommends that the Moldovan authorities take the necessary steps to ensure that at Chişinău Prison:

- **the above-mentioned two small disciplinary cells are either enlarged to measure at least 6 m² (excluding the in-cell sanitary annexe) or be taken out of use;**
- **the metal grilles are removed from the windows of the disciplinary cells to allow sufficient natural light in the cells; all disciplinary cells should also be equipped with appropriate artificial lighting and call bells;**
- **all disciplinary cells are equipped with suitable seating (e.g. a chair or bench); in the Committee's view, the beds in these cells should not be folded up during the day.**

Further, the necessary steps should be taken at Taraclia Prison to ensure that the five disciplinary cells in Block 3 are maintained in a good state of repair and hygiene and that proper

bedding is available to prisoners placed in these cells.

Moreover, **all disciplinary cells at Chişinău and Taraclia Prisons should have access to running water.**

101. As regards disciplinary procedures, the CPT was concerned to note that the shortcomings regarding the relevant legal framework identified by the Committee in previous visit reports⁹⁰ had not been addressed. **The CPT calls upon the Moldovan authorities to take steps (including, if necessary, of a legislature nature) to ensure that prisoners facing disciplinary charges have the right to be heard by the person who takes the decision. Steps should also be taken to ensure that such prisoners have the rights to legal assistance and to call witnesses on their own behalf and to cross-examine evidence given against them.**

e. complaints procedures

102. The delegation heard a number of allegations that petitions and complaints from prisoners could lead to negative consequences for those who complained. Moreover, in Chişinău and Cahul prisons, prisoners' correspondence to state bodies and organisations would allegedly either not reach the destination or would be censored/read by the prison management/staff.⁹¹ Further, indigent prisoners were not provided with envelopes and stationery to make a complaint.

The CPT recommends that the Moldovan authorities ensure that prisoners can freely send and receive correspondence with state bodies and organisations without any repercussions from prison staff. Further, indigent prisoners should be provided with stationery when so requested.

103. Although a specific recommendation was made in the 2015 visit report, the delegation regrets to note that in all prisons visited, newly arrived inmates still did not receive any written information setting out prisoners' basic rights, including the right to complain, and the internal rules of the establishment.⁹² The CPT would like to emphasise that wall posters with extracts from the relevant legislation and information regarding prohibited behaviour and sanctions cannot be considered a suitable replacement for information leaflets that prisoners can keep with them in their cell. **The CPT reiterates its recommendation that information leaflets (containing, inter alia, information about the right to lodge formal complaints both within and outside the prison as well as modalities for doing so) be provided to all newly admitted prisoners.**

⁹⁰ See CPT/Inf (2016)16, paragraph 138.

⁹¹ Article 210 of the Enforcement Code provides for the monitoring of the prisoners' written correspondence. However, the correspondence of the prisoner with their lawyer, the Ombudsperson, the Ombudsperson for the Protection of Children's Rights, members of the monitoring commission, prosecution services, courts, central public administration, international inter-governmental organisations ensuring protection of human rights and liberties cannot be subject to censorship. Moreover, the prison management is required to ensure the delivery or transmission of the correspondence to the recipient within 24 hours of its submission or receipt.

⁹² CPT/Inf (2016) 16, paragraph 144.

C. Psychiatric institutions

1. Preliminary remarks

104. The delegation carried out a follow-up visit to Chişinău Psychiatric Hospital and to the in-patient ward for the placement of patients under forensic psychiatric assessment of the Centre for Forensic Medicine (“forensic psychiatric expertise ward”).

105. *Chişinău Psychiatric Hospital*, previously visited by the CPT in 1998, 2007 and 2011, is the biggest psychiatric hospital in Moldova. With an official capacity of 740 beds, it was accommodating at the time of the visit 607 patients (including 15 children); 386 patients were male patients and 221 female patients. In recent years, the number of clinical wards had been decreased from 24 to 13, in particular due to the shortage of staff. In 2019, there were some 6,700 patients admitted to/discharged from the hospital.

At the time of the visit, there were 132 forensic psychiatric patients in the hospital (placed in the hospital under Sections 99 to 101 of the Criminal Code) and two civil patients had been admitted under the civil involuntary placement procedure (Section 28 of the Law on Mental Health (“LMH”)). The rest of the patients were formally regarded as voluntary. However, the information gathered during the visit indicates that the situation of a number of patients may be regarded as amounting to a *de facto* deprivation of liberty (for more details, see paragraph 138).

During the visit, the delegation focused on the situation on ward 2 (74 male patients at the time of the visit, capacity 90 beds) and ward 4 (71 female patients, capacity 90 beds); these wards were located in a cross-shaped five-storey building within the main hospital compound (so-called “curative block no. 3”).⁹³ Further, the delegation examined the situation on ward 12 (54 male forensic psychiatric patients under strict supervision, capacity 70 beds)⁹⁴ which was located, together with the forensic psychiatric expertise ward (see below), in a separate secure block, approximately 2 km away from the hospital compound.⁹⁵ The average length of hospitalisation of patients was some 26 days on ward 2 and 22 days on ward 4; as for forensic patients on ward 12, the average length of stay was approximately 3.5 years, with several patients having spent around ten years in the hospital.

106. The *forensic psychiatric expertise ward*, repeatedly visited by the CPT in the past, had belonged to Chişinău Psychiatric Hospital (former ward 31). As of 1 April 2017, the ward was formally transferred to the Centre for Forensic Medicine of the Ministry of Health, Labour and Social Protection, without, however, physically changing its location. The main reason for the transfer of responsibility was to separate forensic psychiatric assessment from forensic psychiatric treatment and to avoid a possible conflict of interest. Staff working on the expertise ward were now employed by the Centre for Forensic Medicine. The capacity of the ward had been decreased from 25 (in 2011) to 10 beds.⁹⁶ Patients usually stayed on the expertise ward for some 20 days. At the time of the visit, there were no patients on this ward.

⁹³ Within the hospital compound, most clinical wards were concentrated in two buildings: in the aforementioned curative block no. 3 and in a separate building which also contained administrative offices (curative block no. 2). The ward for children patients, a male rehabilitation ward and a ward for psychiatric patients suffering from tuberculosis were located in three smaller buildings.

⁹⁴ During the CPT’s previous visits, this ward was known as ward 37.

⁹⁵ Male forensic psychiatric patients under ordinary supervision were held on ward 11. Female forensic psychiatric patients (four at the time of the visit) were held on the general psychiatry wards.

⁹⁶ The official capacity was decreased due to the reduction of staff numbers. However, as described in paragraph 119, the number of beds in the rooms remained unchanged.

107. The delegation was informed by several interlocutors that financing the hospitalisation of psychiatric patients remained a serious issue at Chişinău Psychiatric Hospital. Reportedly, the budget provided by the public health insurance for a given year was based on the number of patients admitted, treated and discharged during the preceding year and a lump sum was paid for each such patient, without, however, receiving extra funding for longer staying patients. This arrangement was particularly problematic as regards forensic psychiatric patients, the majority of whom stayed in the hospital for several years.

Moreover, it appeared to be a common understanding that for a patient to be regarded by the public health insurance as “treated”, his or her length of stay in the hospital needed to be some 28 to 30 days, otherwise the insurance would be reluctant to include that patient in the budget allocation. Clearly, such a situation may lead to an unnecessary prolongation of the stay of patients in the establishment.

The CPT would like to receive the comments of the Moldovan authorities on these issues, in particular as regards the minimum required stay of patients in the hospital for their inclusion in budget allocations.

108. According to the information provided by the national authorities, the National Mental Health Programme brought a paradigm shift from institutional care to community-based care, one of the objectives being the de-institutionalisation of persons with psycho-social disabilities. At the time of the visit, 40 regional mental health centres had been opened throughout the country (and had been integrated into primary health-care centres) and mobile teams had been established to provide services to patients in their domiciles. Reportedly, as a result, the number of admissions to psychiatric hospitals nationwide and the length of hospitalisation had been reduced.

The authorities planned to further increase the capacity of the regional mental health care centres and to establish, in 2020, a National Centre for Mental Health which would co-ordinate their work, as well as to introduce amendments to the Law on Mental Health to bring it in line with international standards.

The CPT notes with interest these developments and would like to be informed of further progress achieved in the de-institutionalisation of psychiatric patients. Further, the Committee wishes to receive more detailed information on the amendments to the Law on Mental Health.

2. Ill-treatment

109. The vast majority of patients interviewed by the delegation during the visit stated that they were treated correctly and respectfully by staff. Several patients who had been repeatedly admitted to the hospital in the past said that treatment of patients by staff and their attitude towards patients had improved. Further, no allegations whatsoever of ill-treatment of forensic psychiatric patients by staff were received on ward 12.⁹⁷

⁹⁷ It is recalled that there were no patients on the forensic psychiatric expertise ward at the time of the visit.

That said, on the other wards, the delegation heard a few allegations of staff having slapped or roughly pushed patients. In one case, a patient was allegedly punched by a staff member in the chest when being fixated to a bed. A few allegations were also received of verbal abuse of patients by staff, such as shouting and rude behaviour.

In the light of these findings, **the CPT recommends that the management of Chişinău Psychiatric Hospital remain vigilant and remind staff that any form of ill-treatment of patients, including verbal abuse, is unacceptable and will be punished accordingly.**

110. Instances of inter-patient violence appeared to be rare⁹⁸ and the delegation's findings indicate that staff intervened rapidly and adequately. Moreover, several patients stated explicitly that they felt safe in the establishment.

3. Patients' living conditions

a. Chişinău Psychiatric Hospital

111. The CPT notes the improvements made to the material conditions at Chişinău Psychiatric Hospital. In particular, on ward 12, some of the bigger rooms had been split into two and now held up to seven patients, rooms had been fitted with solid doors (with the exception of the observation room – see paragraph 115) and all windows had been replaced.⁹⁹

In addition, all patients' rooms seen by the delegation in the hospital were well-lit and adequately ventilated and efforts were made to keep them, as well as other areas, such as dining rooms and corridors, clean and in a reasonable state of repair.

112. However, a number of the shortcomings identified by the CPT during its previous visits persisted. First of all, it remained the case that all the premises were bare and austere, with almost a total lack of any colour, decoration or personalisation. This was particularly true for ward 12 located within a secure perimeter surrounded by a decrepit concrete wall fitted with barbed wire and with disused watchtowers in the corners.¹⁰⁰ Further, no improvement has been observed as regards the equipment in patients' rooms which was still limited to beds and a few bedside tables. Consequently, there was virtually no appropriate lockable storage space available to patients for their personal belongings.

⁹⁸ According to the register of special events reported to the Ombudsperson under a newly established reporting procedure, in 2019, there were six cases of inter-patient violence and quarrels.

⁹⁹ Further, the delegation was informed that considerable investment had been made into repairing the leaking roof.

¹⁰⁰ The delegation was informed that the block had been built in the mid-1980s according to penitentiary standards and had initially been used for persons suffering from neurosis.

113. In several rooms on wards 2 and 4, the delegation observed cramped conditions, with most of the floor space being taken up by the beds. For example, a room measuring 16.5 m² was accommodating four patients and rooms measuring some 32 m² were accommodating between eight and, in one case, eleven patients.¹⁰¹

As regards the aforementioned capacity of the rooms, the CPT wishes to emphasise that large-capacity dormitories may have a counter-therapeutic, depersonalising and institutionalising effect on patients and compromise their privacy. It is generally held that large-capacity dormitories are not compatible with current standards of accommodation for psychiatric in-patients. The Committee notes positively that since its 2007 visit, the size of the rooms and the number of beds in the rooms has been decreased.¹⁰² However, it considers that patients' rooms in psychiatric establishments should not accommodate more than four patients.

114. **The CPT recommends once again that the Moldovan authorities take the necessary steps to ensure that:**

- **the current occupancy levels in the patients' rooms on wards 2 and 4 are reduced to provide patients with sufficient living space in their rooms; the official capacity of these wards should be reviewed accordingly;**
- **patients have access to personal lockable storage space for their belongings; further, patients' rooms should be equipped with bedside tables commensurate with the number of patients accommodated in the room;**
- **the rooms and other premises are less austere to provide a more suitable therapeutic environment; patients should be encouraged and supported to personalise and decorate their rooms.**

Further, **the Committee recommends that the management of Chişinău Psychiatric Hospital pursue their efforts to further decrease the capacity of patients' rooms. The aim should be to ensure that no room accommodates more than four patients.**

115. No improvement had been made to the observation room for agitated patients on ward 12; the room had metal bars instead of entrance doors and was divided in two by a metal barred partition, with on one side eight beds positioned close to each other and on the other side a bed, a bench and a table where the patients took their meals.¹⁰³ As noted in the 2011 visit report,¹⁰⁴ the configuration of the room did not permit individualised care for patients who were acutely unwell. In addition, the patients behind the bars were visible to other patients which infringes upon the privacy of the former; this holds true also for several rooms on ward 2 which had no door and which, according to staff, served as observation rooms.

¹⁰¹ The situation in this respect was better on ward 12 (e.g. rooms measuring 24 m² accommodated five patients and those measuring 36 m² had between six and seven patients).

¹⁰² In 2007, several patients' dormitories were accommodating more than 20 patients (see the relevant visit report ([CPT/Inf \(2008\) 39](#)), paragraph 118).

¹⁰³ All the furniture in the room was fixed to the floor.

¹⁰⁴ See [CPT/Inf \(2012\) 3](#), paragraph 115.

The CPT reiterates its recommendation that the observation room on ward 12 be refitted so that its configuration permits individualised care for patients who were acutely unwell. Further, the Committee recommends that the necessary steps be taken to ensure the privacy of patients placed in the observation rooms on wards 2 and 12.

116. The communal toilets and shower rooms were in a poor state of cleanliness and repair (taps and showerheads missing, floors leaking, damaged ceilings and windowsills) and still provided very little privacy to the patients.¹⁰⁵ Patients on ward 12 were generally granted access to a shower whenever requested; those accommodated on wards 2 and 4 had access to a shower once a week and more often only at the discretion of individual staff members. Moreover, complaints were heard that hot water was not always available on those two wards.

The CPT recommends once again that the Moldovan authorities take the necessary steps to ensure adequate privacy to patients using toilets and showers at Chişinău Psychiatric Hospital.

Further, the Committee recommends that:

- **all toilets and shower rooms in the hospital be maintained in a good state of repair and hygiene;**
- **all patients have access to a shower at least twice a week; preferably, they should have unrestricted access to a shower;**
- **the temperature of the water in the showers is appropriate.**

117. On a positive note, the CCTV cameras in rooms and sanitary facilities on ward 12, which had afforded no privacy to patients, had been removed. The CPT welcomes this development.

118. As regards the daily routine, patients' rooms were not locked and all patients, including forensic patients on ward 12, were free to move within their wards and associate with each other. However, on wards 2 and 4, there were no communal rooms and patients were spending their time in their rooms or in the corridor (see also paragraph 123).¹⁰⁶

Moreover, the majority of patients on wards 2 and 4 (although most of them were formally regarded as voluntary) had no regular access to the outdoors. Their only possibility was to walk out onto bare concrete balconies enclosed with metal bars which were accessible from communal areas on each ward. Although the balconies were relatively large (some 25 m²) and had roofs and benches, in the CPT's opinion, such an arrangement cannot be regarded as genuine access to the outdoors. This situation was particularly problematic for two female forensic patients accommodated on ward 4 who stayed in the hospital for considerably longer periods than the civil patients and who had no appropriate access to the outdoors for months on end.¹⁰⁷

The situation in this respect was better on ward 12; the patients were offered outdoor exercise twice a day, each time for one hour, in the outdoor area (equipped with a shelter and benches) surrounding the accommodation building.

¹⁰⁵ E.g. some of the toilets were separated from each other with a plastic partition but had no door.

¹⁰⁶ The dining rooms were not freely accessible to the patients during the day.

¹⁰⁷ Two other female forensic patients were accommodated on ward 3.

The CPT recommends that the Moldovan authorities ensure that all patients at Chişinău Psychiatric Hospital are offered daily access to outdoor exercise (with appropriate supervision or security if required). If necessary, secure outdoor exercise area should be installed in the hospital (which should be reasonably spacious and equipped with a means of rest and a shelter against inclement weather). The aim should be to ensure that all patients benefit from unrestricted access to outdoor exercise during the day unless treatment activities require them to be present on the ward.

Further, communal rooms in which patients could spend their time during the day should be established on wards 2 and 4.

b. Forensic Psychiatric Expertise Ward of the Centre for Forensic Medicine

119. Material conditions on the forensic psychiatric expertise ward remained the same as during the CPT's previous visits and the concerns repeatedly expressed by the Committee in the past remained unaddressed.

No efforts had been made to remedy the austere and impersonal physical environment characterised by an impression of bareness throughout the ward. The six patients' rooms¹⁰⁸ were equipped solely with beds fixed to the floor and the sanitary annexe in each room (with a washbasin and a floor level toilet) was only separated from the rest of the room with a low partition.

The CPT recommends once again that the Moldovan authorities take the necessary steps to ensure that:

- **the rooms and other premises of the expertise ward are less austere to provide a more suitable hospital environment;**
- **patients have access to personal lockable storage space for their belongings; further, patients' rooms should be equipped with bedside tables commensurate with the number of patients accommodated in the room;**
- **sanitary annexes are fully partitioned from the rest of the room.**

120. Unlike on ward 12, all patients' rooms on the expertise ward were still equipped with CCTV cameras (in addition to video surveillance of various parts of the communal areas).

The CPT appreciates that CCTV cameras in certain rooms can be a useful safeguard in particular cases, for example when a person is considered to be at risk of self-harm or suicide. However, cameras cannot be a replacement for an active staff presence in high risk situations; the best way of reducing the risk posed by individual patients is personal interaction between staff and the relevant patient. Moreover, video surveillance is a gross intrusion into the privacy of patients and the decision to impose CCTV surveillance on a particular person should always be based on an individual risk assessment and should be reviewed on a regular basis. Accordingly, the Committee is opposed to the routine and systematic installation and use of CCTV cameras in patients' rooms.

¹⁰⁸ Rooms measuring just over 16 m² (excluding the sanitary annexe) had three beds and two rooms measuring 25 m² (excluding the sanitary annexe) had five beds.

The CPT recommends that the Moldovan authorities re-consider the routine installation and use of CCTV cameras within patients' rooms on the Forensic Psychiatric Expertise Ward of the Centre for Forensic Medicine, in the light of the aforementioned remarks.

121. As regards the monitoring of the video surveillance system, reference is made to paragraph 132.

122. As regards the daily routine, according to the information provided to the delegation by staff, patients on the expertise ward had access to a common room every day from 10 a.m. to 1 p.m. and from 6 to 9 p.m. and could play board games, watch TV and borrow books from a library.

In addition, they were only offered one hour a day of outdoor exercise in a spacious (but austere) secure outdoor yard adjacent to the expertise ward, which was equipped with a bench and a table but no shelter against inclement weather.

The CPT reiterates its recommendation that the outdoor exercise yard on the Forensic Psychiatric Expertise Ward of the Centre for Forensic Medicine be equipped with a shelter. Further, the Committee recommends that access to outdoor exercise for patients on this ward be increased. The aim should be to ensure that all patients benefit from unrestricted access to outdoor exercise during the day unless scheduled activities require them to be present on the ward.

4. Treatment

123. The CPT's delegation noted the efforts made on ward 12 to offer a few activities to some patients, such as painting, drawing, origami and other work with paper, in an activity room which also had a table tennis table.

However, as was the case in the past, psychiatric treatment was mainly pharmacological at Chişinău Psychiatric Hospital and for the vast majority of patients, there were no structured psycho-social rehabilitative activities. These patients spent their days in idleness, aimlessly wandering around their closed units and at best socialising with other patients, reading, watching TV in the corridor or sitting on the balcony. Indeed, this is intrinsically linked with the non-existence of staff qualified to provide these activities (see paragraph 128).

No individual treatment plans were prepared for the patients and the information in medical files, which were well-kept, was limited to medication and food diet. Further, there was no multidisciplinary approach to the treatment of patients.

124. A total lack of any structured activities was also a feature of the stay of patients on the forensic psychiatric expertise ward.

125. The CPT considers that treatment of psychiatric patients should involve, in addition to appropriate medication and medical care, a wide range of therapeutic, rehabilitative and recreational

activities. It should be based on an individualised approach, which implies the drawing up of a treatment plan for each patient (taking into account the special needs of acute, long-term and forensic patients including, with respect to the last-mentioned, the need to reduce any risk they may pose), indicating the goals of treatment, the therapeutic means used and the staff member responsible. The treatment plan should also contain the outcome of a regular review of the patient's mental health condition and a review of the patient's medication. Patients should be involved in the drafting of their individual treatment plans and their subsequent modifications and informed of their therapeutic progress.

For those patients accommodated in the acute wards, the plan should address the patient's immediate needs and identify any risk factors as well as focusing on treatment objectives and how in broad terms these will be achieved. For patients placed in the rehabilitation wards, the plans should identify early warning signs of relapse and any known triggers, and an action plan that a patient and family members/other carers should take in response to relapse. The plan should also specify the follow-up care. For forensic psychiatric patients, the treatment should be aimed at both controlling the symptoms of the illness and reducing the risk of re-offending.

126. The CPT reiterates its recommendation that the Moldovan authorities take the necessary steps to ensure that, at Chişinău Psychiatric Hospital:

- **a range of therapeutic options is developed to prepare patients for living independently and returning to their homes; to begin with, and as an absolute minimum, every patient should be offered the opportunity to participate in one organised activity every day and should be motivated by staff to participate;**
- **individual treatment plans are drawn up for all patients, in the light of the remarks set out in paragraph 125; a multi-disciplinary approach to the treatment of patients should be adopted and various categories of clinical staff should meet regularly in order to share information and discuss patients' needs and therapeutic progress;**

Further, the Committee reiterates its recommendation that at least some structured activities be provided to patients under forensic psychiatric assessment held on the Forensic Psychiatric Expertise Ward of the Centre for Forensic Medicine.

127. On a positive note, the hospital had a sufficient range and quantity of the necessary medication, including new generation anti-psychotics and depot medication. According to the medical files, psychotropic medication was used in appropriate doses individualised for different patients.

Further, the psychiatric hospital had contracts with nearby hospitals providing somatic care; this arrangement did not pose a major difficulty.

5. Staff

128. As regards the situation at Chişinău Psychiatric Hospital,¹⁰⁹ on ward 12,¹¹⁰ the staff complement comprised three posts of psychiatrists (of which 0.5 full-time equivalent (FTE) was vacant at the time of the visit), 12 nurses' posts (three of which were vacant) and 21 posts of orderlies (of which one was vacant). This represents a modest improvement in comparison with the situation observed in 2011.¹¹¹ As regards the presence of nurses and orderlies, there were one or two nurses and three orderlies present at all times who were reinforced by a head nurse during the day shift on working days.

On wards 2 and 4,¹¹² the health-care teams consisted of four psychiatrists, 13 nurses and 27 orderlies (per ward). At all times, there were two nurses and four orderlies present, together with a head nurse during the day shift on working days.

The CPT considers that the staffing levels of nurses and orderlies and their presence on the wards continue to be insufficient. Moreover, the Committee notes with concern the information provided to its delegation that some 70 % of all staff were entitled to retirement or would be entitled to retirement soon.

129. It is a positive development that on each ward, there was now a full-time psychologist. However, as far as the delegation could ascertain, there was very little interaction and co-ordination between his or her work and the work of the health-care staff.

Moreover, no staff who could provide psycho-social rehabilitative activities to patients, such as social workers and occupational therapists, were available in the hospital.

130. The CPT notes that all interlocutors met by its delegation during the visit acknowledged that attracting qualified staff of virtually all categories to work in psychiatric establishments was a nationwide problem. This was in particular due to the very low salaries offered to health-care staff in the country and the more lucrative opportunities abroad.

Nevertheless, **the CPT reiterates its recommendation that the Moldovan authorities pursue their efforts to stabilise the human resources situation at Chişinău Psychiatric Hospital. In particular, steps should be taken to:**

- **fill the vacant posts of psychiatrists, nurses and orderlies as a matter of priority; the current number of posts of nurses and orderlies should be increased;**
- **employ staff qualified to provide psycho-social rehabilitative activities, in particular social workers and occupational therapists; this category of staff should be integrated, together with psychologists and health-care staff, in multi-disciplinary teams providing treatment and care to patients** (see also the recommendation made in paragraph 126 concerning the adoption of a multi-disciplinary approach).

¹⁰⁹ Overall, the hospital had 44.5 posts of psychiatrists (3.5 vacant at the time of the visit), 132 posts of nurses (ten vacant), 250 posts of orderlies (ten vacant) and nine posts of psychologists (2.5 vacant). As regards more particularly medical doctors, during the night shift, there was one psychiatrist on duty for the hospital.

¹¹⁰ It is recalled that there were 54 patients at the time of the visit.

¹¹¹ In particular, in 2011, two posts of psychiatrists and six posts of nurses were vacant.

¹¹² It is recalled that wards 2 and 4 were accommodating 74 and 71 patients, respectively.

Further, **the CPT considers that proactive steps should be taken by the Moldovan authorities to ensure that essential health-care posts are not left vacant following potential large-scale retirements.**

Indeed, recruiting new staff will be very difficult, if not impossible, without offering competitive salaries.

131. On the forensic psychiatric expertise ward,¹¹³ staff included one forensic psychiatrist (head of the ward), five nurses and the same number of orderlies. The ward had access to a pool of five forensic psychiatric experts. One nurse and one orderly were on duty at all times. As was the case in the past, the CPT considers that overall, the staff/patient ratio was satisfactory.

132. Unlike in 2011, the secure perimeter of ward 12 and the forensic psychiatric expertise ward were no longer being guarded by police officers.

However, whenever patients were placed on the expertise ward, the premises were now guarded by prison officers¹¹⁴ who had their surveillance post at the entrance of the ward and who monitored the internal video surveillance system covering the communal areas and patients' rooms (in addition to the monitoring done by health-care staff). According to the information provided to the delegation, prison officers could enter the ward and intervene at their own initiative. Further, officers were still not provided with any specific training in working with psychiatric patients.

The CPT reiterates its recommendation that:

- **prison officers deployed on the Forensic Psychiatric Expertise Ward of the Centre for Forensic Medicine be provided with appropriate training in working with psychiatric patients before taking up their duties and in-service training;**
- **this category of staff only intervene on the ward at the request and under the authority of health-care staff;**
- **monitoring of the video surveillance system of the expertise ward be the sole responsibility of health-care staff.**

6. Means of restraint

133. The use of means of physical restraint is regulated by Section 29 (2) LMH and, as noted in the report on the 2011 visit, further developed in internal guidelines on restraint. However, while the guidelines also lay down the rules for resort to chemical restraint, this issue does not appear to be covered by LMH. **The CPT would like to receive clarification from the Moldovan authorities as to the legal basis for the use of chemical restraint.**

¹¹³ It is recalled that the capacity of the ward was 10 beds.

¹¹⁴ In addition, a private security contractor provided security in the out-patient part of the expertise ward.

134. In both establishments visited, recourse to means of restraint (fixation, usually accompanied by chemical restraint), was duly recorded in dedicated registers and the duration of the restraint measure was usually short (up to 30 minutes).

135. On ward 12 of Chişinău Psychiatric Hospital, the use of means of restraint was very rare.¹¹⁵ However, the situation in this respect was different on wards 2 and 4 where, in 2019, mechanical and/or chemical restraint was used in some 50 and 60 cases, respectively. Moreover, although new restraint belts had been procured in the establishment in the year preceding the visit, the information gathered by the delegation clearly indicates that patients were still fixated to their own beds with sheets and towels, sometimes in view of other patients. In addition, there was no constant supervision by staff throughout the duration of restraint and, once the means of restraint had been removed, there was no debriefing of the patient.

The CPT reiterates its recommendation that the Moldovan authorities ensure that:

- **patients are not subjected to mechanical restraint in view of other patients (unless the patient explicitly expresses a wish to remain in the company of a certain fellow patient);**
- **every patient who is subjected to mechanical restraint is under continuous supervision – a qualified member of staff should be permanently present in the room in order to maintain a therapeutic alliance with the patient and provide him/her with assistance;**
- **once the means of restraint have been removed, a debriefing of the patient takes place, to explain the reasons for the restraint, reduce the psychological trauma of the experience and restore the doctor-patient relationship. This also provides an opportunity for the patient, together with staff, to find alternative means to maintain control over him-/herself, thereby possibly preventing future eruptions of violence and subsequent restraint.**

Further, the Committee recommends that if it is necessary to restrain a patient, the purpose-made restraint belts available in the establishment be used, rather than other make-shift devices.¹¹⁶

In addition, the necessary steps should be taken to review the frequency of resort to means of restraint on wards 2 and 4, with a view to ensuring that means of restraint are used as a measure of last resort to prevent imminent danger to the patient concerned or others. Increasing staff resources, as recommended in paragraph 130, should facilitate these efforts.

¹¹⁵ The last record dated back to March 2017 and, overall, there had been nine cases of restraint between 2009 and 2017.

¹¹⁶ A more comprehensive overview of the principles which, in the CPT's view, should be respected when resort is had to means of restraint, can be found in the document "Means of restraint in psychiatric establishments for adults (Revised CPT standards)", [doc. CPT/Inf \(2017\) 6](#).

136. As already indicated in paragraph 105, the vast majority of civil patients at Chişinău Psychiatric Hospital were regarded as voluntary. However, these patients could be restrained against their will and no difference was made between voluntary and involuntary patients in this regard. **The CPT recommends that if the application of restraint on a voluntary patient is deemed necessary and the patient disagrees, the legal status of the patient be reviewed.**

137. On the forensic psychiatric expertise ward, instances of resort to means of restraint in a year remained in single-digit numbers. However, according to the information in the restraint register and in individual medical files, and as acknowledged by staff, prison officers deployed on the ward (see paragraph 132) sometimes used metal handcuffs to restrain agitated patients. This is unacceptable.

The CPT recommends that the Moldovan authorities take the necessary steps to put an immediate end to the use of metal handcuffs to restrain agitated patients on the Forensic Psychiatric Expertise Ward of the Centre for Forensic Medicine. If it is necessary to restrain a patient, only equipment designed to limit harmful effects (preferably, padded cloth straps) should be used in order to minimise the risk of the patient sustaining injury and/or suffering pain.

7. Safeguards

a. placement and review

138. The basic legal framework governing involuntary placement of civil patients in psychiatric establishments, laid down by Section 28 *et seq.* LMH, has been described in previous visit reports¹¹⁷ and remains unchanged. In brief, within 48 hours of admission, an involuntary patient must be examined by the hospital's board of psychiatrists¹¹⁸ who then have 24 hours in which to submit an opinion to a court as to the need for involuntary hospitalisation. The court must take a decision within three days. The need for involuntary hospitalisation must be reviewed by the hospital's board of psychiatrists at least once per month, the court must be informed every six months and must review the placement decision on an annual basis.

The CPT repeatedly concluded in the past that, in theory, these provisions generally offered guarantees of independence, impartiality and objective medical evaluation. Moreover, the examination of the relevant files during the 2020 visit revealed that the procedural time limits provided for by the legislation were complied with and patients were represented by a lawyer (usually appointed *ex officio*) in the involuntary placement procedure.

That said, the findings of the visit indicate that the shortcomings in the practical implementation of the relevant statutory provisions identified already in the past persist.

¹¹⁷ See, in particular, the report on the 2015 visit ([CPT/Inf \(2016\) 16](#), paragraph 166).

¹¹⁸ At Chişinău Psychiatric Hospital, the board was composed of a deputy director of the establishment, the head of ward and a psychiatrist.

139. First of all, the involuntary placement procedure continued to be applied in practice only very rarely; as already noted in paragraph 105, at the time of the visit, only two of 473 civil patients in the hospital were regarded as involuntary.

However, the delegation received several allegations during the visit that upon admission, patients were made by staff to sign a consent to their placement under threat that their involuntary stay would be much longer if decided by a court (i.e. six months instead of three weeks in the case of a “voluntary” admission) and the consent forms seen by the delegation did not contain the information that it was possible for patients to subsequently withdraw their consent.

Moreover, the CPT notes that the two wards visited were locked¹¹⁹ and patients were not allowed to leave them (or the hospital) of their own free will.¹²⁰ For a patient, whether formally voluntary or involuntary, to be discharged from the hospital, an affirmative opinion of the board of psychiatrists was required. At the same time, the CPT’s delegation met several patients who indicated that they wished to leave the hospital. In the CPT’s view, these patients were *de facto* deprived of their liberty without benefitting from the legal safeguards accompanying the involuntary placement in psychiatric establishments, as provided for by the relevant legislation.

140. Further, at the time of the visit, there were eleven formally voluntary patients who had been deprived of their legal capacity and admitted to hospital with the consent of their guardian. According to the information gathered during the visit, there was no procedure to review the need for their placement in the establishment, nor any procedure which would allow them to request discharge from the establishment without the consent of their guardian.¹²¹

141. In addition, the findings of the visit indicate that patients were not systematically heard in person by the court and court decisions on their involuntary placement were not delivered to them (at best, patients were informed of the decision by their lawyer and/or staff of the hospital).

142. In the light of these findings, **the CPT once again calls upon the Moldovan authorities to take the necessary steps to ensure that the civil involuntary placement procedure in a psychiatric establishment, provided for by the Law on Mental Health, is duly complied with in practice.**

¹¹⁹ This concerned all wards at the hospital, with the exception of wards 5 and 8.

¹²⁰ It is also noteworthy in this context that formally voluntary patients were not free to take outdoor exercise when they so wished and could be subjected to means of restraint.

¹²¹ The CPT notes in this context that the ECtHR has concluded in several cases concerning the placement in a closed establishment of a legally incapacitated person under guardianship from whose conduct it was obvious that he or she did not consent to his or her placement that he/she must be regarded as being “deprived of his or her liberty” within the meaning of Article 5, paragraph 1, of the European Convention on Human Rights, despite the approval of the guardian (see, for example, the Grand Chamber judgment in the case of *Stanev v. Bulgaria*, no. 36760/06, § 132, 17 January 2012, and *Červenka v. the Czech Republic*, no. 62507/12, §§ 103-104, 13 October 2016).

In particular, steps should be taken to ensure that:

- **persons admitted to psychiatric establishments are provided with full, clear and accurate information, both orally and in writing, including on their right to consent or not to consent to hospitalisation, and on the possibility to withdraw their consent subsequently;**
- **all patients who do not wish to (or who, given their mental state, are not able to) give valid consent to their hospitalisation should be the subject of an assessment of the need to resort to an involuntary placement procedure;**
- **if the provision of in-patient care to a voluntary patient who wishes to leave the hospital is considered necessary, the civil involuntary placement procedure provided by the law should be fully applied;**
- **the same procedure should be fully applied to all legally incapacitated patients, whether or not they have a guardian, from whose conduct it is obvious that they are opposed to their placement and/or stay in the hospital.**

Further, **the Committee recommends that the necessary steps be taken to ensure that patients have the effective right to be heard in person by the court during the procedure on their involuntary placement or its extension (as well as during the appeals procedure) and that they receive a copy of any court decision taken.**

143. According to the information provided to the delegation, if civil patients, whether voluntary or involuntary, “escaped” from the establishment and committed a criminal offence, the police would initiate a criminal investigation of the staff of the hospital.

As noted already in the 2015 visit report,¹²² the CPT has serious reservations about this approach which may represent a strong incentive for imposing additional restrictions on movement of patients whose placement and stay in the hospital is currently in many cases surrounded by virtually no safeguards. **The CPT would like to receive clarification of the Moldovan authorities of this issue.**

144. The legal regulation of forensic psychiatric placement and its practical operation remain virtually unchanged.

It should be recalled that a person who has committed a “criminal offence” in a state excluding his or her criminal responsibility may be placed by a court under a medical coercive measure of placement in a psychiatric establishment, either with ordinary or strict supervision.¹²³ The person concerned may request an independent psychiatric opinion, must be represented by a lawyer and may appeal the judgment imposing the measure. The placement must be reviewed by the court at least once every six months (on the basis of a report by a psychiatric commission of the establishment where the person is placed¹²⁴).

¹²² See [CPT/Inf \(2016\) 16](#), paragraph 197.

¹²³ Sections 99 to 101 of the Criminal Code and Sections 488 to 502 of the Criminal Procedure Code.

¹²⁴ At Chişinău Psychiatric Hospital, the psychiatric commission had seven members and excluded the treating doctor who was reporting to the commission on the given case.

145. As observed during previous visits, the procedural time limits for the review of the placement by the court were in general complied with and patients were represented by a lawyer (in most cases appointed *ex officio*).

However, it remains the case that patients were usually not heard in person by the court in the context of the biannual extension of the measure, did not receive the respective court decision, and, as repeatedly heard by the delegation in interviews with patients, were not aware of how long they had to stay in the hospital. While acknowledging that in several case files, the delegation saw a disclaimer signed by the patient that he or she requested the court hearing to take place in his or her absence, this appeared to be a mere formality. In fact, several patients interviewed during the visit indicated that they were not aware of any court hearing taking place and of having signed any disclaimer. Moreover, under these circumstances, the possibility to lodge an appeal against the extension of the measure (within 15 days), as provided for by the relevant legislation, is merely theoretical.

The CPT recommends once again that the Moldovan authorities take steps to ensure that:

- **patients and/or their legal representatives are systematically informed in writing of the six-monthly report by the board of psychiatrists;**
- **patients have the effective right to be heard in person by the judge in the review proceedings;**
- **patients receive a copy of any court decision on forensic psychiatric placement in a psychiatric hospital or its review.**

Moreover, **the CPT considers that commissioning, at reasonable intervals, in the context of the review of the forensic psychiatric placement, a psychiatric expert opinion which is independent of the hospital in which the patient is held would offer an additional, important safeguard. This is of all the more relevance in respect of patients who have already spent lengthy periods of time in that hospital.**

146. As regards the expertise ward, a person may be placed in a health-care establishment, on the basis of a judicial decision, for the purpose of forensic psychiatric assessment. The period of placement may last for up to 30 days and may be extended by a judge to a maximum of six months, in incremental instalments of 30 days. The patient concerned may appeal against the placement decision within three days of that decision being taken.¹²⁵

b. safeguards during placement

147. Section 11 (4) LMH continues to provide for a general exception that free and informed consent to treatment is not required from involuntary patients, whether forensic or civil. The CPT has already repeatedly stressed that such a general exception is not acceptable.

¹²⁵ See Sections 152 and 311 of the Criminal Procedure Code.

It is a positive development that in several files of forensic psychiatric patients, the CPT's delegation came across duly signed consent to treatment forms. Further, the Committee notes positively that, at Chişinău Psychiatric Hospital, a decision to apply involuntary treatment was taken by the hospital's board of psychiatrists (rather than being left at the discretion of the treating doctor) and thus involved the opinion of medical doctors not directly involved in the treatment of the patient concerned.

However, the CPT reiterates once again that, as a general principle, all categories of psychiatric patient, i.e. voluntary or involuntary, civil or forensic, with legal capacity or legally incapacitated, should be placed in a position to give their free and informed consent to treatment.¹²⁶ It is axiomatic that consent to treatment can only be qualified as free and informed if it is based on full, accurate and comprehensible information about the patient's condition, the treatment which is proposed and its possible side effects, as well as about the possibility to withdraw the consent. Further, it is essential that all patients who have given their consent to treatment are continuously informed about their condition and the treatment applied to them and that they are placed in a position to withdraw their consent at any time.

In addition, every patient capable of discernment should be entitled to refuse a particular treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances and should be accompanied by appropriate safeguards.

The relevant legislation should require a second psychiatric opinion (i.e. from a psychiatrist not involved in the treatment of the patient concerned) in any case where a patient does not agree with the treatment proposed by the treating doctor (even if his/her guardian consents to the treatment); further, patients should be able to challenge a compulsory treatment decision before an independent authority external to the hospital and should be informed in writing of this right.

The CPT once again calls upon the Moldovan authorities to take the necessary steps to ensure that the relevant legislation and practice are brought in line with the above-mentioned precepts. In particular, any exception to the principle of free and informed consent to treatment with regard to involuntary patients should apply only in exceptional circumstances clearly defined by law and should be accompanied by appropriate safeguards.

148. The arrangements concerning patients' contact with the outside world were satisfactory at Chişinău Psychiatric Hospital; there was virtually no limit on the possibility to receive visits and patients could use a pay phone (ward 12) or keep their mobile phones (wards 2 and 4).

However, as in the past, patients on the forensic psychiatric expertise ward had the status of remand prisoners and their visit entitlement was limited to one visit per month which had to be authorised by a prosecutor; only partitioned visits under the supervision of health-care staff were possible. Patients on this ward had no access to a phone.¹²⁷ **The CPT recommends that patients placed on the Forensic Psychiatric Expertise Ward of the Centre for Forensic Medicine be entitled to receive visits and make phone calls as a matter of principle. Any refusal by the competent authority to permit such visits should be specifically substantiated by the needs of the investigation, require the approval of a body unconnected with the case at hand and be applied for a specified period of time, with reasons stated.**

¹²⁶ I.e. the admission of a person to a psychiatric establishment on an involuntary basis, be it in the context of civil or criminal proceedings, should not preclude seeking informed consent to treatment.

¹²⁷ As a general rule, remand prisoners' access to a phone had to be authorised by a prosecutor/court.

149. Upon admission, patients were verbally informed of the hospital rules and some other information was available on notice boards on the wards. However, as far as the delegation could ascertain, no information was provided to the patients in writing.

The CPT reiterates its recommendation that an information brochure setting out the hospital's rules and patients' rights – including information on legal assistance, review of placement (and the patient's right to challenge this), consent to treatment and complaints procedures (including with clearly designated outside bodies) – be produced and issued systematically to patients (and their families/guardians) upon admission to a psychiatric establishment. Patients who are unable to understand this brochure should receive appropriate assistance.

150. It is a positive development that confidential complaints boxes which may only be opened by a senior nurse have now been installed on all wards at Chişinău Psychiatric Hospital.¹²⁸

However, on wards 2 and 4, the complaints boxes were in areas not freely accessible to patients (i.e. behind locked doors at the entrance to the ward where patients had access only when they were taken by staff to eat their meals or, rarely, for outdoor exercise). Further, there were no confidential complaints boxes on the forensic psychiatric expertise ward. **The CPT recommends that these deficiencies be remedied.**

151. As regards inspections and external monitoring, both establishments were visited by the NPM in 2018. Further, according to Section 45 LMH, non-governmental organisations may monitor respect for the rights and interests of patients.¹²⁹

¹²⁸ In addition to internal complaints, according to Section 46 LMH, patients are entitled to submit complaints and petitions to a lawyer, the public authorities, the Public Prosecutor's Office and the judicial authorities; according to Section 37 LMH, complaints may also be addressed to the People's Advocate (Ombudsperson).

¹²⁹ For example, Chisinau Psychiatric Hospital was repeatedly visited by an NGO in 2017 and 2018.

D. Social care institutions

1. Preliminary remarks

152. The CPT's delegation visited for the first time the Temporary Placement Centres for Persons with disabilities in Bălți ("Bălți TPCPD") and in Bădiceni ("Bădiceni TPCPD").¹³⁰

153. The *Bălți TPCPD*, located within a large compound in the southern part of the city of Bălți, was built in the first half of the 1980s and initially served as a home for the elderly. In the 1990s, the status of the establishment was changed to a psycho-neurological boarding home.

With an official capacity of 550 beds, the establishment was accommodating at the time of the visit 450 adult residents (approximately half of whom were men and half women) whose ages ranged between 25 and 89 years.¹³¹ The most common primary diagnoses for the residents were schizophrenia or learning disability. The length of stay of the residents in the TPCPD varied, with several residents having spent in the establishment more than 30 years. In 2019, eight residents were discharged from the TPCPD and three new residents were admitted.

Residents were accommodated in four four-storey accommodation buildings (so-called "blocks 1 to 4"),¹³² with those requiring intensive supervision being placed on the second and third floor of block 2.¹³³

154. The *Bădiceni TPCPD*, located some 4 km south-west of the commune of Bădiceni, was opened shortly after World War II in a former manor house as an institution for children with disabilities. The establishment progressively expanded and in 1979 was turned into an institution for adults.

At the time of the visit, it was accommodating 355 adult residents¹³⁴ (approximately 200 were men and the rest were women) and was running at full capacity. The youngest residents were approximately 20 years old and there were 14 residents older than 70 years. The usual primary diagnoses for the residents were learning disability, schizophrenia and epilepsy. Some 50 persons had spent more than 30 years in the establishment. In 2019, there were seven new admissions in the establishment and six residents were discharged. Residents were accommodated in two interconnected blocks. The CPT's delegation was informed that earlier plans to close down the establishment by 2021 had been abandoned.

¹³⁰ TPCPDs operate under the authority of the Ministry of Health, Labour and Social Protection and are managed by the National Social Assistance Agency. Until 2018, TPCPDs were known as "psycho-neurological boarding homes".

¹³¹ Another 10 residents were accommodated in two recently opened protected houses in Bălți and nearby. These facilities were not visited by the CPT's delegation.

¹³² The accommodation blocks were interconnected at the level of the ground floor.

¹³³ At the time of the visit, there were 42 male residents on the 2nd floor and 34 female residents on the 3rd floor.

¹³⁴ An additional 28 residents were accommodated in protected houses in Bădiceni, Soroca and Zgurita. These facilities were not visited by the CPT's delegation.

155. In both establishments visited, all residents were formally regarded as voluntary. However, the findings of the visit indicate that, in particular due to a lack of clarity about the relevant legal framework and how it should be implemented in practice, the situation of a number of them amounted to a *de facto* deprivation of liberty (see paragraphs 178 *et seq.*).

156. The delegation was informed by the authorities that between 2015 and 2017, all TPCPD residents were evaluated according to their need for social services¹³⁵ and in 2016 and 2017, transformation plans were developed for the existing TPCPDs. Further, since the end of 2016, 30 protected houses and community homes had been procured with a view to de-institutionalising residents of TPCPDs. At the time of the visit, 19 such facilities were operational¹³⁶ and were accommodating 66 residents.¹³⁷ In recent years, any new admission to a TPCPD was intended to be a temporary arrangement (usually for six months) with the aim of identifying the necessary social services needed in the community. The CPT takes note of these developments.

However, it is a matter of concern in this respect that given the lack of psycho-social rehabilitative activities in the two establishments visited by the CPT's delegation (see paragraph 171), the current residents' state did not improve and they were not developing the skills necessary for their de-institutionalisation and more independent living in the community. In the current circumstances, it was indeed impossible to discharge residents and the establishments visited thus failed to fulfil their role of rehabilitating the residents through their *temporary* placement in a TPCPD, with a view to their discharge back to the community.

Moreover, the delegation was informed that the already insufficient numbers of staff working in the two TPCPDs visited were charged with providing services in the protected houses and community homes, which further decreased their availability and capacity to provide services in the TPCPDs. Further, a moratorium on hiring public employees imposed in 2019 reportedly also concerned staff in TPCPDs.

The CPT would like to receive the comments of the Moldovan authorities on these issues.

157. The basic legal framework for the functioning of TPCPDs is now laid down in a 2016 Framework Regulation¹³⁸ of the (former) Ministry of Labour, Social Protection and Family¹³⁹ ("Framework Regulation") which contains a number of provisions on the functioning of social care establishments, rights and obligations of residents and on services to be provided to them, as well as details as regards the admission and discharge from social care homes (see paragraphs 178 *et seq.*).

¹³⁵ As a result, it has been established, for example, that some 14 % of the current residents needed psychiatric care, while for the rest, health care and social support would be sufficient.

¹³⁶ The remaining houses/homes were under refurbishment at the time of the visit.

¹³⁷ Overall, there were approximately 1,858 residents in six TPCPDs throughout the country.

¹³⁸ Framework Regulation No. 204 of 1 November 2016 on the functioning of psycho-neurological boarding homes for adults with mental disabilities.

¹³⁹ The former Ministry of Health and the Ministry of Labour, Social Protection and Family have been merged.

2. Ill-treatment

158. In the two establishments visited, the CPT's delegation heard no credible allegations of recent ill-treatment of residents by staff. On the contrary, most residents whom the delegation interviewed stated that they were treated correctly by staff and spoke positively of their attitude towards residents. The delegation observed that the atmosphere in both establishments was relaxed. It is noteworthy that in the Bădiceni TPCPD, a few residents stated explicitly that the situation was much better than in the past.

159. Episodes of inter-resident violence sometimes occurred in both establishments and mainly concerned individual residents with challenging behaviour. However, the findings of the visit indicate that staff intervened immediately and adequately to calm down the situation and to prevent further escalation. Further, these incidents were duly recorded and more serious cases were reported to the relevant external bodies (the police, prosecutorial authorities, the Ombudsperson's office).

However, in the Bădiceni TPCPD, auxiliary technical staff with no health-care duties were sometimes called to intervene if the conflict could not be managed by nurses and/or orderlies.

In the CPT's view, it is not appropriate for staff with no training in how to deal with persons with mental health problems to intervene in these situations. **The CPT recommends that this practice be stopped. Nurses and orderlies should be sufficient in numbers to be able to handle violent situations without recourse to other staff with no health-care duties.** Reference is made to the recommendation made in paragraph 170.

3. Residents' living conditions

160. As regards material conditions, in the *Bălți TPCPD*, most residents were accommodated either in small living units composed of an entrance area (2 m²), a room (measuring between 13 and 18 m²) and a fully partitioned sanitary annexe (usually equipped with a toilet and a washbasin) which were accommodating between one and four residents; or rooms measuring between 12 and 18 m² which were accommodating between three and five persons. In block 2, there were also several bigger rooms (32 m²) which had eight or nine beds. Each room had a balcony.

Conditions in several of the rooms were cramped, with beds practically touching each other and with very little space left for the residents. This was particularly true for the rooms in block 2, some of which provided only some 3.5 m² per person. The delegation also observed crowded conditions in block 3; this, however, was reportedly the result of an ongoing refurbishment of the 1st floor and the need to relocate the residents. Further, in a number of the rooms, the furnishing was limited to beds and a few bedside tables, as well as a wardrobe.

161. In the *Bădiceni TPCPD*, the vast majority of residents were accommodated in large dormitories (measuring some 96 m²) with an adjacent sanitary annexe (with washbasins, showers and toilets, as well as, sometimes, a bathtub). Some of the dormitories were partitioned into an entrance area (15 m²), a communal part (31 m²) and a bedroom (48 m²); residents' beds, however, were placed in all three parts of these dormitories. Each dormitory was usually accommodating between 18 and 21 residents.¹⁴⁰

¹⁴⁰ One dormitory was divided into four smaller rooms (each measuring some 20 m²) which shared a sanitary

Conditions in these dormitories were crowded to the extent that in the majority of them, six to eight beds were standing next to or along each other, with no space between them; very little space to move in was usually left in the dormitories for the residents. Further, the dormitories were poorly equipped; in addition to beds and at best a table and a few chairs, there were only very few bedside tables¹⁴¹ and no wardrobes for the residents¹⁴² who thus had no space in which to store their personal belongings. Indeed, this situation did not allow individual residents to decorate and personalise their dormitories.

The deficiencies just described clearly confirm the CPT's long-standing position that large-capacity dormitories have a counter-therapeutic, depersonalising effect on residents, compromise their privacy and impede the creation of a caring environment. Moreover, they may make it more difficult to control the spread of infectious diseases and thus present a higher risk for the health of residents.

162. On a more positive note, in both establishments visited, residents' rooms/dormitories were generally clean, tidy and well-lit and ventilated, residents were allowed to wear their own clothes and keep some personal belongings and, in the Bălți TPCPD, to personalise their rooms. The CPT also notes the efforts made to improve the state of repair of the premises (e.g. replacement of windows, partitioning of some toilets, refurbishment of communal showers in block 2 in Bălți, replacement of the heating system in Bădiceni).

163. However, several sanitary facilities in both establishments were in a poor state of repair (or out of order) and unventilated. In the Bălți TPCPD, communal toilets and showers, with the exception of those recently refurbished in block 2, did not provide sufficient privacy. In the Bădiceni TPCPD, the capacity of the sanitary annexes appeared to be insufficient for the number of residents¹⁴³ and the wet slippery floor was potentially dangerous for the residents. Moreover, in neither establishment were sanitary facilities adapted for residents with reduced mobility.

As a general rule, residents had unlimited access to showers. However, in the Bălți TPCPD, hot water in some shower rooms was only available once a week; the delegation was informed that four new boilers had been purchased and needed to be installed to ensure a sufficient supply of hot water to the whole establishment. In the Bădiceni TPCPD, in a few dormitories, water boilers were out of service at the time of the visit.

164. The CPT notes the steps taken by the authorities to de-institutionalise residents of social care establishments (see paragraph 156). However, given that the process is at its initial stage, **the CPT recommends that the most striking deficiencies in material conditions described above be remedied. In particular, steps should be taken to ensure that:**

annexe. These rooms were accommodating the most autonomous residents (three to four per room). Moreover, at the time of the visit, seven residents who had returned from a hospital after a TB treatment were temporarily accommodated in an "isolator" – a separate unit composed of several rooms.

¹⁴¹ E.g. in a dormitory with 18 beds, there were six bedside tables.

¹⁴² The wardrobes in the dormitories were used by staff to store common property (clothes, bedding, etc.).

¹⁴³ E.g. two toilets and two washbasins for 21 residents accommodated in one dormitory.

- **the current occupancy levels in the residents' rooms/dormitories are reduced to provide residents with sufficient living space; particular attention should be paid in this respect to the situation in the large dormitories in the Bădiceni TPCPD;**
- **the large dormitories in the Bădiceni TPCPD and the bigger rooms in the Bălți TPCPD are partitioned to ensure that residents are accommodated in smaller rooms in a caring environment respecting their privacy; the aim should be to ensure that no room accommodates more than four residents; residents should be encouraged to personalise their rooms;**
- **residents' rooms are equipped with bedside tables commensurate with the number of residents accommodated in the room; residents should have access to personal lockable storage space for their belongings;**
- **sanitary facilities are maintained in a good state of repair and are functional, are properly ventilated and provide adequate privacy to the residents; where appropriate, sanitary facilities should be adapted to the needs of residents with reduced mobility;**
- **the non-functioning water boilers in the Bădiceni TPCPD are repaired or replaced.**

Further, **the CPT would like to receive confirmation that the new boilers in the Bălți TPCPD have now been installed and that hot water is available every day in the whole establishment.**

165. Particular mention must be made of the situation observed by the CPT's delegation in the dormitory accommodating residents with reduced mobility and bed-ridden residents in Bădiceni TPCPD. These residents had to comply with the needs of nature and were routinely undressed, washed and even bathed in the dormitory, in the presence and with the assistance of other residents. The doors to the dormitory were open and other residents could enter at any time. This is unacceptable.

As already mentioned in paragraph 9, at the end of the visit, the delegation made an immediate observation pursuant to Article 8, paragraph 5, of the Convention regarding the situation of these residents. However, the response of the Moldovan authorities failed to dispel the Committee's concerns. **The CPT recommends that the Moldovan authorities take urgent steps to ensure the privacy of those residents in the aforementioned situations and that staff are not assisted by other residents when carrying out these tasks.**

166. As regards the provision of food, residents were only given a spoon to eat their meals. In the CPT's view, this does not contribute to maintaining (and further developing) their skills and dignity. Moreover, in the Bădiceni TPCPD, food was brought to residents in an open metal bucket and distributed with a ladle into metal bowls.

The CPT recommends that the Moldovan authorities take the necessary steps to ensure that, in both establishments visited, residents are provided with proper cutlery to eat their meals and are encouraged and, if necessary, assisted by staff to use it. Further, the necessary steps should be taken in the Bădiceni TPCPD to ensure that food is distributed to residents in a dignified manner.

167. Concerning daily routine and access to fresh air, all residents in both establishments were free to move about their wards and associate with other residents and the majority of them had free access to the outdoor areas within the compound of the establishments throughout the day (as regards the possibility to leave the establishment and go, for example, to the nearby villages/towns, reference is made to paragraph 181).

That said, residents under intensive supervision, accommodated on the 2nd and 3rd floors of block 2 in the Bălți TPCPD, took their outdoor exercise only under staff supervision in a dedicated area within the compound of the establishment (which was equipped with a shelter and benches). Although, as a general rule, they could spend several periods of time outdoors during the day, **the CPT considers that the aim should be to ensure that all residents benefit from unrestricted access to outdoor exercise during the day unless scheduled activities require them to be present on the ward.**

In the Bădiceni TPCPD, due to the lack of staff, residents with reduced mobility had to rely on the assistance of their fellow residents to gain access to the outdoors. **The CPT considers that the implementation of the recommendation made in paragraph 170 will help remedy this situation.**

4. Staff and care provided to residents

168. With regard to staff, in the *Bălți TPCPD*,¹⁴⁴ the medical team consisted of one psychiatrist covering 1.5 FTE post (one additional post of a psychiatrist was vacant) and a general practitioner, an infectious diseases specialist and a gynaecologist (all working half-time in the establishment). There was also one pharmacist, two psychologists (covering together one FTE post) and four social assistants who helped residents with administrative matters but were also involved in organising leisure activities. The establishment employed 31 nurses and 126 orderlies (ten additional posts of orderlies were vacant at the time of the visit). Specialist care was provided to residents in public health-care facilities. In the past, the establishment had also employed an occupational therapist; this, however, was not the case at the time of the visit.

There were ten nurses and 20 orderlies on duty during the day and four nurses (one in each accommodation block) and 18 orderlies at night and during the weekend.¹⁴⁵ The other members of staff usually worked during the day on working days.

169. In the *Bădiceni TPCPD*,¹⁴⁶ the staff complement comprised one full-time and one half-time internal medicine doctor (an additional 0.5 FTE post was vacant), one psychiatrist working half-time (an additional 0.5 FTE post was vacant) and one TB specialist (“phtysiologist”) who covered 0.25 FTE, as well as 21 nurses (including one providing physiotherapy to residents) and 116 orderlies. The establishment also had a contract with a general practitioner from the nearby commune. Specialist care was provided to residents by external medical doctors (in particular, a cardiologist and a gynaecologist). The establishment also employed one social worker and one special instructor who provided some activities to the residents, but no psychologist.

¹⁴⁴ It is recalled that the establishment was accommodating 450 residents at the time of the visit.

¹⁴⁵ Nine of the orderlies on duty worked in block 2 which accommodated residents under intensive supervision.

¹⁴⁶ At the time of the visit, there were 355 residents in the establishment.

There were three nurses and 20 orderlies (one per dormitory) present in the establishment at all times; other staff were usually present during the day shift on working days.

170. The CPT considers that the staffing levels of ward-based staff (i.e. nurses and orderlies) and their presence on each shift were clearly insufficient and only allowed them, despite their efforts, to take care of the basic needs of the residents. As already mentioned in paragraphs 9 and 165, the situation was particularly problematic in the dormitory accommodating bed-ridden residents and residents with reduced mobility in the Bădiceni TPCPD; the only orderly on duty at any given time had to rely on the assistance of fellow residents when providing care, including personal hygiene.

Further, given the almost total lack of specialised staff, it was impossible for staff to identify the complex needs of individual residents, to draw up individual care plans and to provide a range of psycho-social rehabilitative activities (see also paragraphs 156 and 171).

The CPT recommends that the Moldovan authorities review thoroughly and increase significantly the staffing levels of the various categories of staff in the Bălți and Bădiceni Temporary Placement Centres for Persons with Disabilities, with a view to enabling the provision of adequate treatment and care to all residents.

In particular, efforts should be made to fill the existing vacancies. Further, steps should be taken to ensure that the establishments have a sufficient number of qualified staff to provide psycho-social rehabilitative activities (psychologists, special educators, occupational therapists, social workers).

171. As regards organised activities, in the *Bălți TPCPD*, ten residents worked in the establishment and another ten had a paid job in the community. Several residents could go to a sports room every day (equipped with a treadmill, wall bars, an exercise bike and a fitness machine), on the basis of a referral by a medical doctor. Residents could also borrow books from a library.

The delegation was also informed of the plans of the management to open activity rooms and to expand the offer of activities, with the assistance of non-governmental organisations.¹⁴⁷

Two residents of the *Bădiceni TPCPD* worked in the establishment and some 35 to 40 other residents were occasionally hired by people from the local community (e.g. for seasonal agricultural work). Some 30 residents were offered an activity a few times per week in an activity room (sewing, embroidery, arts and crafts) and a carpentry workshop. Residents also had access to a library.

However, despite these efforts, the fact of the matter was that the offer of activities was clearly insufficient and that the majority of residents did not benefit from any organised activity whatsoever. The majority of residents thus spent their days being left to their own devices, sleeping, sitting around, walking around within the establishments and their compounds, and at best watching TV, reading and playing board games with other residents.

172. In both establishments, some individual administrative files of residents, in particular those who had been admitted more recently, contained “individual support plans”. These plans had been prepared by the Territorial Social Assistance and Family Protection Department prior to the admission

¹⁴⁷ Including sewing, knitting, embroidery, producing brooms, cooking, gardening. In this context, in the year preceding the visit, three social workers and two psychologists were newly employed by the establishment (see also paragraph 168).

of the resident to a TPCPD and identified the services required by the resident, such as individual counselling, health-care assistance, psychological assistance, development of skills, or placement in a TPCPD. Moreover, in the Bădiceni TPCPD, the delegation was informed that the psychiatrist had evaluated the first 20 residents as to their capacity, for example, to participate in various types of activities. These are steps in the right direction.

However, the individual support plans did not identify the care, activities and programmes which should be provided in the TPCPD in which the resident concerned was placed. Moreover, as already described in paragraph 171, to a large extent, these plans in any case remained unimplemented in the two establishments visited.

The CPT wishes to emphasise that the care of residents should include the drawing up of a care plan for each resident, indicating the goals of treatment, the therapeutic means used and the staff member responsible. These plans should be regularly reviewed and adapted according to an in-depth assessment of each resident's physical and mental state. Indeed, health care staff should participate, alongside with other categories of staff, in the drawing up and review of the care plans, to ensure a multi-disciplinary approach. Particular attention should be given to developing programmes of rehabilitative activities with a view to improving the quality of life of residents, as well as resocialisation programmes preparing residents for more independent living and/or return to their families. Further, residents should be involved in the drafting of their individual plans and be informed of their progress.

The CPT recommends that the Moldovan authorities take the necessary steps to ensure that these precepts are effectively implemented in practice. In particular, the individual support plans should be further developed to become genuine individual care plans and should be implemented in the course of the placement of a resident in a TPCPD. Further, the offer of psycho-social rehabilitative activities should be significantly broadened; in the CPT's view, as an absolute minimum, every resident should be offered the opportunity to participate in one organised activity every day. The implementation of the recommendation made in paragraph 170 will facilitate these efforts.

173. As regards pharmacotherapy, the delegation did not observe any sign of overmedication of residents and psychotropic medication appeared to be used in appropriate doses individualised for different residents.

174. Concerning dental care, although the *Bălți TPCPD* had a dentist's surgery, residents were taken to a stomatology centre in the town to receive treatment which, however, was usually limited to extractions. The dentist who had attended the *Bădiceni TPCPD* twice a week until the end of 2019 (covering 0.25 FTE) was no longer available at the time of the visit and residents were taken to receive dental treatment in Soroca. As the delegation could see for themselves, these arrangements were insufficient; the delegation observed that many residents had missing or very poor teeth.

The CPT recommends that the Moldovan authorities take the necessary steps to ensure that residents have access to adequate dental care; the care provided should not be limited to extractions.

5. Means of restraint

175. In the course of the visit, the delegation could not obtain a clear picture as to the legal basis for the use of means of restraint in TPCPDs. While the Framework Regulation contains no provisions on the use of means of restraint and some interlocutors were not sure as to the applicable legal framework, other interlocutors considered that the relevant provisions of the Law on Mental Health (see paragraph 133) also apply in this type of establishment. **The CPT would like to receive clarification from the Moldovan authorities on this issue.**

176. In the *Bălți TPCPD*, the use of means of restraint was limited to block 2; agitated residents could be fixated to a bed with bedsheets, sometimes in combination with chemical restraint. According to the dedicated register, resort to restraint was quite rare,¹⁴⁸ was ordered by or brought to the attention of a doctor and the duration of the measure was usually relatively short (ten to 30 minutes). In the *Bădiceni TPCPD*, only chemical restraint (if necessary, in combination with manual restraint) was used.

However, neither establishment had an internal guideline on the use of restraint and, although resort to chemical restraint was recorded in the nurses' daily logbook, it was not entered in the register of restraint. Moreover, in the *Bădiceni TPCPD*, auxiliary technical staff with no health-care duties were sometimes called to intervene and to help nurses and orderlies to manually restrain agitated residents (see also paragraph 159).

177. The CPT wishes to underline¹⁴⁹ that all types of restraint and the criteria for their use should be regulated by law. Moreover, every establishment where means of restraint may need to be used should have a comprehensive, carefully developed policy on restraint. The involvement and support of both staff and management in elaborating the policy is essential. Such a policy should be aimed at preventing as far as possible the resort to means of restraint¹⁵⁰ and should make clear which means of restraint may be used, under what circumstances they may be applied, the practical means of their application, the supervision required and the action to be taken once the measure is terminated. The policy should also contain sections on other important issues such as: staff training; recording; internal and external reporting mechanisms; debriefing; and complaints procedures. Further, residents should be provided with relevant information on the establishment's restraint policy.

Once the means of restraint have been removed, it is essential that a debriefing of the resident take place, to explain the reasons for the restraint, reduce the psychological trauma of the experience and restore the staff-resident relationship. This also provides an opportunity for the resident, together with staff, to find alternative means to maintain control over him-/herself, thereby possibly preventing future eruptions of violence and subsequent restraint.

¹⁴⁸ E.g. between January 2019 and January 2020, there were seven instances of mechanical restraint which concerned five different residents.

¹⁴⁹ A more comprehensive overview of the principles which, in the CPT's view, should be respected when resort is had to means of restraint, can be found in the document "Means of restraint in psychiatric establishments for adults (Revised CPT standards)", [doc. CPT/Inf \(2017\) 6](#).

¹⁵⁰ Patients should only be restrained as a measure of last resort (*ultimo ratio*) to prevent imminent harm to themselves or others and restraints should always be used for the shortest possible time. When the emergency situation resulting in the application of restraint ceases to exist, the patient should be released immediately.

A specific register should be established to record all instances of recourse to means of restraint (whether manual, mechanical or chemical). This should supplement the records contained within the resident's personal medical file. The entries in the register should include the time at which the measure began and ended; the circumstances of the case; the reasons for resorting to the measure; the name of the doctor who ordered or approved it; and an account of any injuries sustained by residents or staff. Residents should be entitled to attach comments to the register and should be informed of this entitlement; at their request, they should receive a copy of the full entry.

For the purpose of mechanical restraint, only equipment designed to limit harmful effects (preferably, purpose-made padded cloth straps) should be used in order to minimise the risk of the patient sustaining injury and/or suffering pain. Further, means of restraint should always be applied with skill and care, in order to minimise the risk of harming or causing pain to the resident and to preserve as far as possible his/her dignity. Only properly trained staff should participate in the application of means of restraint to a resident.

Finally, if the application of restraint on a voluntary resident is deemed necessary, the legal status of the resident should be reviewed.

The CPT recommends that the Moldovan authorities ensure that these precepts are effectively implemented in practice in the Bălți and Bădiceni Temporary Placement Centres for Persons with Disabilities, as well as in other TPCPDs in Moldova.

6. Safeguards

a. placement and review

178. The legal framework of placement in a TPCPD is laid down in Sections 40 and 43 LMH, with further details being provided by the Framework Regulation referred to in paragraph 157.

The examination of the individual administrative files of residents in the two establishments visited revealed that, in accordance with these provisions, the placement procedure was triggered at the request of the prospective resident, or, more often, of his/her guardian, a family member or a local authority. A placement decision was issued by a Multi-Disciplinary Working Group of the Ministry of Health, Labour and Social Protection ("Working Group"),¹⁵¹ on the basis of documents submitted by the Territorial Social Assistance and Family Protection Department, i.e. the territorial social assistance services.¹⁵² Recently, the usual length of the initial placement was either six months or one year (see also paragraph 156).

The placement may be extended by the Working Group if no suitable local social protection measure (e.g. re-integration into the family or the provision of social services in the community) has been identified by the territorial social assistance services in the meantime.¹⁵³

¹⁵¹ The Working Group was composed of representatives of the Ministry, social services and civil society, as well as a psychiatrist (whose participation is obligatory under Section 40 LMH).

¹⁵² The placement decision was subsequently confirmed by an (internal) placement order issued by the director of the TPCPD.

¹⁵³ It should be noted, however, that in several cases seen by the delegation, the extension of the placement was not carried out on time.

179. According to the information provided to the delegation, by virtue of legislative amendments adopted in 2017,¹⁵⁴ all persons had re-gained their full legal capacity and all pre-existing guardianships had ceased to exist. If necessary, a new court procedure had to be initiated for a person to be deprived of his or her legal capacity and for a new guardian to be appointed. This, however, happened in practice only very rarely.¹⁵⁵ The vast majority of residents thus formally had full legal capacity.

180. However, the examination of residents' individual files revealed that, although the placement procedure was in most cases triggered by a third person (whether or not the resident had formally been deprived of his or her legal capacity), the placement in a TPCPD or its extension was not conditioned by the consent of the would-be resident¹⁵⁶ and the relevant decisions did not contain any information as to the possibility to challenge the placement or its extension before a court. Residents were not asked to express their opinion in the context of the extension of their placement.¹⁵⁷

181. Further, although all residents were formally regarded as voluntary, those accommodated in block 2 in the *Bălți TPCPD* were not allowed to leave their ward unsupervised (let alone the compound), had daily access to fresh air only under staff supervision and the doors of the ward were locked during mealtimes and at night.

In the *Bădiceni TPCPD*, the delegation received conflicting information; some members of staff indicated that all residents were free to leave, others said that a written permit issued by health-care staff was needed for a resident to leave the premises of the establishment or that staff simply knew whom to allow to leave and whom not. However, as far as the delegation could ascertain, not all residents were in practice allowed to leave the compound, in particular during winter months.

182. Moreover, none of the residents in the two TPCPDs visited was free to leave the establishment permanently of his or her own free will; discharge from the establishment was only possible with the approval of the Working Group and had to be accompanied by a commitment of a third person (a family member, a guardian or the territorial social assistance services) that the necessary care would be provided to the resident following his or her discharge. Yet, residents had no possibility to challenge a negative opinion of the Working Group, and consequently their continued stay in the establishment, before a court.¹⁵⁸

If residents "escaped", in some cases, they were brought back by the police (often at the instigation of the family or the local community), in other cases the police reportedly showed reluctance to interfere given that virtually all residents had their legal capacity and were formally voluntarily in the TPCPDs.

¹⁵⁴ Law No. 66 of 13 April 2017, amending and supplementing several legislative acts.

¹⁵⁵ E.g. of the 250 residents in the Bălți TPCPD who had regained their full legal capacity, the new procedure was initiated and a guardian was appointed in only one case.

¹⁵⁶ Section 40 LMH provides explicitly only in respect of persons deprived of their legal capacity that if a placement in a TPCPD is requested by the guardian, the consent of the resident is not necessary.

¹⁵⁷ The CPT notes positively in this context that in the Bălți TPCPD, some residents who had been placed recently in the establishment had been asked to sign, albeit only following their admission, a form to confirm their consent to their stay in the establishment. This fact, however, had no bearing on the issues described in the following paragraphs.

¹⁵⁸ The same applied to residents who had been admitted to the establishment in the past, some of them decades previously, and whose stay in the establishment was not subjected to any review.

183. At the same time, the delegation met several residents who clearly indicated that they did not want to stay in the TPCPDs.

In the light of the circumstances summarised in the preceding paragraphs, the CPT considers that these residents should be regarded as *de facto* deprived of their liberty. Their placement and stay in the establishment, however, was not accompanied by any appropriate safeguards.

184. In the light of the findings of the visit, it would appear that the practical implementation of the placement (and discharge) procedure gives rise to a number of challenges and, as indicated to the CPT's delegation by several interlocutors, there were certain implications which remained unclear. In particular, there was a lack of clarity concerning the voluntary (or mandatory) nature of the placement and stay of residents in the establishments and the expected reaction by staff if residents wanted to leave the establishment. There were also certain question marks concerning the practical impact of the 2017 legal amendments and a potential need to re-evaluate the legal capacity of all residents. Reportedly, this caused serious difficulties for the management and staff in the establishments visited, which extended to other professionals who became involved (e.g., as shown above, to police officers).

185. The CPT considers that involuntary placement and stay of residents (including situations in which the restrictions imposed amount to *de facto* deprivation of liberty)¹⁵⁹ in social care establishments should be regulated by law and accompanied by appropriate safeguards. In particular, placement must be made in the light of an objective medical assessment, including of a psychiatric nature. Further, all residents who are involuntarily placed in this type of establishment (including situations in which the restrictions imposed amount to *de facto* deprivation of liberty), whether or not they have a legal guardian, must enjoy an effective right to bring proceedings to have the lawfulness of their placement and stay decided speedily and reviewed regularly by a court and, in this context, must be given the opportunity to be heard in person by the judge and to be represented by a lawyer. The Committee also wishes to underline that, if it is considered that a given resident, who has been voluntarily admitted and who expresses a wish to leave the establishment, still requires care to be provided in the establishment, then the involuntary placement procedure provided by the law should be fully applied.

The CPT recommends that the Moldovan authorities put in place a clear and comprehensive legal framework governing the involuntary placement and stay of residents (including situations in which the restrictions imposed amount to *de facto* deprivation of liberty) in social care homes, in the light of the preceding remarks.

Further, clear and practically-oriented guidance should be provided by the authorities to the management and staff in TPCPDs as to the precise legal status of residents and the relevant legal framework.

¹⁵⁹ The CPT notes in this context that the ECtHR has concluded in several cases concerning the placement in a closed establishment of a legally incapacitated person under guardianship from whose conduct it was obvious that he or she did not consent to his or her placement that he/she must be regarded as being “deprived of his or her liberty” within the meaning of Article 5, paragraph 1, of the ECHR, despite the approval of the guardian (see, for example, the Grand Chamber judgment in the case of [Stanev v. Bulgaria](#), no. 36760/06, § 132, 17 January 2012, and [Červenka v. the Czech Republic](#), no. 62507/12, §§ 103-104, 13 October 2016).

b. safeguards during placement

186. According to the information provided to the delegation by the management and staff in the two TPCPDs visited, and as confirmed through interviews with residents, there was no involuntary treatment of residents.

Further, it is positive that in the Bădiceni TPCPD, health-care staff have recently started requesting residents to give their written consent to treatment.

187. Arrangements concerning contact with the outside world were satisfactory in both TPCPDs visited. Residents had a virtually unrestricted possibility to receive visits, could keep mobile phones and, in the Bădiceni TPCPD, could also use a phone located in an office.

188. It is positive that in both establishments, there were several complaints boxes which were freely accessible to the residents in the corridors. In the *Bălți TPCPD*, complaints were collected by administrative staff and submitted to the social worker, in the *Bădiceni TPCPD*, a social worker collected the complaints and submitted them to the director of the establishment. Complaints lodged by residents were registered and discussed with them.

However, the complaints boxes were not marked as complaints boxes. **The CPT recommends that this deficiency be remedied.**

189. As regards inspections, both establishments visited were regularly visited by the Ombudsperson, the NPM and/or various non-governmental organisations.

APPENDIX I

List of establishments visited by the CPT's delegation

Establishments under the authority of the Ministry of the Interior

Police Department and Temporary Detention Isolator in Chişinău
Police Inspectorate in Bălţi
Police Inspectorate and Temporary Detention Isolator in Cahul
Police Inspectorate in Cantemir
Police Inspectorate and Temporary Detention Isolator in Cimişlia
Police Inspectorate in Comrat
Police Inspectorate and Temporary Detention Isolator in Hînceşti
Police Inspectorate and Temporary Detention Isolator in Făleşti
Police Inspectorate and Temporary Detention Isolator in Floreşti
Police Inspectorate in Taraclia

Establishments under the authority of the Ministry of Justice

Prison no. 1 (Taraclia Prison)
Prison no. 5 (Cahul Prison)
Prison no. 13 (Chişinău Prison)

The delegation also carried out a targeted follow-up visit to Prison no. 10 (Goian Juvenile Prison) in order to examine the steps that have been taken to implement the recommendations made by the CPT after the previous visits to tackle the phenomenon of inter-prisoner violence.

Establishments under the authority of the Ministry of Health, Labour and Social Protection

Chişinău Psychiatric Hospital
Forensic Psychiatric Unit of the Centre for Forensic Medicine in Chişinău

Temporary Placement Centre for Persons with Disabilities in Badiceni
Temporary Placement Centre for Persons with Disabilities in Bălţi.

APPENDIX II

List of the national authorities, other bodies and non-governmental organisations met by the CPT's delegation

A. National authorities

Ministry of the Interior

Mr Ianus Erhan	State Secretary
Mr Alexandru Tocarjevschi	Head of the Department of Policies in the Field of Public Order and Security
Mr Vadim Cojocaru	Head of the General Police Inspectorate
Ms Rozalia Matei	Head of the Detention and Escort Section of the Judicial Police Service, General Police Inspectorate
Mr Ion Sirbu	Head of Judicial Police Service, General Police Inspectorate

Ministry of Justice

Mr Eduard Serbenco	State Secretary
Ms Silvia Stici	Head of Minister's Cabinet
Ms Stela Braniște	Head of International Relations Department

National Prison Administration

Mr Vladimir Cojocaru	Director
Mr Viorel Perciun	Deputy Director
Mr Sergiu Mihailenco	Head of the Penitentiary Safety and Regime Division
Mr Ion Rusu	Head of the General Department for Evidence and Transfer
Mrs Nelea Caras	Deputy Head of the Medical Division
Mr Vladislav Busmachiu	Acting Deputy Head of the General Department for Institutional Management

Ms Ludmila Gorea	Principal Specialist, Analytical and Planning Division
Mr Tudor Moraru	Director of Prison No. 13 (Chişinău Prison)

Ministry of Health, Labour and Social Protection

Ms Viorica Dumbrăveanu	Minister
Mr Alexandru Holostenco	State Secretary
Ms Djulieta Popescu	State Secretary
Ms Svetlana Lupu	Head of Department of Hospital Medical Assistance Policies
Ms Gabriela Melnic	Main Consultant, Department of Hospital Medical Assistance Policies
Mr Vasile Cuşca	Head of Department of People with Disabilities Rights Protection Policies
Ms Tatiana Zatić	Head of Department of Policies in Primary, Emergency and Community Health Assistance
Ms Silvia Gherasim	Main Consultant, Department of Policies in Primary, Emergency and Community Health Assistance
Ms Irina Banova	Head of the National Social Assistance Agency
Mr Pavel Florea	Head of the Temporary Placement Centre for Persons with Disabilities in Bălţi
Ms Ludmila Dovbenco	Medical Doctor, Temporary Placement Centre for Persons with Disabilities in Badiceni (Soroca District)

The CPT's delegation also met high-ranking representatives of the **Special Unit at the Prosecutor General's Office to combat torture and ill-treatment.**

B. Office of the People's Advocate (Ombudsperson) and representatives of the NPM

Mihail Cotorobai	People's Advocate (Ombudsperson)
Maia Bănarescu	Ombudsperson for the Protection of Children's Rights
Alexandru Zubco	Head of the Torture Prevention Department
Mihai Gorincioi	Member of the National Preventive Mechanism

C. Non-governmental organisations

Amnesty International Moldova

Institute for Human Rights (IDOM)

Institute for Penal Reform (IRP)

Legal Resources Centre from Moldova (LRCM)

Promo-LEX

Rehabilitation Centre for Torture Victims “Memoria”