



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Committee against Torture

**Concluding observations on the third periodic report of the
Republic of Moldova**

Addendum

**Information received from the Republic of Moldova on
follow-up to the concluding observations***

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* The present document is being issued without formal editing.



1. With regard to ensuring the right of detainees to have prompt and confidential access to a qualified and independent lawyer immediately after the arrest and throughout the detention stages, including during court sessions (paragraph 9, section a), we mention that in all prisons there were designed meeting rooms for the detainees to meet with their lawyers. Meeting rooms ensure the lawyer-client confidentiality. Therefore, when presenting appropriate acts (mandate), lawyers have unrestricted access to penitentiary institutions. Moreover, in 2018 10,535 persons benefited from primary legal aid guaranteed by the state. During 2018, the National Legal Aid Council Territorial Offices, according to the internal monitoring procedures, monitored 144 lawyers who provide state-guaranteed legal assistance. The National Legal Aid Council also organized the process of external monitoring of the quality of state-guaranteed legal aid granted by lawyers, through the External Monitoring Commission on the quality of State Guaranteed Assistance, which monitored the work of 51 lawyers providing state-guaranteed legal assistance.

2. Concerning the assurance of the right of detainees to request and receive confidential medical examination by an independent doctor, within 24 hours of their arrival at the place of detention (paragraph 9, section b), we inform that the national execution criminal legislation regulates the way of granting medical assistance to detainees in penitentiary institutions. At the same time Regulations are in place on how to ensure the medical examination of detainees in penitentiary, approved by the Order of the Ministry of Justice no. 478 of 15.12.2016 and the Regulation on the presentation of seriously ill detainees for release from the execution of the punishment, approved by the Order of the Ministry of Justice no. 331 of 06.09.2006. Nevertheless, within the framework of the Council of Europe's project "Promoting a Criminal Justice System based on respect for human rights in the Republic of Moldova", two working groups were set up, which will review these two Regulations by the end of 2019 as well as to draft the Regulation on the Management and the Circuit of Medicines in the Penitentiary Administration System. Within the initiated working groups, all the recommendations regarding the provision of qualified medical assistance to detainees were discussed.

3. According to the provisions of the National Administration of Penitentiaries no. 17d from 12.02.2019 regarding the assessment of medical services within the National Administration of Penitentiaries subdivisions, all the medical services within the penitentiary institutions have been renovated in order to comply with the evaluation and accreditation standards. As a result, at present 13 medical services within the penitentiary institutions received the necessary health authorization for their accreditation.

4. With regard to the provision of the right of detainees to be informed about detention, including the application and duration of special measures, to be recorded in a register at the place of detention, as well as in a central register of persons deprived of their liberty, to be accessible for lawyers and family members, according to the Set of principles for the protection of all persons subjected to some form of detention or imprisonment (paragraph 9, section c), we inform that according to the provisions of art. 200 paragraph (5) of the Execution Code of the Republic of Moldova and Article 33 of the Statute of punishment execution by convicts, the administration of the penitentiary, within 15 days from receiving the convict, informs the court about this, communicates to the spouse, to one of the relatives of the detainee or to another person indicated by him/her, the place of detention with the indication of the postal address and meeting requirements, the list of objects and foodstuffs of prime necessity that they may have on them, have them delivered or buy in the penitentiary stores, according to the provisions of the Statute of punishment execution by convicts. After being received, the detainee is allowed to tell his/her family, lawyer or other person about the place where he/she is being detained and about the place being changed. The communication shall be conducted in writing or by telephone, free of charge, which shall be recorded in a report and attached to the detainee's personal file.

5. In addition, upon arrival in the penitentiary, each newly arrived convict is placed in quarantine and included in the Penitentiary Adaptation Program. Within the program, the convicts are informed about their rights, obligations and interdictions according to the normative acts regulating the activity of the penitentiary administration system, and this fact is recorded in a report, which is recorded in a register in this respect. At the same time, detainees are initially psychologically assessed to identify their needs and risks. Following

the evaluations, the Individual Plans on the Execution of Punishments are drafted and the Individual Program regarding the planning of execution of the prisoner's criminal punishment is completed. In this context, we mention that any changes in the normative acts regulating the activity of the penitentiary administration system are brought to the attention of convicted persons.

6. The commitment to improve prison conditions within the Police provisional detention premises is a priority included in a number of sectoral policy documents, such as the National Public Order and Public Security Strategy for 2017–2020 and the Action Plan on its Implementation, the Action Plan on reducing abuse, and discrimination against people in police custody for the years 2017–2020.

7. During the years 2017–2018, a new capital investment objective was proposed for the construction of the Provisional Detention Complex from Balti and modernization of 14 existing (Edineț, Râșcani, Bălți, Sângerei, Ungheni, Orhei, Chișinău, Criuleni, Hâncești, Anenii Noi, Căușeni, Cimișlia, Cahul and Comrat), of which during 2018 and the first half of 2019 were finished the reconstruction of 10 Provisional Detention Complex (Anenii Noi, Cahul, Causeni, Cimislia, Edinet, Hincesti, Orhei, Riscani, Singerei and Ungheni). Until the end of the third quarter of 2019, they are to be put into service.

8. For the construction/reconstruction of the buildings of the penitentiary institutions, namely for: the construction of the penitentiary from Chisinau municipality, construction of the arrest house in Balti, reconstruction of Penitentiary No. 3 Leova and the reconstruction of Penitentiary No. 10 Goian, mun. Chisinau, in the state budget for the year 2018 were allocated financial means amounting to 172,567.4 thousand lei and used 30,643.6 thousand lei or 17.8% (low level of utilization determined the extension of the term for the elaboration of the project documentation for the construction of the Chisinau penitentiary).

9. During the years 2017–2018, 25 specialized units for transporting detainees/prisoners were purchased.

10. The regulatory framework in this area has been modified through:

- General Police Inspectorate Order no. 527/2017, approving the Minimum Norms for Detention and Motor Vehicles for Transport of arrested/detained persons;
- General Police Inspectorate Orders no. 58/2019 and subsequently no. 253/2019, regarding the modification of the Ministry of Internal Affairs Order no. 71 /2013," through which the Detention and Escort Services were created within the Police Inspectorates of the General Police Inspectorate;
- General Police Inspectorate Order no. 126/2019 approving the Framework Regulation on the organization and functioning of the Detention Service and the escort service of the General Police Inspectorate territorial subdivisions, which establishes the mission, functions, basic tasks, rights and the way of organization and their operation. According to the provisions of the aforementioned Regulation, the detention/escort service/detention unit is a unit within the territorial subdivisions of the General Police Inspectorate (Police Directorate/Inspectorate), which is intended to insure and carry out the detention, guard and escort duties of persons detained and suspected of committing offenses/contraventions;
- General Police Inspectorate Order no. 195/2018, which approved the Operational Standard Procedure (OSP) that describes the chronological actions of the police employees regarding the detention, escorting/ transporting and placement of detained persons in the Provisional Detention Isolators (IDP) so that to secure their rights.

11. The Project "Procedural safeguards at the pre-trial stage", launched with the signing of the Cooperation Agreement between the Ministry of Internal Affairs, the General Police Inspectorate and the Soros Foundation-Moldova on 24.03.2016, will strengthen cooperation in the field of training and the establishment of transparent mechanisms for law enforcement.

12. For the implementation of the Project the General Police Inspectorate issued the Order No. 47/2019 "On the performance of activities within the General Inspectorate of

Police, in order to improve the observance of the rights and guarantees of persons detained and held in police custody”, which approved the Letter of Rights, translated into 10 languages, which is handed over to the person held and/or detained in police custody by the representatives of the GPI criminal investigation and prosecution bodies.

13. The letter contains information about the rights of the person detained, such as the right to legal assistance, information about the reasons for the arrest, keeping silence, access to documents relating to the detention of the person, telephone briefing of close relatives or third parties about the detention, and so on.

14. On 26.03.2018, a joint meeting took place at the headquarters of the Ministry of Justice with the participation of representatives of the General Prosecutor’s Office, the Ministry of Internal Affairs and the National Anticorruption Center, where the Technical Concept of the e-Detention Information System was elaborated by the expert contracted by the Ministry of Justice, based on the needs presented by the Police. Currently, in order to approve the “e-Detention” concept, the Ministry of Justice elaborates the draft Government Decision.

15. To ensure disciplinary or criminal sanctions of officials who deprive the detainees of basic legal guarantees as provided by law (paragraph 9, section d), we communicate that in accordance with the provisions of Article 87 (c) of Law 300/2017, on exceeding authority [RO: “depășirea atribuțiilor de serviciu”] or manifesting inappropriate behavior towards persons deprived of their liberty is contrary to the legislation, constitutes a disciplinary offense and is sanctioned according to the law. During the first semester of this year, the competent services of the National Penitentiary Administration sent 2 complaints to the General Prosecutor’s Office regarding alleged cases of torture, inhuman or degrading treatment. At the same time, internal service inquiries were initiated and carried out in accordance with the provisions of Article 89 of Law 300/2017. However, as a result of the service inquiries, it was found that the allegations of the detainees proved to be false.

16. At the same time, within the National Penitentiary Administration there is a telephone line (022 636-968), through which can be communicated also cases of alleged torture and ill-treatment of persons deprived of their liberty by the officials of the penitentiary administration system. The information communicated is recorded in the Register of the receipt and submission of complaints, statements or other information about the alleged acts of torture, inhuman or degrading treatment, according to the provisions of the interinstitutional order no. 77/572/408/639-o /197/1589 of 31.12 .2013 on the approval of the Regulation on the procedure for the identification, registration and reporting of alleged cases of torture, inhuman or degrading treatment. Subsequently, all complaints and/or information received about alleged acts of torture, ill-treatment or degrading treatment are compulsorily sent to the General Prosecutor’s Office. In this respect, we report that during the year 2019 there were no phone calls about the alleged cases of ill-treatment and torture applied to persons deprived of their liberty by the officials of the penitentiary administration system. Between September 19 and November 2, 2018, the Soros Foundation-Moldova, in collaboration with the General Police Inspectorate, organized the SOP training sessions with the title “Respecting the rights of the person in custody at the detention, escort and detention stage, where 80 General Police Inspectorate employees were trained.

17. On April 3–4, 2019 and May 23–24, 2019, General Police Inspectorate jointly with IDOM organized two seminars entitled “Capacity of police employees to prevent torture, reduce ill-treatment, abuse and discrimination against people in police custody “, where 50 General Police Inspectorate employees which were trained.

18. By Order of the Minister of Justice no. 19 of 21.02.2019 was approved the Code of Ethics of the civil servant with special status within the penitentiary administration system.

19. Also, during 2018, the detainees submitted 2010 complaints regarding the violation of fundamental rights, as follows: assurance of the right to life, physical and psychological integrity – 564 complaints; providing medical assistance – 486 complaints; the regime of detention – 340 complaints; application of torture – 121 complaints and inhuman or degrading treatment – 152 complaints.

20. During the year 2018 there were registered 947 petitions regarding the relations between the penitentiary administration system and detainees/other persons. In the reference period, the European Court of Human Rights (ECHR) issued 8 judgments condemning the Republic of Moldova for detention conditions contrary to the provisions of Art. 3 of the Convention. In the penitentiary system, 6 psychologists and 8 social workers were employed, the total number rising from 20 to 26 and, respectively, from 11 to 19. There is an increase in the number of psychologists/assistants relative to the number of detainees by 8.49% and 8.48%, respectively.

21. Ensuring an adequate level of training for the subjects involved in preventing and combating torture in accordance with the standards established in the Istanbul Protocol and enshrined in the ECHR case-law, developing and implementing standards on the use of force, special means and firearms, improving the mechanisms for investigating complaints about ill-treatment, ensuring the audio and video recording of all hearings in the police, prosecutor's offices and places of detention, strengthening the capacity of the torture protection system were the main actions launched in 2018 to reach the outcome indicators of Target B, that is, the following progress has been made:

- By the Law no. 157 of 26.07.2018 for the amendment of the Criminal Code were excluded the provisions of the penalty punishment in the form of a fine from the sanction of paragraph (1) and paragraph (2) of Art.1661 of the Criminal Code, which tightened punishment for torture, inhuman or degrading treatment;
- Given that not all cases of violence among detainees can be identified and documented/recorded, this indicator is deduced from the number of cases of finding bodily injuries in the prisoners' environment. During 2018 there were 1038 such cases (compared to 1156 in 2017), which represents a decrease of 10.21%, out of which 790 cases were found on convicts in the penitentiary (952 in 2017), decreasing with 17,02% and 248 cases on the persons taken from the police isolators. In 115 cases it was established that the injuries were caused as a result of altercations among convicts, which represents 11.08% of the total. In other cases, the injuries were caused by self-abuse, hunger strike, attack on prison staff, application of physical force and special means to detainees;¹
- Following the balance sheet meeting of the National Penitentiary Administration (in early 2019), it was decided to establish a system for recording the satisfaction of petitions addressed by detainees. In the context of the start of the process of modernization of the Provisional Detention Isolators (IDPs), hearing rooms were provided for all IDPs, subject to modernization. In this respect, during 2018, such systems were installed in 4 Police IDPs (Edineț, Hincești, Ungheni and Căușeni).

22. Also, the employees of the Prison No. 13 – Chisinau and the employees of the Penitentiary no. 16 – Pruncul were warned about the undertaking of the necessary emergency and compulsory measures in the cases of the inmates, the injured persons, but also those who require any kind of medical intervention, as well as the obligation to execute the Order no. 77 of 31.12.2013 for the approval of the Regulation on the procedure for the identification, registration and reporting of the alleged cases of torture, inhuman or degrading treatment.

23. At the same time, the competent services of the National Penitentiary Administration are to train the employees of the penitentiary administration regarding the way of taking detainees in the penitentiary, including the way the medical examination is carried out and the cases are carried out in a necessary and obligatory manner. Also, amendments to the common order no. 77d of 31.12.2013 are to be made for the approval of the Regulation on the procedure for the identification, registration and reporting of the alleged cases of torture, inhuman and degrading treatment.

24. With regard to the measures taken to „ensure that the allegations surrounding Mr. Braguta's death, including the alleged complicity of officials in his beating and in the denial

¹ The report is only available in Romanian at:
https://cancelaria.gov.md/sites/default/files/sinteza_raport_pnado.pdf.

of prompt medical care, allegations of medical negligence, and reported failure by many officials to report evidence of his treatment to the appropriate authorities, are effectively and impartially investigated and that the perpetrators are prosecuted” (paragraph 14 (i)) we inform that first, the authorized service of the National Penitentiary Administration started an internal investigation regarding the death of the detainee Brăguța Andrei born in 1983, within Prison No. 16. As a result of the work investigation, Adriana Ignat, the head of the Prison Medical Service no. 13 – Chișinău, was disciplined with “dismissal from the penitentiary system”, the deputy head of the Prison Medical Service no. 13 – Chisinau was disciplined with “reprimand “And Deputy Head of Penitentiary No. 16 – Pruncu Valentin Ixari was sanctioned with “dismissal from the penitentiary system.”

25. Secondly, both the prosecutor that requested the arrest and the Judge that approved the arrest warrant have been dismissed by the respective disciplinary bodies: the Disciplinary College of the General Prosecutor’s Office – in the case of the prosecutor and the Superior Council of the Magistracy – in the case of the Judge. Third, the most important development in this case is that on 20.07.2019 the first instance Court of Chișinău-Ciocana pronounced its ruling on the Brăguța case as follows:

- One police officer sentenced to 4 years in prison and a 7 years ban to hold certain positions within the Ministry of Interior;
- The second police officer – 4 years suspended sentence and a 5 years ban to hold certain positions within the Ministry of Interior;
- A third police officer was acquitted;
- One cellmate – 5 years in prison;
- The other three cellmates received a 5-years suspended sentence with parole.

26. Nevertheless, taking into account that the prosecutors had initially requested prison sentences for all seven defendants, including on counts of torture, the prosecutors will insist on these positions on appeal and plead for harsher punishments.

27. The Judges will issue the full and reasoned sentence in one month’s time, meaning by 19 August 2019 when, according to the law, prosecutors will be able to examine it and decide on the text of the appeal.

28. With regard to the recommendation contained in paragraph 16 (c), “Enable the council to carry out its mandate independently and effectively, including through the formalization of a clear, transparent and participatory selection and appointment process, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), and provide it with a sufficient budget and administrative and staffing resources” we communicate the following. The People’s Advocate as a national human rights institution was accredited with “A” status according to the Paris Principles in 2018, as a result of a series of measures taken to strengthen its mandate and ensure its independence and autonomy, including amendments to the Constitution.

29. The Torture Prevention Council is operating at full capacity since the appointment, in October 2016, of the five members from civil society through a public competition organized by the People’s Advocate Office. The Council meets regularly, conducts unannounced visits to places of detention and approves visit reports and recommendations that are then dispatched to the beneficiaries and uploaded on the web site of the People’s Advocate Office. The Council has published two yearly reports on its activity for 2017 and 2018. Most of the decisions of the Council are approved by consensus.

30. According to the Council’s Report on its first year of activity, from “December 2016 to December 2017, the Council for the Prevention of Torture conducted 26 visits to 24 places of detention, including 20 unannounced visits”.² In 2018, the Council “carried out 31

² Council for the Prevention of Torture „Annual activity report – 2017”, p. 11: http://ombudsman.md/wp-content/uploads/2019/03/raport_cppt_2017_ru.pdf.

visits to 26 detention institutions (out of the total of 61 detention institutions in the Republic of Moldova)”³

31. The budget of the People’s Advocate Office (PAO) has increased continuously “from 6.4 million MDL in 2015 to 12.9 million in 2018 or 101.7%”,⁴ with the National Prevention Mechanism being allocated a dedicated budget line in the general budget of the Ombudsperson’s Office.

32. Apart from these aspects, an assessment of the functioning of the National Torture Prevention Mechanism was conducted in the framework of the Council of Europe project “Promoting a Criminal Justice System Based on the Observation of Human Rights in the Republic of Moldova”. The resulting report consists of analytical information and recommendations on streamlining the functionality of the NPM in accordance with best international standards and should be used by the National Preventive Mechanism in the effective implementation of its mandate.

³ Council for the Prevention of Torture „Annual activity report – 2018”, p. 7:
http://ombudsman.md/wp-content/uploads/2019/07/Raport-anual-de-activitate-CpPT-2018_Engleza.pdf.

⁴ Report on the observance of human rights and freedoms in the Republic of Moldova in 2018, p. 224:
<http://ombudsman.md/wp-content/uploads/2019/07/RAPORTENGL2018.pdf>.