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Meeting: 1514<sup>th</sup> meeting (December 2024) (DH)

Item reference: Action Report (10/10/2024)

Communication from the Republic of Moldova concerning the case of I.D. v. the Republic of Moldova  
(Application No. 47203/06)

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Communication de la République de Moldova concernant le groupe d'affaires I.D. c. République de Moldova  
(requête n° 47203/06) (*anglais uniquement*)

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DGI

10 OCT. 2024

SERVICE DE L'EXECUTION  
DES ARRETS DE LA CEDH

**MINISTRY OF JUSTICE OF THE REPUBLIC OF MOLDOVA  
GOVERNMENT AGENT**

No. 06/9008

Chisinau, 10 October 2024

**UPDATED ACTION REPORT**

on the execution of the European Court of Human Rights judgments  
in the group of cases *I.D v. the Republic of Moldova* (no. 47203/06)

**I. CASES DESCRIPTION**

1. The present group of cases concerns violations of Articles 3 and 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter "the Convention") on account of poor material conditions of detention in establishments under the authority of the Ministry of Justice and the Ministry of Internal Affairs, together with the absence of effective domestic remedies in this respect. The European Court of Human Rights (hereinafter "the Court") indicated under Article 46 of the Convention that the authorities should, without delay, put in place an effective preventive and compensatory remedy, or a combination of remedies, in respect of inadequate conditions of detention.

2. Other violations found by the Court concern the lack of reasonable clarity as to the scope and manner of the exercise of discretion by the prison authorities as regards the authorization of family visits for remand detainees, contrary to Article 8 of the Convention.

3. In the case of *A.C. v. the Republic of Moldova* (no. 60450/13, 30 November 2021) the Court also found a violation of Article 34 of the Convention due to the prison administration's approach to intimidate or dissuade the applicant from pursuing his application before the Court, by conducting searches in his cell, seizing some of his belongings and transferring him to another prison.

4. The Court has also found violations of other Articles, such as ill-treatment by the police, unlawful and/or excessively long detention on remand, upholding by the Supreme Court of Justice of an appeal lodged by the prosecutor out of time, which are examined in the context of other groups of cases.

**II. INDIVIDUAL MEASURES**

5. In its latest Decision in the present group of cases, the Committee of Ministers decided that no further individual measures were necessary in the *A.C.* case.

**III. GENERAL MEASURES**

*Updated statistics on the use of the compensatory remedy*

6. In its latest decision, the Committee of Ministers invited the Government to provide information on the application of the preventive remedy and updated statistical data on the application of the compensatory remedy.

7. In respect of *the application of the compensatory remedy*, the table below includes statistical data concerning the number of requests lodged before the courts of law, as well as the number of cases examined and solved by the national courts:

1 January 2022 - 31 December 2022	lodged requests	5360
	examined requests	3751
	solved requests	3143
1 January 2023 - 29 December 2023	lodged requests	3735
	examined requests	3670
	solved requests	3829
1 January 2024 - 23 August 2024	lodged requests	2066
	examined requests	1955
	solved requests	1882
<b>1 January 2019 - 23 August 2024</b>	lodged requests	<b>32140</b>
	examined requests	<b>26117</b>
	solved requests	<b>19051</b>

8. In 2022, 66% of complaints challenging inadequate conditions of detention (i.e. 2071 complaints) were admitted (or partially admitted) by the first-instance courts. In 2023, the percentage of admitted complaints increased to 74%, i.e. 2826 complaints. From the number of judgments issued by the same courts between 1 January 2024 and 23 August 2024, 77% (or 1449 actions) were accepted. 15% of complaints were dismissed in 2022, 14% of complaints were dismissed in 2023, whereas between 1 January 2024 and 23 August 2024, the courts of first instance rejected 14% of requests.

9. In 2022, the penitentiary institutions filed 1942 appeals on points of law against the judgments of the first-instance courts, out of which 260 were admitted and 744 dismissed. In 2023, the number of appeals on points of law filed by the penitentiary institutions amounted to 2180, of which 316 were admitted and 1348 were rejected. In the period from 1 January 2024 to 23 August 2024, the penitentiary institutions lodged 1057 appeals on points of law, 665 of which were dismissed and only 132 accepted.

10. Regarding the pecuniary compensations for inadequate conditions of detention, the national courts awarded as follows: MDL 1,596,203.00 in 2022; MDL 1,375,877.00 in 2023; MDL 544,235.00 for the period between 1 January 2024 and 23 August 2024.

#### *The amendment of the domestic remedy challenging poor conditions of detention*

11. By Law no. 245 of 31 July 2023, the Code of Criminal Procedure was amended, *inter alia*, in the part concerning the domestic remedy challenging conditions of detention incompatible with Article 3 of the Convention, included in Articles 473<sup>2</sup>-473<sup>4</sup> of the Code. The new provisions include, *inter alia*, the possibility of rounding up the full reduction of the period of detention in poor conditions (e.g. if the person has been detained for 173 days, it could be considered as 180 days, to reduce the sentence as follows:  $18 \times 2 = 36$  or  $18 \times 1 = 18$ ), and expressly indicate that the reduced term is considered as actually served. The new amendments also increased the time-limit provided by the court to the prison authority in order to submit its report on the prisoner's complaint to 20 days (instead of 10 days, as previously provided), as well as

the time-limit for lodging an appeal on points of law against the decision on the application of the compensatory remedy from 10 to 15 days.

*Introduction of admissibility criteria for complaints related to poor conditions of detention*

12. The amendments made under Law no. 245 of 31 July 2023 also introduced certain admissibility criteria for the complaints lodged under Articles 473<sup>2</sup>-473<sup>4</sup> of the Code. Under Article 473<sup>2</sup> § 2 of the Code, the complaint shall include information about the period and place of detention, as well as a detailed description of the material conditions that would be incompatible with Article 3 of the Convention. The complainant may attach any relevant pieces of evidence supporting his/her complaints related to poor conditions of detention. When the complaint lodged with the court does not comply with these requirements, the investigating judge shall establish a maximum period of 30 days to the interested person for remedying these shortcomings. If the complainant remedies them within the time-limit established by the court, the complaint shall be considered lodged on the initial date. Otherwise, the complaint will be declared inadmissible.

13. The complaint will also be declared inadmissible when there is a final court ruling or a judgment delivered by the European Court of Human Rights on the same issue and covering the same periods, when the complaint has been lodged outside the time-limit provided by Article 473<sup>2</sup> § 5 of the Code, when the complaint has been lodged by an unauthorised person, or when in other courts of law there are pending lawsuits with the same subject-matter, covering the same periods.

14. The investigating judge is empowered to check on the fulfilment of these admissibility criteria *ex officio*. The investigating judge's ruling declaring a complaint as inadmissible may be challenged with appeal on points of law within 10 days from the moment when it was brought to the knowledge of the parties.

*The application of the domestic preventive and compensatory remedy in respect of remand prisoners and persons sentenced to life imprisonment*

15. According to the amendments introduced by Law no. 245 of 31 July 2023, the remand prisoner was excluded from the subjects referred to in Articles 473<sup>2</sup>-473<sup>4</sup> of the Code, since this part of the Code refers to the manner of execution of final criminal sentences. However, remand prisoners can challenge the poor conditions of their detention pending trial pursuant to Article 385 §§ 5 and 6 of the Code, which make direct reference to Articles 473<sup>2</sup>-473<sup>4</sup> of the Code (regulating the preventive and compensatory remedy challenging poor conditions of detention). Additionally, since previously there have been different approaches towards the application of the compensatory remedy in respect of remand prisoners, on the one hand, and convicts, on the other hand, the amendments introduced in July 2023 are intended to ensure the same compensation formula for both remand and sentenced prisoners, i.e. one or two days of reduction for ten days of detention in poor conditions calculated cumulatively.

16. In case a person who has been subject to pre-trial detention in conditions contrary to Article 3 of the Convention for more than 3 months until the beginning of the trial of case is eventually punished with a fine, community work or deprivation of the right to hold a certain position or to carry out a certain activity, he/she will be exempted from the execution of the criminal punishment.

17. At the same time, the new legal provisions excluded prisoners convicted to life imprisonment from claiming monetary compensation on the basis of the Code of Criminal Procedure, who are instead referred to the general civil remedy. In accordance with Article 473<sup>4</sup> § 6 of the Code of Criminal Procedure, when using the remedy challenging poor conditions of detention, persons sentenced to life imprisonment are deprived of the possibility to seek a reduction of their sentence (which is main form of the compensatory remedy), but may subsequently file a civil action in order to obtain monetary compensation for the violation of their right under Article 3 of the Convention.

18. The inapplicability of the compensatory remedy in respect of persons sentenced to life imprisonment was determined by an objective reason, since the remedy was created so as to ensure the compensation for the actual harm caused by poor conditions of detention, mainly by having the prison sentence reduced. In the case of prisoners sentenced to life imprisonment, this is impossible because their prison sentence has no fixed term. However, prisoners sentenced to life imprisonment are allowed to use the general civil remedy. Article 473<sup>4</sup> § 6 of the Code of Criminal Procedure provides for the possibility of this category of prisoners to file a claim before the civil court in order to obtain compensation for poor conditions of detention. According to the settled practice of the national courts, the monetary compensation awarded by the civil courts amounts to MDL 50 or 100 for one day of detention spent in poor conditions, taking into account the seriousness of the harm suffered. It is important to note that the civil action is based on the final judgment of the investigating judge that has already established the poor conditions of detention and which produce *res judicata* effects. In this context, the civil court has only the task of deciding the amount of monetary compensation in such cases. Therefore, the new legal provisions addressed to persons sentenced to life imprisonment does not impose an unreasonable burden of proof on the prisoner, as there is already a judgment that confirms his/her placement in poor conditions of detention.

#### *The duration of the examination of complaints related to poor conditions of detention*

19. As regards the duration of the examination of complaints, Article 473<sup>3</sup> § 4 of the Code of Criminal Procedure stipulates that complaints related to inadequate condition of detention affecting detainees shall be examined within a maximum of 3 months. This period does not include the time given to detainees to detail their claims. The current practice reveals that the examination of complaints does not exceed this statutory time-limit. This is also supported by the fact that, for the period 2022-2024, the Superior Council of Magistracy has not received any complaints from detainees about alleged delays in the examination of complaints concerning poor detention conditions. Consequently, no special measures to reduce any alleged delays in dealing with these complaints are necessary.

#### *Relevant domestic case-law on the functioning of the preventive remedy*

20. According to Orhei District Court's ruling no. 21ji-866/2020 of 10 March 2021, the court admitted in part the applicant's complaint, finding that the applicant had been detained for 397 days in poor conditions of detention. On this ground, his prison sentence was reduced by 39 days (*i.e.* one day of reduction for ten days of detention), and for the remaining 7 days he was awarded MDL 350, *i.e.* MDL 50 per day. The application was only partially granted, as part of these claims had been examined by an

earlier court ruling. In its reasoning, the court stated that the representative of the penitentiary institution had failed to counter the applicant's arguments. The applicant argued that the requirement of 4 square meters per prisoner had not been complied with, that he did not have access to natural light, artificial ventilation and medical care, that water and food were of poor quality and that the sanitary and hygienic requirements had not been respected. The court accepted these claims, stating that a general and declarative report provided by the representative of the penitentiary institution was not sufficient to refute the applicant's arguments. The court also referred to the report of the Council for the Prevention of Torture, the Ombudsman's report and the Court's case-law on the interpretation of Article 3 of the Convention. In addition, the court requested the improvement of the applicant's conditions of detention, and obliged the prison authority to inform it about the measures taken. On 24 March 2021, the representative of Penitentiary no. 18 informed the court that the applicant had been assigned to another section of the penitentiary where the requirements relating to personal space, lightning, heating, sanitary needs, food and out-of-cell activities were met. The submitted information also stated that, after the relocation, the applicant did not lodge any complaints about the conditions of detention. This ruling was upheld by the Chişinău Court of Appeal.

21. By Orhei District Court's ruling no. 21ji-920/2020 of 15 March 2021, the court partially upheld the applicant's complaint, finding that the applicant had been detained for 441 days in poor detention conditions. For that reason, his prison sentence was reduced by 44 days (*i.e.* one day of reduction for ten days of detention), and he was awarded MDL 50 for the remaining day. As some of the applicant's claims had already been examined in an earlier judgment, the application was only partially upheld. On the merits, the court observed that, owing to overcrowding, lack of sanitary conditions, lack of drainage, ventilation, drinking water and poor quality food, the detention caused the applicant suffering and discomfort which went beyond the unavoidable level of suffering inherent in detention and reached the threshold of severity laid down in Article 3 of the Convention. The Court stressed that the presumption of a breach of the conditions of detention had not been rebutted and, since the representative of the prison institution had not provided any conclusive evidence, the applicant's claims were considered to be confirmed. In addition, the report of the Council for the Prevention of Torture, the Ombudsman's report and the Court's case-law were used as a basis for the reasoning. The court also ordered Penitentiary no. 18, where the applicant was detained, to put an end to the poor conditions of detention. The prison administration subsequently informed the court that the applicant had been transferred to another section of the penitentiary with adequate conditions of detention and that the applicant had not lodged any complaints about poor conditions of detention. The court ruling was upheld by the Chişinău Court of Appeal.

22. The ruling of the Cimişlia District Court no. 21ji-240/24 of 30 July 2024 is also relevant in the context of the application of the compensatory remedy. In this ruling, the court partially admitted the applicant's complaint, establishing that the applicant had been detained for 95 days in poor detention conditions. Accordingly, his prison sentence was reduced by 18 days (*i.e.* two days of reduction for ten days of detention) and for the remaining 5 days he was granted 250 MDL. The ground for the partial admission of the application resulted from the fact that only for a certain period of time the applicant had been detained in a cell that did not meet the standards resulting from Article 3 of the Convention. Thus, the applicant had been held in a cell measuring 3.9 square meters for 95 days out of the total period he had mentioned. The court

concluded that such conditions of detention did not meet the standards promoted by the Committee for the Prevention of Torture and ordered the prison institution to put an end to the violation of the applicant's rights.

23. Another example refers to the ruling of the Cimişlia District Court no. 21ji-518/23 of 12 June 2024, in which the court upheld the claim and established that the applicant had been detained for a period of 397 days in poor conditions of detention. As the applicant's rights had been violated, the court ordered the reduction of his prison sentence by 78 days (*i.e.* two days of reduction for ten days of detention) and awarded him MDL 350 for the remaining 7 days of detention. The court took into consideration the Report of the Committee for the Prevention of Torture on the visit to Penitentiary No. 3 of 2017 and the Report of the Ombudsman on the visit to Penitentiary No. 3 of 3 July 2019. Both reports indicated the existence of overcrowding, lack of medical care and absence of material conditions (e.g. bed linen and seasonal clothes). Analyzing all these findings in conjunction with the factual circumstances of the case, the court concluded that the applicant was subjected to inhuman treatment. In order to redress these shortcomings, the court ordered the prison institution to improve the conditions of detention within 15 days and to inform the court of the measures taken.

24. By the Cimişlia District Court ruling no. 21ji-689/23 of 26 April 2024, the court admitted the application and established that the applicant had been detained for 1508 days in poor conditions of detention. In consequence, his prison sentence was reduced by 300 days (*i.e.* two days of reduction for ten days of detention) and he was awarded MDL 400 for the remaining 8 days. The reason for such a solution served the fact that the applicant was detained in a cell in which he had less than 2 square meters of personal space. The court also ordered the penitentiary institution to put an end to the violation of the applicant's rights.

25. As results from the national case-law outlined above, the preventive and compensatory remedy is an effective legal tool for detainees held in detention in poor conditions. Where the conditions of detention do not meet international standards, detainees have the possibility to obtain a reduction of the period of detention and monetary compensation. National courts take their task very seriously. They scrupulously examine the relevant legal framework, the reports of international and national organizations on conditions of detention and the case-law of the Court. When deciding on the deduction formula, *i.e.* one or two days of deduction for ten days of detention in poor conditions, the courts, based on the principle of proportionality and fairness, cumulatively take into account the intensity, severity and duration of the treatment contrary to Article 3 of the Convention. Moreover, the courts do not refrain from applying the presumption of breach of conditions of detention, according to which the burden of proof is on the penitentiary institution to demonstrate that the prisoner was held in appropriate conditions of detention. The remedy in question is therefore used to the maximum extent possible to ensure that the infringed rights are remedied. It is also worth noting that the courts oblige penitentiary institutions to improve prison conditions in order to avoid similar findings in the future. As the above examples show, a copy of the relevant ruling is sent to the penitentiary institution, which subsequently has to inform the same court on the measure taken in accordance with the legal provisions. In this situation, the prisoner will be transferred to another cell or section of the same penitentiary institution or even to another prison, depending on the available places and with due regard to the principle of uniform distribution of prisoners in prisons.

*Measures undertaken to improve material conditions of detention*

26. The further improvement of material condition of detention represents a priority on the Government’s agenda. The national authorities are aware of the pressing need to ameliorate the detention conditions and are taking consequent steps to improve the situation in all Moldovan prisons. This action also results from the National Strategy on Ensuring the Independence and Integrity of the Justice Sector for 2022-2025.

27. At the outset, it should be noted that, according to statistical data, the prison population has decreased in recent years and the maximum capacity is not reached in most prisons. The table below reveals the maximum number of detainees allowed for each penitentiary institution and the current number of detainees according to the situation on 01 July 2024.

<i>Penitentiary institution no.</i>	1	2	3	4	5	6	7	8	9	10	11	12	13	15	16	17	18	<i>Total</i>
<i>Maximum capacity</i>	355	363	366	728	180	753	280	279	448	164	258	169	570	464	256	337	652	<b>6622</b>
<i>Actual number</i>	316	348	346	673	121	573	234	136	440	69	<u>283</u>	140	<u>775</u>	415	130	188	630	<b>5817</b>

28. As is evident from the table above, only in two prisons, i.e. Penitentiary no. 11 and Penitentiary no. 13, the number of inmates exceeds the maximum capacity.

29. Currently, at the request of the Government Agent and with the assistance and expertise of the Council of Europe Project “Strengthening the prison and probation reforms, provision of health care and treatment of patients in closed institutions in the Republic of Moldova”, a national Strategy and Action Plan on preventing and reducing overcrowding in the Moldovan prisons are developed.

30. In the meantime, the national authorities are working on an action plan to prevent and combat overcrowding in Penitentiary no. 13. The measures to be adopted for this penitentiary will equally be applied in the other centre affected by overcrowding. In addition, a working group has been set up to develop a methodology for calculating the maximum capacity of a prison in line with international standards in this area.

31. As regards the improvement measures mentioned in the previous Action Report, according to the updated information, the first stage of construction of the Bălți Remand Prison, with a capacity of 650 persons, is completed and the authorities are seeking to update the costs, after which the tender specifications will be systematized, and construction services will be contracted. Concerning the reconstruction of Penitentiary no. 5, the tender for the procurement of construction services was organized in 2024. Currently, the procedures for contracting the technical supervisor are being initiated.

32. Other measures intended to improve conditions of detention were also taken. In particular, the detention sectors of Penitentiary no. 3 were repaired, the damaged roof was demolished and the walls in the open sector were reinforced. Significant renovation works were also carried out in Penitentiary no. 13. For example, 32 cells, disciplinary isolators nos. 4 and 5, the room for longer visits and the space for reception of detainees were repaired. Many other spaces from other prisons were also renovated, as shown in the table below:

	<b>Penitentiary institution</b>																	
	P1	P2	P3	P4	P5	P6	P7	P8	P9	P10	P11	P12	P13	P15	P16	P17	P18	Total

<b>Number of detention spaces repaired</b>	28	28	38	57	61	43	53	17	21	26	86	20	57	21	60	58	12	<b>691</b>
a) Small capacity (less than 5 persons)	27	15	35	25	66	22	39	11	13	26	41	20	55	13	42	54	11	<b>509</b>
b) Medium capacity (less than 15 persons)	1	9	1	19	-	14	14	6	6	-	45	-	2	9	18	4	1	<b>149</b>
c) Large capacity (more than 15 persons)	-	2	2	13	1	7	-	-	2	-	-	-	-	4	-	-	-	<b>33</b>
<b>Number of afferent spaces repaired</b>	6	9	7	10	15	17	14	7	8	6	14	7	56	12	6	10	4	<b>208</b>

33. The renovation works are planned based on the results of the inventory of buildings and engineering networks, which takes place every autumn and spring. Priorities are set on the basis of the inventory results. Building materials are purchased by the National Administration of Penitentiaries within the limits of the financial resources allocated, and are distributed according to the priorities communicated by each penitentiary institution. Therefore, renovation works are based on a proper assessment of the needs for prison infrastructure and the authorities prioritize situations where prompt intervention is required.

34. As concerns the major intervention objectives, these are planned in the Medium-term Budgetary Framework, which sets out the framework of resources and spending of the national public budget for the next three years. Thus, the development of the penitentiary infrastructure is ensured proportionally to the allocated resources.

35. As for the construction of the new prison in Chişinău, it should be noted that the project has been adjusted by reducing the capacity of the prison from 1536 to 1050 places, by excluding block A1 from the initial project and redesigning block B with reduced surface area, engineering networks, concrete walls and a separate project for the photovoltaic solar park. The total amount is estimated at EUR 75.9 million, of which EUR 69.6 million for the building, EUR 3.3 million for the solar PV park and heat pumps, and around EUR 6.3 million for the surveillance system, unexpected expenses and management. According to the agreement concluded between the Council of Europe Development Bank and the Republic of Moldova, the construction project of the new penitentiary will be extended for a period of four years until the end of 2028.

36. Concerning the other shortcomings identified by the Court as to the material conditions of detention, a spectrum of actions has been taken to ameliorate the situation and to prevent the infringement of detainees' rights.

37. First, with the expertise provided by the Council of Europe project "Strengthening the prison and probation reforms, provision of health care and treatment of patients in closed institutions in the Republic of Moldova" (2021-2024), the Government Decision no. 228/2024 updated the minimum standards for food and product substitutions for prisoners and the standards for personal hygiene items. The food provided has been diversified to ensure sufficient energy and nutrients for prisoners. Energy and nutritional value is assessed according to the individual's gender, age, state of health and workload. The new provisions will enter into force on 1 January 2025.

38. Second, in April 2024, the National Administration of Penitentiaries received a second donation<sup>1</sup> of medical equipment and furnishings from the Council of Europe through the Project “Strengthening the prison and probation reforms, provision of health care and the treatment of patients in closed institutions in the Republic of Moldova” in the amount of MDL 2,030,912.45<sup>2</sup>, distributed as per the needs assessed to Medical Sections of all 16 penitentiaries, and Prison-Hospital no. 16 – Pruncul, to cover most acute needs for equipment necessary to deliver health care services in prisons for the time being.

39. Third, the Regulation on sanitary rules in penitentiary institutions was adopted by Order of the Director of the National Administration of Penitentiaries no. 256/2023. The document contains provisions on health supervision in penitentiaries, responsibilities for ensuring public health, rights and obligations of medical staff and provisions concerning interaction with other public health institutions. This Order will contribute to raising standards in the field of prison health.

40. Forth, all detainees have free access to counselling services and group activities (e.g. educational programs) provided by the prison’s staff. In February 2024, a new rehabilitation programme for prisoners with alcohol addiction, developed with the support of the Council of Europe Project “Strengthening the prison and probation reforms, provision of health care and treatment of patients in closed institutions in the Republic of Moldova”, was approved by the National Administration of Penitentiaries, following its piloting in four prisons. Moreover, all mandatory activities in which each prisoner is required to participate are tailored to the needs of the prisoner.

41. Furthermore, a new Risk and Needs Assessment tool (RNA) and an Individual Sentence Planning (ISP) protocol developed, piloted and tailored to the particular needs of women and juveniles through the assistance of CoE project in the last 5 years, was approved in June 2024 for a wider-use in the penitentiary system, leading to a more uniform approach to offenders’ management. It was piloted gradually in 7 prisons with the support of the Council of Europe Project “Strengthening the prison and probation reforms, provision of health care and treatment of patients in closed institutions in the Republic of Moldova” (2021-2024).

42. In all penitentiary institutions there is a library with free access for everyone. Informative and sports activities (e.g. football, chess, weightlifting) are organized on a weekly basis. In the same vein, artistic events are organised occasionally to permit the detainee to spend time usefully outside their cells.

#### *Measures taken to improve material conditions in the police detention facilities*

43. According to the Report on the progress in implementation of the Police Development Strategy for the years 2016-2020, in 2020, 5 temporary detention facilities in Balti, Comrat, Anenii Noi, Soroca and Criuleni were modernized.

44. Also, from the total of 15 renovated temporary detention facilities, 10 of them were put into operation within the police inspectorates from Chisinau, Hancesti, Orhei, Cimislia, Ungheni, Causeni, Edinet, Sangerei, Cahul, Rascani.

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<sup>1</sup> Donated to prison authorities in 2020, including 18 types of medical equipment of vital importance, such as portable pulse oximeters, glucometers, autoclave sterilizers, defibrillators, portable eye tonometers, dental complexes with instrument sets and many others.

<sup>2</sup> This includes patient monitors, electric surgical tables, EEG systems, mono-bipolar electrosurgery units, examination lamps, thermo-sealers for both surgical and dental instruments, mobile surgical examination lights, a portable ultrasound laptop, and various medical furnishings such as non-electrical examination couches, medicine cabinets, and stainless-steel tables of various sizes.

45. In the same context, in 2021, the temporary detention facilities that did not comply with the minimum norms were closed in the police inspectorates from Calarasi, Falesti, Floresti and Ceadir-Lunga.

46. Additionally, according to the Order of the Chief of the General Police Inspectorate no. 224 of 14 August 2020, in order to ensure the proper activity and adequate conditions of detention in the temporary detention facilities from Criuleni, Comrat, Balti, Hincesti and Soroaca, the necessary consumables (mattresses, bed linen, mugs, plates, electric kettles, microwaves) were purchased and sent free of charge.

47. In the same vein, the report prepared by the National Council for the Prevention of Torture following the monitoring visit conducted at the Provisional Detention Isolator of the Chisinau Police Directorate on 03 March 2022 established that the material conditions of detention in the cells were relatively satisfactory and the cells were not overcrowded. It also noted that the conditions in the other rooms from the solitary confinement (the medical office, the interview room, the kitchen) were satisfactory.

48. Based on this information, it can be concluded that the material conditions in the temporary detention facilities subordinated to the Ministry of Interior have significantly improved and that detention in such places no longer violates the right of persons deprived of their liberty to adequate conditions of detention. Therefore, the Government invite the Committee of Ministers to end the supervision of this aspect.

#### *Measures undertaken to remedy the violation of Article 8 on account of bans on family visits*

49. Visits in prison (of both remand prisoners and convicts) are granted under the conditions established by the Enforcement Code and the Statute for the execution of the sentence by convicts, approved by the Government Decision no. 583/2006.

50. According to the current wording of Article 306 § 4 of the Enforcement Code (as amended by Law no. 451/2023), remand prisoners have the right to long-term visits under the same conditions established for convicted persons. Thus, according to Article 213 § 3 of the Enforcement Code, long-term meetings are allowed with the prisoner's spouse, parents, children, brothers, sisters, grandparents and grandchildren. In addition, in the cases provided for by the Statute on the execution of the sentence by convicts, with the written approval of the director of the penitentiary institution, the visit may be allowed with another person indicated by the prisoner. Detainees are entitled to one long-term visit per quarter, lasting from 12 hours to 3 days.

51. In the same context, Article 181 § 2 of the Enforcement Code stipulates that the penitentiary institution may be visited by other persons with the special permission of the administration of these institutions or of the National Administration of Penitentiaries or on the basis of a court decision. It also specifies that the circle of persons who may visit remand prisoners and/or prisoners whose sentence is not final may be restricted on the basis of the decision of the investigating body or of the court in which the criminal case is pending.

52. Speaking about the limitation of the right to receive visits in prison when the criminal investigation is still under the management of the investigating body and the case has not been sent for trial, several scenarios are possible in the case of admission or rejection of the remand prisoner's application for being granted the right to receive visits. In case of admission, the prosecutor will either mention directly in the prisoner's application about the acceptance of the defendant's request to receive visits, or send a

letter to the prison administration setting out the acceptance. In case of refusal, the prosecutor will either issue an order or a reasoned reply, which may be further challenged before the investigating judge, under Article 313 of the Code of Criminal Procedure.

53. In most of the cases, prosecutors tend to grant remand prisoners the right to receive visits. This is confirmed, for example, by the practice of the Glodeni Prosecutor's Office. In the period between 2022 and 2024, 19 requests for short visits were considered and all of them were accepted by prosecutors. The practice of the Edineț Prosecutor's Office is identical. For the same period of time, *i.e.* between 2022 and 2024, all 24 requests for visits submitted were accepted by prosecutors.

54. A letter issued on 19 August 2024 by the prosecutor of the Ialoveni Prosecutor's Office can serve as an example of acceptance of the request for granting the right to receive visits. The remand prisoner requested the criminal investigating authority's consent to be visited by a notary and a translator in Penitentiary no. 13. The public prosecutor issued a letter to the director of Penitentiary no. 13 stating that he agreed that the prisoner on remand could be visited by a notary and a translator.

55. On the other hand, by a reasoned decision issued on 04 September 2023 by the prosecutor of the Leova Prosecutor's Office, the visit request lodged by the remand detainee's mother was rejected. The prosecutor argued that the criminal investigation was ongoing, this visit could jeopardize the confidentiality of the investigation, and in order not to admit the influence of witnesses and destruction of evidence, the application, at that stage of criminal procedure, had to be rejected.

56. Thus, when dealing with the remand prisoners' requests to family visits, the prosecutors examine each case individually and, if the normal unfolding of the criminal proceedings is not jeopardized and there are no other reasonable grounds for refusal, the right to receive visits is granted. In addition, during the reporting period concerned in this Action Report the penitentiary institutions have not received any complaints from remand prisoners concerning the refusal to be granted the right to receive visits. Similarly, during the same period the domestic courts did not receive for examination any application from detainees on remand concerning the right to receive visits or the refusal of the investigating body to grant visits.

57. As concerns the two cases initiated in the domestic courts, previously reported to the Committee of Ministers, the first application was admitted and the court of law concluded that the prison institution had violated the prisoner's right to receive visits. The second application is still pending before the Chișinău District Court as a result of the referral for retrial.

58. It is important to mention that, in accordance with Article 246 § 2 letter c) of the Enforcement Code, detainees may be subjected to the disciplinary punishment by having the right to extended visits suspended for up to 3 months. This decision may be challenged by the prisoner on remand/detainee or his/her lawyer in term of three days from the date he/she become aware of it in accordance with the procedure set in Article 473<sup>1</sup> of the Code of Criminal Procedure. The domestic case-law related to appeals against such decisions taken by the prison administration on the suspension of the right to extended visits lodged by detainees is well-established. Some examples will be given below.

59. By the ruling of the Orhei District Court no. 21ji-969/2023 of 25 October 2023, the court admitted the prisoner's application and declared null and void the decision of the director of Penitentiary No. 18 by which the prisoner was deprived of the possibility of short and extended visits for 3 months. The court concluded that the decision in

question did not contain any references to Article 247 of the Enforcement Code, which lays down the procedure for the application of disciplinary sanctions, and did not specify which provisions of the Enforcement Code had been violated by the applicant. It also established that the applicant had not been properly informed of his rights and obligations, the interdictions and the procedure for applying disciplinary sanctions. All these arguments, together with the fact that the penitentiary institution did not submit any evidence on the contrary, allowed the court to admit the application.

60. According to ruling no. 21ji-544/2024 of 12 August 2024, the Orhei District Court rejected the detainee's application and maintained the decision of the director of Penitentiary no. 18 by which the applicant was deprived of the right to a particular visit (the very next visit). The court found that the disciplinary sanction was imposed as a result of his refusal to follow the legitimate indications of the prison staff, creating difficulties for the prison staff while performing their duties and not having a proper attitude towards the persons with whom he interacted. Taking into account the fact that the applicant did not submit any evidence to refute the arguments of the penitentiary institution and that the disciplinary sanction was in accordance with the legal provisions and proportionate, the court upheld the decision of the prison director.

61. By the ruling of the Orhei District Court no. 21ji-78/2024 of 03 April 2024, the court decided to terminate the proceedings, because the prisoner withdrew the application. The reason for the withdrawal served the fact that the penitentiary institution had annulled the decision imposing the disciplinary sanction of deprivation of the right to visits. The penitentiary institution concluded that, following the amendments to the Enforcement Code by Law no. 451/2023, the application of the new sanction of deprivation of the right to an extended visit (the very next visit) was not able to achieve the objective set out in Article 246<sup>1</sup> of the Enforcement Code, which sets out the requirements for individualization of the sanction.

62. The above examples show that national courts pay close attention to all the circumstances of the case in order to prevent arbitrary deprivation of the right to receive visits as a form of disciplinary sanction applied to detainees. Even penitentiary institutions do not hesitate to modify their decisions if they impose an unjustified restriction on the detainee's rights.

#### *Measures undertaken to remedy the violation of Article 34 of the Convention*

63. As for the measures undertaken to ensure that the prison staff do not discourage the detainees to submit applications with the Court, it is noteworthy that on 17 March 2022 the National Prison Administration adopted a circular, based on the Court's findings in the A.C. case, and aims at preventing any intimidation of detainees from pursuing applications before the Court.

64. Additionally, regular inspections are organized in penitentiary institutions in view of monitoring the compliance with the provisions of that circular. Prisoners are also interviewed and their complaints are promptly investigated so that the National Prison Administration could promptly intervene in situations where there are reasonable grounds to believe that intimidation has taken place. An important contribution to ensuring compliance with Article 34 of the Convention is the thematic training in which prison staff are instructed on the inadmissibility of exercising pressure on prisoners.

65. Given that the violation found by the Court occurred in 2014, the lack of any similar complaints communicated by the Court to the Government, as well as the nature of the violation concerned in the A.C. case, the Government consider this to be an

isolated case. In the Government's view, the above-described and the previously reported measures are likely to prevent similar violations from happening in the future. Hence, they request the Committee of Ministers to end the supervision of this issue within the present group of cases.

#### **IV. CONCLUSIONS**

66. The Government note that an impressive range of actions have been taken to ensure that prisoners' rights are respected. The measures taken have sought to address various aspects of prison conditions, such as improving the functionality of the compensatory and preventive remedy, improving the material conditions of detention and changing the paradigm of prison staff towards prisoners.

67. The overall situation continue to improve, which is evidenced by the statistical data and the practice of national authorities who take into account the case-law of the Court and do their utmost to avoid similar violations of the fundamental rights of detainees.

68. In addition, a lot of processes are still ongoing and the results of all these efforts will be seen in the future. However, the national authorities are firmly committed to remedy the situation in the Moldovan prisons so that they become a place for re-education rather than a place where individuals are held in inhuman conditions of detention.

69. The Government consider that all the measures taken at legislative and administrative level, as well as those that are still pending implementation, prove the domestic authorities' sustained efforts in ensuring the respect for human dignity during detention and are likely to prevent the occurrence of violations similar to those found by the Court in this group of cases.

70. Finally, given the general measures described above and those previously reported to the Committee of Ministers, the Government invite the latter to end the supervision of the issues related to the material conditions in the police detention facilities and to the violation of Article 34 of the Convention, found by the Court in the A.C. case.



**Doina MAIMESCU**  
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