

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

CPT/Inf (2021) 6

Response

**of the Government of the Republic of Moldova
to the report of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
on its visit to the Republic of Moldova**

from 28 January to 7 February 2020

Since April 2011, reports on CPT visits to the Republic of Moldova and related Government responses are published under an automatic publication procedure. The CPT's report on the January/February 2020 visit to the Republic of Moldova is set out in document CPT/Inf (2020) 27.

Strasbourg, 14 April 2021

Response of the Government of the Republic of Moldova to the Report of the delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to the Republic of Moldova

The Government of the Republic of Moldova highly appreciates the work of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter – CPT) on improving the standards for the functioning of state institutions where persons are deprived of their liberty. The Government of the Republic of Moldova (hereinafter – RM) expresses its readiness to comply, as far as possible, with the comments contained in the CPT Report on the visit¹, and to take all necessary measures to remedy the deficiencies.

The Government remains committed to focus on increasing the quality of services provided to persons placed under the state custody, so as to protect their rights, as well as to provide improved rehabilitation opportunities for each detainee.

The present Response was drafted by the Ministry of Justice based on the information provided by the authorities responsible for implementing the observations, namely the Ministry of Internal Affairs (hereinafter - MIA), the Ministry of Health, Labor and Social Protection (hereinafter - MHLSP) and the National Penitentiary Administration (hereinafter - NPA).

Following the detailed examination of the Report of the CPT delegation after the ordinary monitoring visit to the Republic of Moldova, held between January 28 and February 7, 2020, the Government is pleased to provide the information on the measures taken and the recent developments directed at the elimination of the deficiencies identified by the CPT.

The police

Detention period

In accordance with the normative acts of the police, for the placement of the detained person in the Temporary Detention Isolator (TDI), the respective person must be accompanied by an individual file, drawn up under the conditions of art. 201 and 307 of the Enforcement Code No. 443/2004. At the same time, in order not to admit the exceeding of the 72-hour detention period in TDI of persons whose identity documents are not completed, the subordinated subdivisions of the General Police Inspectorate (GPI) were warned about not admitting gaps in the individual files of persons in police custody presented for placement in TDI. It should be noted that the delays in issuing identity documents by the Public Services Agency for persons in police custody persists, especially if the person has never previously been issued an identity document and / or has not been assigned a state identification number. In this sense, the authorities are examining the possibility of modifying the normative framework, mainly the Law No. 273/1994 on identity documents in the national passport system and the Enforcement Code.

¹ Adopted by CPT at its 102nd meeting and published on 15 September 2020.

Ill-treatment

During the monitoring visit, the CPT delegation was informed about the introduction of Standard Operating Procedures approved for the implementation of Objective 1 of the Action Plan on Reducing ill-treatment, abuse and discrimination towards persons in Police Custody for the years 2017-2020, approved by Government Decision No. 748/2017. Thus, the following Standard Operating Procedures were approved:

- ✓ Standard Operating Procedures regarding the detention, escort, transportation and placement of the detained person in the Temporary Detention Isolator of the Police, approved by Order of the Head of GPI No.129 of 27.04.2020;
- ✓ Standard Operating Procedures on the mechanism of providing medical assistance to persons detained and in pre-trial detention, approved by Order of the Head of GPI No. 444 of 15.09.2019;
- ✓ Standard Operating Procedures regarding the assurance of the right to an interpreter or translator for persons detained, transported, escorted and detained in pretrial detention facilities, approved by Order of the Head of GPI No. 797 of 10.12.2019.

The procedure for identifying, registering and reporting the alleged cases of torture, inhuman or degrading treatment, is regulated by the Regulation approved by Joint Order No. 77/572/408/639-o / 197/1389 of 31.12.2013 of the General Prosecutor, the Minister of Justice, the Minister of Internal Affairs, the Customs Service, the National Anticorruption Center and the Minister of Health.

In order to ensure respect for the rights of persons at the detention stage and to prevent cases of torture and ill-treatment, as well as to ensure the level of professional training of police officers, multiple training activities were organized during the year 2020. On 16.09.2020, within the GPI, took place the launching event of the Human Rights Guide for Police and Standard Operating Procedures, developed with the support of the “Soros-Moldova” Foundation within the project “Promoting Police activity based on human rights in Republic of Moldova”.

Regarding the situation of excessively tight handcuffs, invoked by the CPT, please note that the handcuffs that are currently in police’s equipment are of the chain type, which easily allows the handcuffed person to tighten them more intensely causing intentional trauma. The police, following the last undertaken study visits, concluded that the application of padlock handcuffs by its counterparts in other states reduces the risk of injury, compared to chain-type ones. In these circumstances, it was proposed to gradually replace the handcuffs in the police units. At the same time, within the GPI, the departmental regulation on application of handcuffs was elaborated for not admitting their excessively tight application during the detention and escort of persons.

Within the MIA, the Working Group was created in order to achieve the objective “Analysis and consolidation of the reaction capacity of the institutions subordinated to the MIA in specific situations”, which also aims to regulate the issue of handcuff application. The WG initiated the process of reviewing the institutional normative acts, in order to establish additional regulations to reduce the cases invoked. At the same time, as regards the application of handcuffs during the extradition procedures from other states to the Republic of Moldova of persons wanted by national

law enforcement bodies, this is done only in cases where the subject presents a clear danger to maintaining public order and security, in accordance with the relevant provisions of national and international treaties.

Regarding efforts to combat ill-treatment of detainees by police officers, by approving the Standard Operating Procedures for the detention, escort, transportation and placement of the detained person in the TDI² and the Standard Operating Procedure on the medical assistance to the persons detained in pre-trial detention, the objective is to ensure the organization and observance of the conditions compatible with the respect for the human dignity of the persons in police custody. Thus, it is mandatory that the manner and method of execution of the measure is not subject to stress or difficulties exceeding the inevitable level of suffering related to detention. Based on the practical needs of detention, medical care is provided in an appropriate manner and according to the health needs of the detained person. According to the procedure, the person in respect of whom the physical force, special means or firearm was applied during the detention or declared that he was subjected to intimidation, pressure, physical or mental aggression by the police, and not only, is to be examined immediately. When bodily injuries are ascertained by TDI medical personnel, these findings are recorded in the Body Injury Examination Form and subsequently in the Register of evidence of receipt and transmission of complaints, statements or other information about alleged acts of torture, inhuman or degrading treatment, with transmission of information within a maximum of 24 hours to the prosecutor, in the established manner.

At the same time, within the territorial subdivisions of the Police, alleged acts of torture, inhuman or degrading treatment are managed by the Guard Services, and in the case of the activity of employees in offices that do not have 24/24 hours program, the police officer who during working hours has become aware of the fact of torture, inhuman or degrading treatment, is to ensure the presentation of the injured party/ petitioner to the nearest police subdivision or to inform its Guard Service by telephone in accessible ways. The duty officer who has received the relevant information related to the reported case is obliged to enter it in the Register and to inform the service prosecutor by telephone, after which immediately, but not later than 24 hours, to ensure the transmission of the materials prepared to the territorial or specialized prosecutor's office, within whose radius the institution operates. This obligation is valid whenever police officers receive information about the application of torture, inhuman or degrading treatment, regardless of the source, including the media. Upon notification of the specialized police subdivision, the Prosecutor's Office is immediately informed about the ill-treatment of the police officers according to the provisions of the Regulation on the procedure for identifying, registering and reporting alleged cases of torture, inhuman or degrading treatment, approved by Joint Order No. 77 / 572 / 408 / 639-o / 197/1389 of December 31, 2013. In the context of non-admission and prevention of abuse of office, deviations from legal norms, prevention of human rights violations in the segment of placement, detention and transportation / escort of persons in custody, 6 provisions/orders of

² Annex 2 of the Order, at point 8 stipulates that "the application of unjustified force is prohibited, the means of immobilization must not injure the person and must not harm the dignity of the person". Likewise, in the same point it is provided that "Police officers and persons deprived of liberty, under the authority of the escort, communicate decently and respect each other's dignity. Threats, trivial words, swearing, etc. are prohibited. The escorted person is forbidden to communicate with other people. When he is in a safe area, the escorted person receives from the defender or family members, with the consent of the head of the escort, water, cold food or medicines for which there is a prescription issued by the doctor.

the GPI and 6 circular instructions were drafted and submitted to the territorial subdivisions of the police subordinated to the GPI during 2020.

Guarantee against ill-treatment

The cases when the participants of the criminal process benefit from the right to defense are regulated according to the provisions of art. 17 of the Code of Criminal Procedure and the Operational Procedure on insuring persons with interpreter and lawyer, approved by GPI Order No. 67 of February 14, 2017. Subsidiary, according to the Standard Operating Procedure regarding the detention, escort, transport and placement of the detained person in the PDI, the detaining police officer has the obligation to inform him/her immediately at the very outset of detention regarding his rights, reasons for detention and others. Subsequently, the police officer makes available to the person the Letter of Rights in case of detention, introduced in the police activity by MIA Order No. 284 of 19.09.2016. In order to respect the rights of the detained persons, with the support of the Soros Moldova Foundation, the Letter of Rights was elaborated, approved by the MIA Order No. 192 of 29.06.2016, translated into several languages (Romanian, Russian, English, French, German, Italian, Turkish, Ukrainian, Bulgarian, Gagauz, Arabic). In order to ensure extended accessibility to the Letter of Rights, for all police officers, both in criminal and misdemeanor proceedings, the Letter has been published on the official police website. At the same time, Disposition No. 34/11-23 of 23 July 2020 was drafted regarding the monitoring of the proper application of the standard operating procedures aimed at the detention, guarding and escorting of persons in police custody, which ordered the observance of all rights the person detained by ensuring, including the appointment by the National Council for State Guaranteed Legal Aid (the Council) of a duty lawyer for the provision of free legal aid.

According to art. 64 and 69 of the Code of Criminal Procedure (CCP), immediately after the detention or after being informed of the decision on the application of the preventive measure or recognition as a suspect, the person is to be assisted by a lawyer chosen either by him or appointed by National Council for State Guaranteed Legal Aid in cases where the person cannot afford counsel. The same requirement follows from art. 19 of Law No. 198/2007 on state-guaranteed legal aid, according to which qualified emergency legal aid is granted to persons who have been detained in criminal proceedings or in contravention proceedings. Thus, arising from art. 167 paragraph (1¹) CCP, within one hour after the detention of the person, the criminal investigation body requests the territorial office of the Council or other persons empowered by it to appoint a lawyer to provide legal aid (see Annex 1).

During 2020, the difficulties encountered by the police during the criminal investigation phase in ensuring the provision of legal aid to detainees were generalized. Therefore, on 29.09.2020, a request was submitted to the Council in which difficulties were exposed in order to solve them. At the same time, it was established that in cases when no lawyer from the locality (district, sector) TDI is available, the police request can be addressed to a service lawyer from another locality (district, sector), informing the Territorial Office on this situation, as soon as possible, but not later than 24 hours after the request.

Referring to the right to discuss in conditions of confidentiality with the defense lawyer, in accordance with the MIA Action Plan on the implementation of the National Action Plan in the field of human rights for the years 2018-2022³, in order to execute the measure on arranging spaces for confidential meetings between defenders and detained persons within the police inspectorates, by IGP Order No. 213 of 31.07.2020 were approved Minimum Mandatory Requirements regarding the hearing rooms within the police subdivisions, for presentation for recognition of the person and for the confidential meeting of the suspected / accused persons with the lawyer and for waiting (transit). Thus, the persons in pre-trial detention benefit from the right to have access to a lawyer, the renovated functional TDIs having a room for meetings in confidential conditions with the defense counsel. This right has not been limited in the current epidemiological situation, in connection with the pandemic spread of the COVID-19 virus. With regard to the hearing of minors in specialized rooms, the police cooperate with specialized NGOs that have such conditions. In order to comply with the legal requirements according to which the obligation to hear minors is imposed in the presence of the defender, legal representative, teacher and / or psychologist, the territorial subdivisions of the TDI were provided with the following:

- Circular No. 34/11-3358 of 27.07.2020 by which the staff of the criminal investigation body subordinated to the General Police Inspectorate was reminded about the strict observance of the legal provisions at the hearing of the minor during the criminal trial, with the participation of the legal representative, teacher or psychologist, as the case may be, and in the presence of the lawyer;
- Disposition No.34/11-4045 of 17.09.2020 regarding the monitoring and ensuring of the protection of the rights and interests of the child victims / witnesses of crime, including those in conflict with the law.

Additionally, please note that on 19.10.2020, during an official event, the Memorandum of Understanding between the Ministry of Interior and the Te Doy Foundation (FTD) was presented publicly and signed. The MoU includes the Project to establish a Family Justice Center in Moldova, funded by the US State Department and International Bureau for Assistance in Combating Drug Trafficking and Law Enforcement (INL). By the end of 2020, the draft Concept of the Family Justice Center was approved by all national interested institutions. The Family Justice Center will have a room specially designed for hearing minors.

Regarding the investigations initiated by the Special Unit of the General Prosecutor's Office for ill-treatment and criminal/disciplinary sanctions applied by the police, in the period 2019 – 2020 the following statistical data were recorded on this matter.

Thus, in 2019, a total of 876 notifications were registered in respect of which:

- in 774 cases the criminal investigation was ordered not to start;
- in 86 cases the criminal investigation has been initiated;
- on 01.01.2020 16 cases were identified as being overdue;
- 66 criminal cases were classified;
- in 15 cases the criminal investigation was suspended;

³ Approved by MIA Order No. 278 of 15.05.2019.

- 34 criminal cases were sent to court;
- on 01.01.2020 121 criminal cases were identified as being overdue.

In 2020, a total of 563 complaints were registered in respect of which:

- in 506 cases the criminal investigation was ordered not to start;
- in 47 cases the criminal investigation has been initiated;
- on 01.01.2021 10 cases were identified as being overdue;
- 59 criminal cases were classified;
- in 9 cases the criminal investigation suspended;
- 22 criminal cases were sent to court;
- on 01.01.2021 109 criminal cases were identified as being overdue.

Services/healthcare

According to the provisions of the Order of the Head of GPI No.380 of 21.10.2019 on the approval of the Instructions on the organization and operation of pre-trial detention facilities subordinated to the GPI, as well as the necessary measures for their safety and of the Standard Operating Procedures on the mechanism to ensure medical assistance to detained persons held in pre-trial detention, the detained persons are medically examined by a medical worker at each entry, placement and exit of the TDI, as well as upon request, with the completion of the medical record containing the body diagram⁴. Following the completion of the body diagram, entries are made to the general condition of the detained person with the indication of the locations on the drawings with anterior and posterior view (ventral and dorsal) with the provision of mandatory photography and detected bodily injuries. In case of impossibility to ensure the medical examination of the detainees by the feldsher of the detention facilities, the urgent pre-hospital services are requested. In this context, during the period 2020, 840 calls were made to the Single National Emergency Call Service 112.

According to the personnel statements, the Detention and Escort Services within the Territorial Police Inspectorates that have TDIs are provided with 1 (one) function of feldsher. Outside the hours of the feldsher and/ or on rest days, the person in police custody is presented to the public hospital for a medical examination. The person in police custody can also benefit from private healthcare services of his choice, on his own account or, if he agrees, on behalf of third parties (lawyer, close relatives, concubine).

According to the provisions of the Policy Matrix on the implementation of the EU budget support for Police Reform for 2017-2020 and the Action Plan on reducing ill-treatment, abuse and discrimination against persons in police custody, approved by Government Decision No. 748/2017, the modernization of 15 TDIs and 100 rooms (waiting cells, presentation rooms for recognition of the person, meeting with the defender and hearing) within the police subdivisions was provided. Thus, in each TDI, a room was created for the hearing of the person and one for

⁴ Annex No. 3 to the Standard Operating Procedures regarding the mechanism for providing medical assistance to persons detained and in pre-trial detention.

confidential meetings with the defense counsel. Therefore, in the 15 TDI, 30 rooms were created and adopted to the standards. Following the work to improve the material conditions of detention of TDIs during 2020, it was established that all detention facilities comply with the requirements for conducting medical examinations while respecting the confidentiality of detainees. Within them are arranged health care offices separate from the offices intended for consultation and epidemiological triage, including the confidentiality of information of medical examination results and other personal data, according to the provisions of GPI Order No. 527/2017 on the approval of the Mandatory Minimum Rules for detention facilities and special vehicles intended for the transport of detainees in police custody.

Thus, the medical examination is not performed in the presence of other persons, ensuring the examination of the detainee by the same-sex medical worker without video surveillance, the presence/involvement of the police officer is ensured in cases of aggressive behavior of detainees and only at the request of the medical worker so as to ensure his personal security. In order to remove any suspicion of violation of the rights of detainees to medical examination and to ensure the integrity of the medical worker, the spaces for examination and medical insurance are equipped with emergency buttons (alarm). Alternatively, the medical diagnoses for the inscriptions made in the medical record contain codifications provided by the Order of the Ministry of Health No. 546/2012 on the approval of the Rules for coding medical diagnoses and procedures. Respectively, the Police employees who have access to the detainees' records, which also contain the medical file, cannot deduce the detainees' medical diagnoses, which indicates that the confidentiality of personal information is compliant.

On the subject of health care, during 2020, 2 training sessions were organized for medical workers, which will be continued during 2021.

In point 11.2 of the Standard Operating Procedure on the mechanism for providing medical care to detainees and persons in pre-trial detention, the team of experts who developed that procedure highlighted the fact that currently the detained person's right to healthcare is partially ensured by the medical staff (feldshers) from TDI and who are direct employees of the police. It was found that the independence of medical workers is directly affected, contrary to the Istanbul Protocol. In order to eliminate these deficiencies, it is proposed to examine the possibility of transferring the functions of medical workers (feldshers) from the police staff to the MHLSP or to the Medical Service of the MIA. Therefore, any relationship of subordination of the medical worker within the Isolator with the management factors of the subdivision under which the TDI is subordinated will be excluded. Also, in the short term, it is recommended to develop public-private partnerships to complete the units of medical staff within the IDP via concluded contracts with the medical institutions at the territorial level.

Medical workers during the exercise of their duties do not provide medical care to police officers in the subdivision, but this cannot be ruled out in cases of urgent intervention to improve the chances of survival and reduce serious trauma. Medical workers are obliged to provide emergency first aid, regardless of the time, place and other circumstances of the situation by using all professional skills and knowledge, to contribute to the protection of public health, to combat any

form of cruelty and degradation of human dignity, maintaining respect for the human being, according to Law No. 264/2005 on the exercise of the medical profession.

"E-Retention" information system

In accordance with action 1.12 of the Government Action Plan for the years 2020-2023, approved by Government Decision No. 636/2019, as well as actions 7.1-7.2 of the National Action Plan in the field of human rights for the years 2018-2022, approved by Parliament Decision No. 89/2018, the Ministry of Justice has the responsibility to develop and pilot the "e-Retention" information system in order to standardize the collection and analysis of statistical data related to criminal justice and ensure interoperability of databases by promoting the technical concept of the "e-Retention" information system. The acquisition of SIA "e-Retention" was made by the Ministry of Justice. The Information System (software part) was created; however, the testing/ piloting of the final version has not been conducted due to the lack of access to the SIA "e-Retention". On 14.02.2020, the Ministry of Interior confirmed the opportunity for the Ministry of Justice to resume the actions related to the implementation of SIA "e-Retention" and to promote, if necessary, changes in the Concept of Automated Information System "Register of detainees, arrested and convicted", as well as the availability of the necessary support services. In order to ensure access to information systems, including the "e-Retention" Information System, in 2020, MIA ensured the acquisition of data transport services through WAN MIA (contract with Moldtelecom No. 18/24.01.2020, 189 MIA locations). Thus, access was provided for the GPI locations, for all territorial police inspectorates, specialized GPI services, all police sectors in Chisinau and Balti municipality and territorial police sectors (partially via WAN, rest - mobile internet). In addition, the Police have estimated the costs and 15 computers and 15 multifunctional printers (with scanner) will be purchased, one for each TDI and corresponding peripheral equipment.

Material detention conditions

By Order of the Chief of GPI No. 34/1-62 of 03.03.2017 on the evaluation of the remand detention isolators within the territorial subdivisions of the Police, an institutional Working Group was established, consisting of 4 persons who, between 06 – 24.03. 2017, visited and evaluated all TDI within the structural units of the police, including those the activity of which had been ceased in whole or partially. Following this exercise, the institutional Report on detention conditions was prepared, which proposed several solutions on improving detention conditions, as well as adjusting the functioning algorithm of the TDI by establishing regional TDIs. This was necessary because the current formula implies major financial implications, and the renovation of all of them according to the standards will not be possible due to insufficient financial resources.

At the stage of drafting the CPT Report, within the Police subdivisions there were 31 TDI – 18 located entirely on the ground floor, 10 in the semi-basement and 3 in the basement. The architectural plans of the TDI highlighted the existence of 285 cells, with an accommodation capacity of 703 places. On-site visits by GPI employees revealed that 50% of all existing cells according to the documentation do not function, the doors of the accommodation spaces being sealed due to non-compliance with the minimum conditions provided by international and

European standards. As a result of the plan of modernizing 15 TDI and 100 rooms, the map of TDIs was revised and optimized, based on several determining factors⁵, which resulted in establishing 15 regional TDIs: PD mun. Chisinau, PI Edinet, Riscani, Soroaca, Balti, Singerei, Ungheni, Hîncești, Orhei, Criuleni, Anenii Noi, Cimișlia, Căușeni, Cahul, Comrat. Those have been renovated according to the approved standards, 10 of them being put into operation. Between 07.08-04.11.2020, 16 monitoring visits of the police TDI were carried out by the People's Advocate in the TDI of the Chisinau Police Directorate and in the Police Inspectorates of Ungheni, Edinet, Riscani, Floresti, Cimișlia, Cahul, Falesti, Leova, Cantemir, Glodeni, Soroaca and Nisporeni. The identified gaps/deficiencies are to be remediated by the end of the first quarter of 2021. With reference to the TDI of the Floresti and Falesti Police Inspectorates, their activity is to be ceased by the end of the first quarter of 2021. In this context, according to the TDI Map, after the establishment and commissioning of the regional TDI, the persons detained by PI Floresti will be placed and detained in TDI Soroaca, and the persons detained by PI Falesti will be placed and detained in TDI Balti.

According to the minimum mandatory requirements for the arrangement, within the territorial police subdivisions, of hearing rooms, rooms for the presentation for recognition of the person, rooms for meeting in confidential conditions of the suspects/accused with the defender and of waiting rooms (transit) the specifications for the procurement of project documentation and estimate services for the above-mentioned cells were developed. In the period between June-July 2020, the Police carried out 22 checks in the territorial subdivisions in order to identify feasible spaces for the arrangement of the respective rooms, proposing 10 territorial police subdivisions for the arrangement of the rooms and elaborating the estimated costs. The verifications aimed at mapping the buildings of the TDI territorial police inspectorates in order to form a clear picture with reference to the infrastructure, their capacity, as well as the planning of the new spaces. The cadastral plans of level I and TDI of the visited Police Inspectorates were accumulated and the feasible spaces for the arrangement of the cells were selected, together with the management of the subdivisions. As a result, layouts of cell localization and the related report were elaborated, sent to the GPI management in order to initiate the process of implementing the objectives of creating the new spaces.

In addition, in accordance with the provisions of the concept of community police activity, in the 56 police sectors subject to the modernization process, 52 hearing rooms for the participants in the criminal/contravention process were created. Likewise, in the context of the capital reconstruction of PI Telenesti, 7 hearing rooms, presentation for recognition and meetings in confidential conditions were set up. In the process of reconstruction of PI Criuleni, hearing and presentation for recognition rooms were created. At the request of PI Anenii Noi and Hîncești, financial resources were allocated for the current repair of the hearing rooms. The material conditions in each room within these police subdivisions have been adjusted. Therefore, during this period, the renovation of 93 rooms in various police subdivisions can be noted. Currently, TDI Chisinau is in

⁵ The condition of the buildings; location (surface, demisol, basement); the surface of the headquarters; accommodation capacity; geographical positioning; demographic factor; analysis of the criminal situation; detainee flow analysis; the nearest distance to the court of first instance and the Court of Appeal of the district to which the court belongs; the nearest distance to the Criminal Investigation Isolators in the penitentiary system; road infrastructure; correlation with state policies relevant to the field (reform of the justice sector, the Prosecutor's Office, the penitentiary system, territorial-administrative organization etc.).

the process of renovation, carrying out the acquisition of the following goods: small capacity trucks, computers, appropriate peripherals, multifunction printers, infrared thermometers, fire extinguishers, electric shock devices, mattresses, blankets, bed linen, cutlery, kettles, microwaves, medicine organizers, junk waste management boxes, kitchen furniture, facilities needed for heating food, storing perishable and imperishable food, storing food samples, washing and storing dishes, refrigeration spaces, IT services, services printing of registers and services for printing information leaflets on COVID-19 for persons placed in the Police Detention Centers.

Prisons

Material detention conditions

The Government of the Republic of Moldova recognizes and appreciates the observations and recommendations of the CPT regarding the material conditions of the visited penitentiaries. Thus, regarding the construction of the new penitentiary in Chisinau municipality and the stage at which the construction works are, please note that during 2019 a tender procedure was carried out for the selection of construction works of the new penitentiary, but because none of the 4 companies that submitted the participation offers did not meet all the requirements of the tender documents and had many omissions and non-conformities, the mentioned tender was canceled. Starting with 21.02.2020, another tender was launched for the selection of construction works for the new penitentiary (via negotiation procedure). The bids submitted in that tender did not meet the established requirements, and the direct negotiation process with the representatives of the participating companies has not led to any positive results. To ensure transparency and compliance with the provisions of the Financier's Procurement Guide (Council of Europe Development Bank or CEB), the Bank's representatives recommended canceling the tender and holding a new tender, provided that the specifications were optimized. The announcement of the cancellation of the tender results was published on 11.01.2021 in the Official Journal of the European Union (2021/S006-010305).

On the recommendation of the CEB, an analysis was made of the elements that could have led to unsuccessful tenders and negotiations; information measures have been put in place before the announcement of the new offer, so as to encourage and stimulate the participation of qualified companies; the new package of documents for the tender has been prepared. Currently, the information describing the necessary conditions to be included for the next tender procedure and the initial phase after the contract is signed is submitted for CEB's coordination.

Regarding the results of the tender for contracting a company for the supervision of the construction works, only one (1) company submitted an offer. Consequently, the offer was evaluated and the technical evaluation report was sent to CEB⁶. At the request of the Implementation Unit to revise the budget of the works and the possibility to reduce the amount proposed for the supervision of the construction of the penitentiary, the company intervened with

⁶ According to the technical evaluation report, it was established that out of the required 100 points, the participating company accumulated 81 points, exceeding the minimum threshold of 80 points.

a proposal to reduce the contract amount compared to the initially proposed amount, thus modifying the financial offer and extending its participation in the tender until 28.02.2021.

As to the material conditions in Penitentiary No. 13-Chisinau, so far more than 100 cells have been renovated. The capital renovation of the cells consisted of changing the windows, bars, separating the bathroom through a wall to the ceiling and installing the door, plastering the walls, ceiling and floors, installing the engineering networks (electricity, sewerage, water supply and heating), furnishing the cells. The same improvements were made also for the cells from the detention sectors from the regime blocks No. 1 and 3, located in the semi-basement of the building. In order to obtain natural light, the windows have been enlarged to the dimensions that do not violate the provisions of Annex No. 23 of the Statute of execution of the sentence by convicts, approved by Government Decision No. 583/2006 (Statute). Ventilation is provided both through the windows of the cell and through the window above the front door. The institution has autonomous heating, which ensures the heating of the rooms during the cold period of the year, so that the temperature in the detention facilities is on average 19⁰ C - 22⁰ C. Some of the cells located in the basement of the regime block No. 2 were closed, only in cases of urgent need, in conditions of overcrowding, the detainees are placed in the respective cells for a very short periods of time. The activity of the disciplinary cells from the regime block No. 3 was ceased. Financial sources for the overhaul of the rooms and the adjustment of the detention conditions are to be identified. Additionally, all disciplinary cells have access to drinking water 24/24.

Regarding the deficiencies highlighted in Penitentiaries No.5-Cahul and No.1-Taraclia in which some of the cells occupied by the so-called "humiliated" detainees were in a poor state of hygiene, as a result repair works were initiated in the rooms of the regime block No. 4 from Penitentiary No. 1-Taraclia. Capital and/or cosmetic repairs were carried out in the mentioned cells. Subsidiary, in the Penitentiary No.1-Taraclia it was found that extending the spaces intended for short and long meetings was impossible from a constructive and technical point of view. Regarding the detainees placed in the 5 disciplinary cells from block No. 3, they are provided, on a permanent basis, with clean bed linen, according to the Government Decision No. 609/2006 on the minimum standards for daily food and toiletries and household items of detainees. On this subject, proposals were made to amend the Statute, this draft normative act being in the first stage of elaboration. Access to drinking water is ensured in the disciplinary isolators. In the Penitentiary No. 5 – Cahul repair works are carried out in order to reduce the precarious conditions; some capital construction works of the sports field were carried out. At the moment, the works have been completed and the platform is already finalized, and financial resources will be identified for its proper arrangement (carpet covering).

Currently, the reconstruction works of the block intended for juvenile detainees in pre-trial detention in Penitentiary No. 10 – Goian have been completed, but in connection with the pandemic situation, the reconstructed block is maintained as a reserve space for crisis management in case of outbreaks of infection with COVID-19 among detainees. Following the overcoming of the pandemic situation, the minor detainees within the penitentiary administration system will be placed in the respective block.

In order to improve the working conditions of the detainees, who work in dangerous conditions, in the mine from Î.S. "Branesti", special equipment (boots, helmet, goggles, gloves, work suits) was purchased. In accordance with NAP Order No. 325 of 03.09.2020 on preparation of the penitentiary administration system for the autumn-winter period, measures were taken, including regarding the insurance of detainees who work in dangerous conditions with necessary protective equipment. The persons in charge regularly carry out training in the field of safety and health at work, after which the detainees are signed in the register.

In connection with the uniform distribution of detainees, according to the Order of the Minister of Justice No. 1159 of 29.12.2017, Penitentiary No. 5 – Cahul has a detention ceiling of 170 people in compliance with the 4m² of living space requirement. Following the examination by the penitentiary institutions of the fulfillment of Annex No.3 of Order No.231 of 08.07.2020 related to the evaluation of the detention capacity in penitentiary institutions, Penitentiary No.5 – Cahul on 31.01.2021 had the detention capacity of 170 detainees. This capacity involves the observance of 4 m², for one person and a household service sector with the capacity to hold 50 persons in compliance with 4m². However, only 10% of the total number of detainees can be involved in paid work in the penitentiary, which presupposes the number of 17 convicts. Likewise, in Penitentiary No.1 – Taraclia, according to the Order of the Minister of Justice No.1159 of 29.12.2017 on the revision of accommodation limits in penitentiaries, the maximum number of persons admitted for detention in compliance with 4m² is 336 detainees. On 31.01.2021, 342 detainees were detained in the penitentiary, which attests to an overcrowding with 6 people. Subsequently, proposals are to be submitted to amend the Order of the Minister of Justice No. 1159 of 29.12.2017 by providing the surface of 4 m² of living space for one person.

The compensatory mechanism

Regarding the initiative of creating specialized commissions for the evaluation of detention conditions, on 17.07.2020 the Ministry of Justice elaborated and submitted for examination and approval by the Government the draft Decision on the evaluation of detention conditions in penitentiary institutions. On 23.07.2020 the project was returned to the ministry and as a result, the compensation mechanism was suspended until September 1, 2020. This was due to the need for approval in the first instance of the draft amendment to the Code of Criminal Procedure⁷ in the

⁷ The following changes are proposed: 1) the equivalent approach of the form of compensations for the prevented vs. convicted; 2) the establishment of a new ground of appeal (admission by the court of a serious error of fact, which affected the court's decision); 3) the final character of the judgments issued following the examination of the issues that appear at the execution of the criminal sentence (express indication of the final character and, implicitly, executor of these judgments, so that the convicts are released on the day of pronouncing these judgments); 4) introduction of the limitation period for contesting the acts of the body that executes the court decision of deprivation of liberty (the complaint may be declared by the convict within 30 days from the date when he became aware of the contested act, with the exceptions provided of the Execution Code); 5) the exclusion of the defendant as a subject of examination in the order provided by art. 4732 -4734 of the Code of Criminal Procedure; 6) the admissibility of the complaints regarding the precarious conditions of detention (introduction of the mechanism of their admissibility in order to simplify the procedure for verifying the meeting of the substantive conditions provided by the Code of Criminal Procedure for this complaint); 7) offering the right of the investigating judge (court) to round in favor of the convict the terms found to be executed in precarious conditions of detention, in order to extinguish the effects of these conditions by faster release of the person and saving budgetary sources; 8) increasing the deadline for submitting the report of the penitentiary institution on the declared complaint from 10 days to 30 days; 9) compensation for holding in precarious conditions; 10) the express indication that the reduced term is not considered effectively executed; 11) modification of art. 2 para. (3) of Law no. 48/2020 regarding the restriction of the

part related to the improvement of the compensation mechanism for the detention conditions being thus elaborated after the suspension of the compensatory mechanism. The draft amendment to the Code of Criminal Procedure was registered in the State Chancellery and subsequently submitted for the consultation procedure. Thus, its adoption was expected by the end of September 2020 at the latest. Given that the draft amendment to the Code of Criminal Procedure did not achieve its objectives and the suspension of the mechanism expired, the promotion of the project of the Government's decision on the assessment of detention conditions in penitentiary institutions will be possible only after the approval and adoption of the draft amendment to the Code of Criminal Procedure.

The developments registered regarding the implementation of the compensation mechanism for the period 01.01.2019-31.01.2021 are the following:

- 1) Number of complaints filed - 10326;
- 2) Number of complaints examined - 7357;
- 3) The solutions of the court - 5940:
 - admitted - 2837;
 - partially admitted - 577;
 - rejected - 1295;
 - terminated - 189;
 - declined by competence - 1035;
 - declared inadmissible - 7;
- 4) Number of appeals filed - 1920;
- 5) Number of appeals examined - 1040;
- 6) Decisions of the courts of appeal: 1040:
 - admitted - 419;
 - rejected - 619;
 - stopped - 2;
- 7) Number of released detainees - 297;
- 8) The amount of monetary compensation (MDL) - 3, 685 319, 00 lei.

Physical / verbal abuse by prison staff

In connection with the prevention of ill-treatment by prison staff on detainees, it should be noted that the staff of institutions is constantly informed and warned by criminal prosecution bodies about minimizing the excessive application of physical force on detainees and on attracting criminal liability, as appropriate. In most cases, special means (handcuffs) are applied for short

application of the reduction of the sentence of the convicted detainee in precarious detention conditions (in exchange for the phrase "until 01.05.2020" will be indicated the entry into force from the moment of publication in the Official Gazette of the Republic of Moldova).

periods of time, ie 5 - 20 minutes until calming and in very few cases for a period of 2 hours. The duration of application of these means is recorded in the minutes of application of physical force and special means with the exact indication of the time of application/termination.

During 2020, trainings were conducted by the Social Reintegration Section of Penitentiary No. 5 – Cahul with the employees of the institution regarding the communication with the detainees, including the specifics of the communication with the minor detainees. During the training hours, the course of efficient communication with detainees is studied. According to the provisions of the NAP Order No. 239 of 16.07.2020, currently an on-line training course for civil servants with special status within the penitentiary administration system is carried out in penitentiaries.

Regarding the involvement of medical staff in the process of collecting and testing urine for disciplinary purposes, as medical staff is subordinated to the heads of penitentiary institutions, it was considered appropriate to organize information sessions in this regard with the administration of penitentiary institutions.

As requested by CPT, please note that in case of application of physical force and special means on 07.01.2020 (against three detainees⁸), the employees' actions were qualified according to art. 223 of the Execution Code, section 21 of the Statute of execution of the sentence by the convicts and Law No. 218/2012 on the application of physical force, special means and firearms. All the accumulated materials were sent to the Chisinau Prosecutor's Office, the Center office, for examination.

In connection with the measures taken to increase the potential of the video recording system, in accordance with the provisions of the Regulation on the use of portable video recorders, approved by NAP Order No.19 of 15.01.2020 (Regulation), employees operating portable recorders are responsible for recording without interruptions, from the appearance of necessity to the settlement of the situation. In order to avoid similar cases in the future, the employees of the penitentiary administration system will be warned regarding the observance of the provisions of the Regulation. Taking into account that the manager of the stationary video monitoring systems within the penitentiary institution is the administration of the penitentiary, the deadline for keeping the records is set by the penitentiary depending on the selected option, namely:

- High quality (Full HD) of the archive implies a shorter retention period, approximately 10-15 days;
- Records with a lower quality, which can be kept for about 30-60 days.

To remedy this situation, it is proposed to supplement the information storage devices in video recorders. Currently, 70 video recorders are in operation within the penitentiary administration system. Respectively, it is necessary to allocate the amount of 189,000 MDL for the purchase of information storage devices for each recorder in order to ensure the preservation of the archive for a period of at least 30 days in Full HD quality (70 HD devices with a volume of 4 TB).

⁸ CPT note: in accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment the names have been deleted.

Informal hierarchy, violence between detainees and the phenomenon of intimidation

Regarding the prevention of violence and intimidation in the penitentiary environment, NAP together with the representatives of the Council of Europe (CoE), within the project "Promoting a criminal justice system based on respect for human rights in the Republic of Moldova" created in May 2020 a Working Group which developed the Strategy and Action Plan for reducing and preventing violence between detainees in the penitentiary environment. In order to reduce the influence of the criminal subculture, individual plans for resocialization of adult detainees, including minors are being drawn up in all penitentiary institutions according to the provisions of NAP Order No. 34 of 31.01.2018. The programs elaborated on the educational/psychological/social assistance level are being implemented. The competent services identify convicts with negative intentions who are trying to exercise their authority among the detainees, and carry out prophylactic measures in this regard. In 2020, necessary measures were initiated to organize the process of compartmentalization of detention facilities and walking yards. Employees are warned about taking measures to ensure the personal security of detainees when reporting issues related to the abuse of certain categories of inmates. Inside the Penitentiary No. 10 – Goian, there were no cases of exerting pressure on minors among the convicts, as a form of manifestation of some elements of the criminal subculture.

It should be mentioned that minors are involved in paid and unpaid works according to the provisions of the legislation in force, the latter being mandatory according to art. 234 Execution Code.

Food supply and distribution of food and logistics equipment

The food supply for detainees in penitentiary institutions is ensured according to the provisions of Government Decision No. 609/2006. Regarding the method food is distributed, this is stipulated in the Regulation on the organization of food for detainees in penitentiaries, approved by Order of the Minister of Justice No. 512 of 26.12.2007. In relation to the current requirements, the process of amending the Government Decision No. 609/2006 was initiated. Thus, it was decided to include rules on dietary nutrition with an indication of the number of calories per person and the feeding of minor children up to the age of 3 years old who are held with their detained mothers, in order to adapt the quantities to the minimum consumption basket. Thus, regarding the last aspect, the standards will be established in accordance with the principles and supply norms regulated in the Order of the Ministry of Health No. 638 of 12.08.2016 on the implementation of recommendations for a healthy diet and adequate physical activity in educational institutions in the Republic of Moldova. The established standards are to be consulted and adjusted with the subsequent integration in a project.

Inside the Penitentiary No. 1 – Taraclia, drinking water is supplied from the city aqueduct, ensuring the daily norm per detainee of not less than 130 liters, which includes the provision of bathrooms /toilets, food for detainees, as well as personal hygiene. During 2020, equipment was purchased for the preparation and serving of food: stainless steel soup bowls - 6517 pcs.; stainless steel plate - 1072 pcs.; stainless steel mug - 4630 pcs.; refrigerators/cold rooms - 15 pcs.; boilers for food preparation - 5 pcs.; tilting pan - 3 pcs. Hygienic articles and products were purchased: laundry

soap - 17280 kg; toilet soap - 19872 kg; toothbrush - 14400 pcs.; toothpaste - 2160 pcs.; toilet paper - 86400 pcs.; shaver - 79200 pcs.; intimate absorbents - 72000 pcs.; diapers (3-7 kg) - 2100 pcs.; diapers (8-14kg) - 2100 pcs.; calcined soda - 1200 kg; detergent/dishes - 3500 l; detergent /laundry - 11664 kg. Disinfectants were also purchased in the context of combating COVID-19 infection: lime chloride - 4000 kg; chlorinated pills with effervescent effect - 1000 kg.

Medical services

Among the necessary medical equipment purchased during 2019-2020, all penitentiary institutions were provided with defibrillators to provide emergency medical care from budgetary sources (5 pcs), as well as with CoE support (10 pcs). With the support of the CoE, the penitentiary institutions were provided with electrocardiographs (ECG), including Penitentiary No. 13 – Chisinau. The radiological equipment in the penitentiary has been repaired and is currently functional. A maintenance contract was concluded with the economic agent that holds an authorization for its service. Within the Penitentiary No. 5 – Cahul, the ECG device was repaired, the last investigation of the detainees being carried out on 20.09.2020. Currently, the quality management system of the medical services provided is being implemented, as well as the evaluation and accreditation of the medical services. Thus, the procedures that will be implemented will ensure the correctness and quality of blood and urine collection and testing procedures.

During 2019, 60 medical employees were trained on emergency medical assistance, the sessions being organized within the University Center for Medical Simulation. For the year 2021, the training of another 60 employees from all penitentiary institutions is planned. Between 23-27.10.2020 and 09-11.11.2020, the medical staff, as well as the psychologists benefited from trainings regarding the medical examination at the entrance to the penitentiary administration system. The trainings were organized with the support of the CoE and with the involvement of 2 international experts.

According to the provisions of the NAP Order No. 169 of 06.09.2018 on the efficiency of the documentation of bodily injuries, the annex, which includes a standard for the examination of bodily injuries or possible ill-treatment was approved. The standard contains: patient identification data, conditions under which the medical examination was performed, anamnesis, categorization of injuries, aches, objective examination and description of injuries, *status localis*, opinion of the detainee, informing the person about his rights, including addressing the Prosecutor's Office, the medical conclusion, the opinion of the medical staff, the date and time of transmission of the information to the Prosecutor's Office, the name of the person in possession of the complaint, the medical assistance provided, the recommendations, the date, time, signature of the medical staff and signature of the detainee. Regarding the conduct of medical examinations of detainees in the absence of prison officers, this topic is discussed in information sessions and trainings organized with the involvement of medical staff. In the penitentiaries in Chisinau and Taraclia, detainees diagnosed with mental health problems are examined by psychiatrists who perform consultations whenever necessary, and upon request, with the administration of treatment according to the diagnosis of the disease. In Penitentiary No. 1 –Taraclia during the year 2020, 549 consultations

were performed by the psychiatrist. In case of need, detainees with psychiatric problems are immediately transferred to a specialized psychiatric ward of Penitentiary No. 16 – Pruncul.

Staff shortages

In order to provide the necessary staff of Penitentiary No. 13 – Chisinau, employment offers have been submitted to the vocational-technical educational institutions. Since the beginning of 2020 and until now, the situation regarding staffing has improved by that 49 new civil servants with special status have been employed. Currently, another 17 vacancies are opened, to be filled. By the NAP Order No. 377 of 05.10.2020, the increase in the number of units of the medical staff was approved. Thus, the following units were introduced within the Medical Section of Penitentiary No. 13 – Chisinau: main agent, nurse - 2 positions and internist - 1 position. Additionally, the Medical Department has 2 units of chief officer, general practitioner. Thus, in January 2020, a unit was filled and for the other position the competition procedure to which one candidate applied was started. In accordance with Order No. 176 of 07.09.2020 regarding the strengthening of the responsibilities of the employees of the Security and Penitentiary Regime, at the internal position No. 12 where the female detainees are placed, an employee is currently appointed.

The administration of the institutions of Penitentiary No.1 – Taraclia and Penitentiary No.5 –Cahul put up for competition the positions of vacant medical staff. Also, on 19.08.2020 was amended the Government Decision No. 1231/2018 for the implementation of the provisions⁹ regarding the unitary salary system in the budgetary sector, in force since 01.09.2020. The approved changes will generate material benefits for the medical contract staff, respectively will increase the attractiveness, which can contribute to filling the vacant medical positions. Regarding the Penitentiary No. 5 – Cahul, by Order No. 324ef of 18.08.2020, the position of psychiatrist of the Medical Section was filled. The positions of Chief Officer, General Practitioner and Dentist of the Medical Section remains vacant, even if the necessary measures have been taken in this regard, such as placing announcements, collaborating and submitting job vacancies to the Cahul Labor Agency and so on. In the medical section of Penitentiary No. 5 –Cahul, starting with 2018, there are 5 nurses according to the employment scheme, respectively all the positions of nurses being filled and the other vacant positions being put up for competition.

By draft amendments proposed by NAP during 2020 to the Government Decision No. 437/2018 on the organization and functioning of the NAP, it is envisaged to include the number of units within the penitentiary administration system in order to increase the number of penitentiary officers and the possibility for the NAP to manage the staff units according to needs.

Contact with the outside world

Until the establishment of the special regime caused by the COVID-19 pandemic, within the penitentiary administration system, over 1500 convicts according to the legislation benefited from the right to meetings, under the provisions of art. 213 of the Enforcement Code. Subsequently, after the establishment of the special regime, this measure was restricted, except for meetings with

⁹ Law No. 270/2018.

lawyers, prosecutors and investigative bodies, 1333 meetings been authorized. Also, during the pandemic, the detainees' meetings with lawyers were granted in compliance with protection measures both by establishing direct contact and by teleconferencing systems. Convicts have the right to substitute direct/physical meetings with those via "Skype". Thus, during the state of emergency, approximately 534 meetings were granted with duration of up to 30 minutes. Detainees in pre-trial detention benefit from meetings with representatives of law enforcement agencies, lawyers or other persons authorized by the penitentiary administration based on the provisions of the Enforcement Code and the Statute, in compliance with protection measures in the current pandemic. The granting of the convict's right to conversations is strictly observed according to the provisions of art. 210 of the Enforcement Code, to the 28th section of the Statute as well as to the Order of the Ministry of Justice No. 730 of 08.09.2017. The right of the convict to telephone calls was ensured in all penitentiary institutions, being authorized approximately 9266 telephone conversations (of which approximately 3318 conversations were made by minors). Taking into account the restricted regime of visits of convicts by their relatives in compliance with established epidemiological norms, the number of telephone calls increased during 2020 by over 1370.

There were no impediments or complaints from the detainees regarding the receipt of parcels, packages of supplies and banners or the schedule for their receipt. Consequently, the restriction of visits to the convicts by their relatives caused an increase in the number of parcels, packages of supplies and banners sent to the convicts. Taking into account the restrictions imposed during the COVID-19 pandemic, it is proposed that: the activity of the sector for receiving packages and parcels with supplies be organized strictly according to a weekly schedule (for all penitentiaries) and for separate criminal investigation isolators; packages and parcels to be received in no more than 10 parcels per day; the contents of the packages should contain only supplies, hermetically packed food (store), no homemade food, with a maximum weight of up to 10 kg, not including personal hygiene products and clothing; only one parcel per convict should be allowed to be received through the postal services of "Poșta Moldovei".

In order to ensure the receipt and dispatch of correspondence by detainees freely addressed to state institutions and organizations, without the involvement of staff, according to section 27 of the Statute, in order to establish the single procedure for sending correspondence to detainees on the territory of prisons are installed mailboxes. The employees of S.A. „Poșta Moldovei”, according to the concluded contracts, are obliged to pick up and send the detainees' mail weekly between 08.00 – 16.00. Correspondence is received directly by post office workers. The mailboxes are sealed by the representatives of the post office and are opened only during the extraction of the detainees' correspondence. Thus, the penitentiary administration is not liable and does not have access to the letters of the detainees placed in the mailboxes.

Detention regime

Based on the principle of the individualized approach, individual re-socialization plans are developed within all penitentiary institutions and for all convicted persons, which include recovery programs and are binding on the person in respect of whom it was developed. According to the

Offer of resocialization activities carried out within Penitentiary No. 1 – Taraclia, revised and approved on 17.09.2020, 26 resocialization activities are carried out in the penitentiary, which take place in educational offices (outside the cells). The detainees from the Penitentiary No. 5 – Cahul, who requested through applications to be employed in unpaid hours, as needed, are involved in various activities outside the cell. Also, the detainees can train on the arranged sports fields 1/2 per week according to the established schedule. Therefore, detainees can participate both in sports activities on the premises of the institution (football, chess, checkers), as well as in various sports competitions.

Involvement of detainees in pre-trial detention in vocational training in Penitentiary No. 5 – Cahul is not possible due to the lack of the necessary number of detainees for training, according to the requirements of the institution this being at least 20 people for a period of one year of studies. However, upon request, detainees are involved in various activities outside the cell. Currently, the possibility of establishing a semi-closed sector for the training of detainees in paid work through the dual education system is being examined. Also, the administration of Penitentiary No.5 – Cahul undertakes considerable measures in order to sign a collaboration agreement with the Vocational-Technical School of Cahul, for the development, starting with the school year 2021-2022, of the professional training courses for the persons who are in custody of the institution.

At the stage of arrival and distribution of detainees in the penitentiary (criminal investigation isolators), as a rule, the legal norms of separation of detainees according to art. 205, 206 and 309 of the Enforcement Code apply/are observed. But there are also cases when first-time convicts are placed with recidivist detainees (minor offenses), those with sentences (pending enforcement orders), the reason being the large influx of inmates into the penitentiary and the lack of cells for their quarantine, in especially of accomplices, minors, those with infectious diseases etc. Currently, only in Penitentiary No. 3 – Leova it is possible to divide the detainees convicted for the first time from the recidivists, who are placed in a separate block, which was put into operation in 2020.

Regarding the continuation of the efforts regarding the increased use of alternative punishments and measures to facilitate the reintegration of detainees in society, the rule by which the single indemnity is granted only at the first release from the place of detention was excluded by Law No. 245/2018 for the amendment of some legislative acts. Currently, this allowance is granted at each release, in order to facilitate the reintegration of detainees into society. At the seminars and meetings organized with the participation of judges, the NAP representatives raise the issue of the priority application of alternative sentences to detention, in relation to those deprived of liberty.

Discipline

Regarding the reduction of the maximum period of disciplinary isolation, during 2020 was initiated the drafting procedure for amending the Execution Code. Thus, by amending art. 246 lit. (2) referring to disciplinary measures, it is proposed that the disciplinary isolation be applied for a maximum period of:

- 10 days - for mature male convicts;
- 5 days - for mature female convicts;

- 2 days - for juvenile convicts.

Also, for paragraph (4) of art. 246 is proposed that the sanction of disciplinary isolation cannot be applied to pregnant women and mothers who care for children up to 3 years of age. The draft also provides for the disciplinary procedure to be regulated by the NAP order based on a blanket provision. Consequently, the NAP order will provide all the guarantees of the person suspected of committing the disciplinary offense, in particular the right to be assisted by a lawyer and to present additional evidence in the disciplinary investigation. Regarding the revision of the procedure on the detainees who committed self-mutilation acts, it was approved by NAP Order No. 74 of 06.02.20 the "Instruction on the intervention of penitentiary staff in case of self-mutilation, suicide attempt and refusal of food by detainees".

The right of detainees to exercise their rights

Access to information on the segment of the right to file official complaints both inside and outside the penitentiary is unrestricted, guaranteed to detainees by placing the necessary information on information panels inside detention sectors/units.

The procedure for admitting women

Regarding the elaboration of a procedure for the admission of women detained in the penitentiary with the inclusion of the results of the procedure in the individual conviction plan of women, the primary medical examination of women includes the consultation of the gynecologist and the screening for cervical cancer. Breast cancer screening is performed every 2 years by breast x-ray.

Psychiatric institutions

In the Public Health Institutions (PHI) psychiatric institutions regarding the treatment of persons deprived of liberty, in the context of the COVID-19 pandemic, a series of measures are undertaken, imposed by the epidemiological situation, these being based, primarily, on the recommendations of the World Health Organization (WHO) and the Ministry of Health, Labor and Social Protection. The WHO guidelines are found in all nationally approved legislation (Decisions of the Commission for Exceptional Situations, Government Decisions, Ministerial Orders etc.). All PHI psychiatric hospitals have developed action plans to prevent and combat infection with new type Coronaviruses (SARS CoV-19). Any restrictive measures on patients admitted to the wards intended for the application of medical safety measures are excluded.

Intensive care units with modern oxygenation systems operate within the institutions, which are made available to any patient undergoing treatment if necessary. Essential activities (socio-therapy, walks, socializing and family contacts) have been reduced in patients without COVID-19 infection, but telephone communication measures have been supplemented and walks in the outpatient wards are valid. For patients confirmed with COVID-19 the restrictive measures are explained, in order to prevent anxiety and defensive behaviors. Patients are placed 3-4 in the living room with the possibility of communication between them and others. For some of them, various recreational activities are provided in the salons (reading, board games etc.).

The recommendations formulated by the CPT were discussed and will be remedied with the support of the Council of Europe (CoE) Office in Chisinau in the framework of the Project "Promoting a human rights compliant criminal justice system in the Republic of Moldova".

Social assistance institutions

Ill-treatments

Both within the Temporary Placement Center for Persons with Disabilities (adults) from Bădiceni (Center from Bădiceni), and within the Temporary Placement Center for Persons with Disabilities (adults) from Bălți municipality (Bălți Center), only nurses are involved in the management of conflicts between beneficiaries. In this regard, the administration of the Centers has planned financial resources for the organization and conduct of training and development of professional skills for the staff of the institution. Between 18.05.2020-22.05.2020, the nurses, the nursing aides and occupational therapy instructors from the Center in Bădiceni were trained by the chief doctor in order to respect human rights and manage conflict situations. Between 08.06.2020-12.06.2020, the nurses and social workers from the Center from Bălți were trained by the psychologist of the institution on the topic "Conflict management styles". From the beginning of the state of emergency until now, the psychologist of the Center from Bălți, weekly organizes outdoor meetings in small groups with the beneficiaries of the institution, in which he provides support and information in an accessible language, regarding the current situation, through discussions, leaflets, watching information videos. The administration of the Management Centers constantly informs the Police Inspectorate, the Ombudsman, the Prosecutor's Office and the National Social Assistance Agency about incidents between beneficiaries, employees and beneficiaries, deaths, hospitalizations and others.

Material conditions

Regarding the state of the material conditions, the Center from Bădiceni carried out in March 2020 capital repair works of the sanitary installations from group No. 1, group No. 3 and the halls in block "A". Repair works were initiated in the halls of block "B". In order to equip the rooms of the residents of the Bădiceni Center with furniture, 100 bedside tables were purchased. The center in Bălți was equipped with: 350 multifunctional and simple mattresses and beds, 350 bedside tables, wheelchairs, para-pharmaceutical objects for the care of beneficiaries etc., which were donated by NGOs from the Netherlands and Germany.

The Center in Bădiceni planned to reduce the number of beneficiaries per room and separate the rooms into smaller ones. The planned works for the separation of the space, necessary for the creation of favorable conditions for the beneficiaries, will be carried out after the lifting of the state of emergency, declared in connection with the epidemiological situation. In order to carry out the planned works for the separation of the space, necessary to create favorable conditions for the beneficiaries, 22 people are to be transferred to the Temporary Placement Center for People with Disabilities (adults) from Brânzeni commune, Edineț district. In February 2020, mobile screens were purchased, which separate the beneficiary's bed from the rest of the room to ensure privacy and care in a way that protects the dignity and safety of the beneficiary. Curtains were purchased and installed in all bathrooms as to ensure the privacy of the beneficiaries. The personal hygiene

of the beneficiaries with reduced mobility and immobilized is performed only by the personnel trained in this respect.

Social regime

Within the Center from Bădiceni, the residents develop their skills in the tailoring workshop, carpentry, a greenhouse, an orchard of fruit trees where together with the work instructors they participate in various activities for the formation of independent living skills in the community. The center in Bălți provides, within the limits of availability, psychotherapy and occupational therapy activities, given the fact that the institution lacks the necessary staff and material technical base.

The nurse (physiotherapist) carries out daily physical activities with the beneficiaries outdoor and in the gym. Beneficiaries are also informed about the need to comply with public health measures related to maintaining social distance, hand hygiene, cough etiquette and, if necessary, requesting the 112 service.

MHLSP constantly monitors the situation in the social and medical institutions that it manages and takes all measures to implement the observations and recommendations of the CPT, as well as to eliminate the impediments to the realization of the social and medical rights of beneficiaries and patients in these institutions. Medical and social institutions are constantly striving to improve the conditions of care, accommodation and to improve the quality of life of beneficiaries and the treatment of patients in care and/or treatment in these institutions.

Code of Criminal Procedure of the Republic of Moldova (No. 122 of 14.03.2003)

Article 64. The rights and obligations of the suspect

The suspect, according to the provisions of this code, has the right:

1) to know what he/she is suspected of and, in connection with this, immediately after his detention or after being informed of the decision on the application of the preventive measure or recognition as a suspect, to be informed in the presence of the defender, in the language he/she understands, about the content of the suspicion and about the legal classification of the criminal acts for the commission of which he is suspected;

5) from the moment the procedural act of recognition as a suspect was brought to his attention, to have the assistance of a lawyer chosen by him, and if he does not have the means to pay the defender, to be assisted free of charge by a lawyer who grants legal assistance guaranteed by the state, as well as, in the cases allowed by law, to give up the defender and to defend himself;

Article 69. Compulsory participation of the defender

(2) The participation of the defender in the criminal trial is obligatory from the moment when:

2) the suspect, the accused, the defendant were informed of the decision of the criminal investigation body regarding:

a) detention, application of the preventive measure or indictment - in the cases provided in par. (1) points 2)–7); (7) the suspect, the accused, the defendant is detained, arrested as a precautionary measure or is sent to a psychiatric forensic examination in an in-patient facility);

(3) The obligatory participation of the defender in the criminal process is ensured by the coordinator of the territorial office of the National Council for State Guaranteed Legal Assistance, at the request of the criminal investigation body or of the court.

Article 167. Procedure for detaining the person

(1¹) The criminal investigation body, within one hour after the detention of the person, requests the territorial office of the National Council for State Guaranteed Legal Aid or other persons empowered by it to appoint a service lawyer for providing emergency legal assistance.

Law No. 198 of 26-07-2007 on state legal assistance

Article 19.

(1) The persons specified in art. 6 have the right to qualified legal assistance, who:

b) they need emergency legal assistance in case of detention in a criminal trial or a contravention procedure;