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Contact: Ireneusz Kondak  
Tel: 03.90.21.59.86

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Meeting: 1521<sup>st</sup> meeting (March 2025) (DH)

Item reference: Action Plan (19/12/2024)

Communication from the Republic of Moldova concerning the case of V.I. v. the Republic of Moldova  
(Application No. 38963/18)

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Réunion : 1521<sup>e</sup> réunion (mars 2025) (DH)

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Communication de la République de Moldova concernant l'affaire V.I. c. République de Moldova (requête n° 38963/18) (*anglais uniquement*)

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

Chisinau, 19 December 2024

### ACTION PLAN

#### for the execution of the judgment

in the case of *V.I. v. the Republic of Moldova* (application no. [38963/18](#))  
judgment of 26 March 2024, final as of 26 June 2024

### I. CASE DESCRIPTION

1. The present case concerns the involuntary placement of a 15-year-old orphan with a mild intellectual disability in a psychiatric hospital in 2014, the administration of unnecessary psychiatric treatment, his subsequent transfer to the adult section, and the imposition of chemical restraint without proven medical necessity. The case also addresses the ineffective investigation into the applicant's complaint regarding these facts and the failure to investigate his allegations of sexual abuse at the hands of other patients. In its judgment, the European Court of Human Rights (hereafter "the Court") found violations of both the substantive and procedural aspects of Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereafter "the Convention").

2. The Court found that the existing Moldovan legal framework fell short of the State's duty to establish and apply effectively a system providing protection to intellectually disabled persons in general, and to children without parental care in particular, against serious breaches of their integrity, contrary to Article 3 of the Convention.

3. The Court further found that the authorities' actions perpetuated a discriminatory practice against a child with an actual or perceived intellectual disability, exacerbated by the fact that he was without parental care, which amounted to a violation of Article 14 read in conjunction with Article 3 of the Convention.

4. The Court also considered that the authorities had failed to provide for an appropriate mechanism capable of affording redress to people, and particularly children, with mental disabilities claiming to be victims under Articles 3 and 14, thereby finding a violation of Article 13 read in conjunction with Articles 3 and 14 of the Convention.

5. Finally, the Court noted under Article 46 of the Convention that the case disclosed a systemic problem and decreed that it fell upon the Republic of Moldova to take general measures to resolve the problems at the root of the violations found and to prevent similar violations from taking place in the future.

### II. INDIVIDUAL MEASURES

#### *Payment of just satisfaction*

6. The just satisfaction awarded by the Court was transferred to the applicant and his representative in full and without delays, *i.e.* on 6 August 2024.

### ***The applicant's current situation***

7. In 2016, the applicant reached the age of 18 and, therefore, ceased to be under the State's care. According to the information available to the Government and to the circumstances arising from the Court's judgment, the applicant currently resides in Vicenza, Italy.

### ***The reopening of domestic investigations***

8. In the domestic proceedings, the applicant's complaints were examined in the framework of two distinct sets of proceedings, as follows.

9. The first set of proceedings concerned charges of professional negligence against the legal guardian (the mayor of Ciutești) resulting from the applicant's placement in the psychiatric hospital and the administration of psychiatric treatment in the absence of a therapeutic necessity, as well as the failure to act in order to discharge the applicant from that institution. As a result, the Supreme Court of Justice finally acquitted the mayor of Ciutești of all charges, finding that it had been the responsibility of the Nisporeni child protection authority to arrange accommodation for the applicant after his stay in the hospital.

10. The second set of proceedings into charges of torture and ill-treatment in respect of the applicant's allegations concerning the administration of neuroleptics, his transfer to the adults' section, and the abuse he had suffered in hospital never resulted in the case being remitted for trial. The criminal investigation was discontinued on 29 September 2015 – a solution that has been upheld on appeal. Later, the investigation was re-opened on 20 April 2016 and discontinued on 30 May 2017.

11. In order to redress the shortcomings identified by the Court in its judgment (see §§ 108-119 of the Court's judgment), on 11 September 2024 the Deputy General Prosecutor ordered the annulment of the ordinance dated 30 May 2017 and the resumption of the criminal investigation into charges of torture and ill-treatment (Article 166<sup>1</sup> § 2 of the Criminal Code) in respect of the allegations concerning the administration of neuroleptics, the applicant's transfer to the adults' section and the material conditions in the hospital.

12. Furthermore, following the assessment carried out after the delivery of the Court's judgment, the General Prosecutor's Office concluded that the decision of the Supreme Court of Justice of 12 December 2017, by which the mayor of Ciutești was acquitted of the offence of professional negligence (Article 329 § 2 (b) of the Criminal Code), was justified. Hence, it concluded that there was no legal basis for the revision of these criminal proceedings as set out in Article 458 § 3 point 6) of the Code of Criminal Procedure.

13. The Government will keep the Committee of Ministers informed about the measures taken and decisions adopted by the prosecution authority within the recently reopened investigation into torture and ill-treatment in the psychiatric hospital.

## **III. GENERAL MEASURES**

### ***Publication and dissemination of the judgment***

14. The judgment in the present case was translated and published on the Government Agent's official website<sup>1</sup>. The Prosecutor's General Office, the Ministry of Labour and Social Protection, the Ministry of Health, the Codru Psychiatric Hospital, the Superior Council of Magistracy, and the National Institute of Justice have been duly

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<sup>1</sup> <https://www.agentguvernamental.md/wp-content/uploads/2024/08/Cauza-V.I.-v.-Republica-Moldova.pdf>

notified and advised on the findings of the judgment. The Supreme Court of Justice also published a summary thereof on its website<sup>2</sup> and disseminated the full judgment to all judges and relevant specialists.

### ***The adoption of national policies and legislation in the field of child protection and the protection of persons with mental disabilities***

#### ***New legislation on the protection of children's rights***

15. By Government Decision no. 347/2022, the *National Program for Child Protection for the Years 2022–2026*<sup>3</sup> was approved, along with the Action Plan for its implementation. The program addresses key thematic areas, including ensuring the upbringing of children in a safe and protective family environment, preventing the separation of children from their parents, and safeguarding children from all forms of violence.

16. On 30 November 2023, the Parliament of the Republic of Moldova adopted the new Law on children's rights<sup>4</sup>, which is fully compliant with the UN Convention on the Rights of the Child. The law guarantees that all children are entitled to protection without discrimination, regardless of the degree or type of disability, their place of residence (family, educational institution, social service, medical institution, community, etc.), or any other criteria. Similarly, the national legislator explicitly sets out the fundamental principles of children's rights, including equality of opportunity and non-discrimination, while underscoring the primacy of the children's best interests in all decisions affecting them. The rights of the child are comprehensively outlined in the new Law, including the right to protection against violence, abuse, exploitation, and trafficking (see Articles 6-30 of the Law). Article 23 introduces provisions that guarantee the child's right to compensation for material and moral damages caused by violence, neglect, exploitation, or the failure of legal representatives or public authorities to fulfil their legal obligations.

17. Furthermore, on 16 May 2022, Law no. 117 of 5 May 2022<sup>5</sup> was adopted, ratifying the Optional Protocol to the United Nations Convention on the Children's Rights on a Communication Procedure. This treaty establishes an international mechanism for lodging complaints concerning violations of children's rights, as well as procedures for inter-state communications and investigations into serious or systemic breaches. Accordingly, children are entitled to submit complaints directly to the UN Committee if they believe their rights have been infringed and the matter remains unresolved at the national level.

#### ***Reformation of the social assistance system***

18. Following the implementation of the "Restart" social assistance system reform under Law no. 256/2023, the Government approved Decision no. 957/2023 on the establishment, organisation, and functioning of Territorial Social Assistance Agencies<sup>6</sup>. The newly created Territorial Social Assistance Agencies operate within the Territorial Social Assistance Structures. This reform brings significant improvements in the protection of children's rights, including essential changes to the administration of

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<sup>2</sup> <https://www.csj.md/index.php/jurisprudenta-cedo1/rezumat-hotararilor-relevante-ale-cedo/65-rezumat-hotarari-cedo-2024/2336-2024-04-01-13-35-14>

<sup>3</sup> [https://www.legis.md/cautare/getResults?doc\\_id=145280&lang=ro](https://www.legis.md/cautare/getResults?doc_id=145280&lang=ro)

<sup>4</sup> [https://www.legis.md/cautare/getResults?doc\\_id=140710&lang=ro](https://www.legis.md/cautare/getResults?doc_id=140710&lang=ro)

<sup>5</sup> [https://www.legis.md/cautare/getResults?doc\\_id=131326&lang=ro](https://www.legis.md/cautare/getResults?doc_id=131326&lang=ro)

<sup>6</sup> [https://www.legis.md/cautare/getResults?doc\\_id=146217&lang=ro](https://www.legis.md/cautare/getResults?doc_id=146217&lang=ro)

the national social assistance system. Under the new amendments, the territorial guardianship authority is now held by the Territorial Social Assistance Agencies<sup>7</sup> (through the Territorial Social Assistance Structures), which are subordinated to the Ministry of Labour and Social Protection, as well as by the Chisinau General Directorate for Child's Rights Protection and the Main Directorate for Health and Social Protection in the Autonomous Territorial Unit of Gagauzia. This represents a major shift from the previous structure, where the territorial guardianship authority, i.e. the district Social Assistance and Family Protection Sections/Directorates, was subordinated to the district councils.

19. This structural change enables a better coordination and functioning of the territorial guardianship authorities by (i) creating a uniform and coherent institutional framework at national level; (ii) strengthening the professional capacities of the territorial agencies by employing qualified specialists in the field of child's rights protection; and (iii) improving the monitoring and evaluation of child protection activities through direct subordination and more efficient supervision by the central public authority, namely the Ministry of Labour and Social Protection.

20. At the same time, the reorganisation of territorial social assistance structures aims to strengthen child protection by (i) increasing the number of child's rights protection specialists by approximately 300 positions; (ii) identifying the actual needs for social services for children at the local level; and (iii) developing and expanding these services in line with the objectives of the "Restart" reform.

21. The "Restart" reform has facilitated the recruitment of additional specialists in child's rights protection and psychologists at both the level of Territorial Social Assistance Agencies and Territorial Social Assistance Structures. The new employment framework allows child's rights protection specialists to be employed by the territorial guardianship authority while carrying out their duties within mayoral offices. To date, around 150 child's rights protection specialists have already been hired and seconded to mayoral offices to support local guardianship authorities in fulfilling their responsibilities regarding child's rights protection.

22. The territorial guardianship authorities intervene in all cases involving children at risk that come to their attention, either through notification or self-referral, in accordance with the intersectoral mechanism regulated by Law no. 140/2014 on the special protection of children at risk and children separated from their parents<sup>8</sup>, as well as Government Decision no. 270/2014 approving the Instructions on the intersectoral cooperation mechanism for the identification, assessment, referral, assistance, and monitoring of children who are victims or potential victims of violence, neglect, exploitation, and trafficking<sup>9</sup>.

### ***Current legislation on the protection of persons with disabilities***

23. By Law no. 166/2010, the Republic of Moldova ratified the UN Convention on the Rights of Persons with Disabilities, followed by the adoption of Law no. 60/2012 on the social inclusion of persons with disabilities<sup>10</sup>. To align national legislation with the

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<sup>7</sup> By Government Decision no. 957 of 6 December 2023 on the establishment, organisation, and functioning of Territorial Social Assistance Agencies, ten Territorial Social Assistance Agencies were established as administrative authorities subordinated to the Ministry of Labour and Social Protection. These agencies fulfil the role of territorial guardianship authorities in the field of child protection within their assigned administrative-territorial units.

<sup>8</sup> [https://www.legis.md/cautare/getResults?doc\\_id=139010&lang=ro](https://www.legis.md/cautare/getResults?doc_id=139010&lang=ro)

<sup>9</sup> [https://www.legis.md/cautare/getResults?doc\\_id=144703&lang=ro](https://www.legis.md/cautare/getResults?doc_id=144703&lang=ro)

<sup>10</sup> [https://www.legis.md/cautare/getResults?doc\\_id=146155&lang=ro](https://www.legis.md/cautare/getResults?doc_id=146155&lang=ro)

new international requirements, Law no. 66/2017<sup>11</sup> was adopted. This law introduced significant amendments to the Family Code, the Civil Code, and the Code of Civil Procedure, concerning the rights and freedoms of persons with mental disabilities. These legislative amendments have brought about a paradigm shift, moving away from a system of deprivation of legal capacity to one that promotes granting the broadest possible capacity to persons with intellectual or psychosocial disabilities.

24. The determination of full incapacitation was replaced with a series of guarantees reflecting the type and degree of the person's disability and offering a variety of solutions which are aimed at protecting the interests and taking into account the wishes of persons who are fully or partly unable to understand the effects of their actions or to express their will (Articles 65-145 of the Civil Code). In particular, the amended law now provides for two types of contractual and three types of judicial measures of protection, detailed rules for the eligibility of persons in the role of guarantors and assistants and for avoiding conflicts of interests, rules on the involvement of the family, and rules for administering the person's property and for challenging in court the decisions taken, including providing for the involvement of the person concerned in the decision-making process. The law expressly states that the protection measures are to be instituted while ensuring the observance of human rights and personal dignity and are to be taken so as to maximise as far as possible the person's autonomy while giving priority to his or her wishes and feelings.

### ***New legislation and policies on mental health and well-being***

25. On 16 May 2024, the Parliament of the Republic of Moldova adopted Law no. 114/2024 on mental health and well-being<sup>12</sup>, which entered into force on 13 December 2024. The new legal framework establishes a system of safeguards for the protection of mental health, aligned with current international standards. Law no. 114/2024 regulates the principle of informed and freely expressed consent and guarantees the individual's right to refuse treatment, within the limits of the law. Consent may be withdrawn at any time by a patient who has reached the age of 16 or, where applicable, by their legal representative or authorised person. If the psychiatrist suspects the existence of conflicting interests between the person with mental and behavioural disorders and his/her legal representative or the person empowered with a guardianship mandate, the psychiatrist shall refer the matter to the guardianship authority in order to initiate the procedures for the appointment of another representative to protect the interests of the person with mental and behavioural disorders. For individuals with mental and behavioural disorders under the age of 16, consent for mental health interventions is provided by the legal representative. The legislator has established that the child must be involved in the decision-making process in a manner adapted to their level of understanding, with the right to express their opinion on matters affecting them. This provision extends the protection of minors by introducing additional safeguards, such as the mandatory consultation of the minor in the decision-making process and their protection against abuse through stricter control mechanisms (see Article 18 of the above-mentioned Law).

26. Article 17 of Law no. 114/2024 establishes that persons with mental disorders are entitled to state-guaranteed legal assistance in disputes concerning the protection of their rights during the provision of mental health care, including cases of involuntary admission or treatment. These provisions strengthen the legal protection of vulnerable

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<sup>11</sup> [https://www.legis.md/cautare/getResults?doc\\_id=99281&lang=ro](https://www.legis.md/cautare/getResults?doc_id=99281&lang=ro)

<sup>12</sup> [https://www.legis.md/cautare/getResults?doc\\_id=143550&lang=ro](https://www.legis.md/cautare/getResults?doc_id=143550&lang=ro)



individuals by ensuring free access to justice and reflecting the state's commitment to upholding equality before the law and the right to a fair trial.

27. By Government Decision no. 971/2023, the National Programme on Mental Health 2023-2027<sup>13</sup> was approved. The document aims to strengthen the mental health system at all levels of medical care, aligning it with best practices and international standards. It focuses on developing community-based mental health services close to people's places of residence and tailored to population needs, as well as improving mechanisms for ensuring adequate medical personnel to guarantee the effective functioning of the mental health system by 2027.

28. The National Programme outlines actions to build a resilient mental health system, ensuring universal access for individuals affected by such disorders at all stages of life. The programme also aims to reduce psychiatric hospital admissions by 25% by 2027 and increase the number of individuals receiving consultations at Community Mental Health Centres by 25%.

29. Currently, the Ministry of Health, in collaboration with other central and local public authorities, relevant institutions and organisations, is implementing this Programme. Several objectives have been set to further develop mental health services for children, including improving the quality and availability of mental health services and programmes for children, increasing the number of mental health specialists for children, and ensuring adequate institutions and outpatient care and psychosocial rehabilitation services in all regions of the country.

30. The reform of the mental health system is supported by development partners, particularly the Government of Switzerland, through the implementation of the MENSANA project "Support for the Reform of Mental Health Services in Moldova". Since 2014, significant progress has been made in improving the mental health system, including for children, as follows:

- Adoption of normative acts regulating mental health services, including the standards and conditions for their provision;
- Integration of mental health services at three levels: primary level, through family doctors; community level, through specialists at Community Mental Health Centres (hereinafter "CMHC"); and tertiary level, within hospital services;
- Establishment of CMHC within primary healthcare institutions across all district and municipal administrative units, ensuring accessibility and continuity of treatment for individuals with mental disorders following hospital discharge. This contributes to preventing relapses and reduces the risk of future readmissions.

### ***Material conditions in the Children Psychiatry Section of the Codru Psychiatric Hospital***

31. According to the information provided by the Codru Psychiatric Hospital, minor patients are accommodated in a separate curative block, located in a two-storey building. The hospital has a fenced courtyard, green spaces, sports field, inventory adapted for children's games and a generous space for outdoor walks. The rooms are spacious, with each ward measuring 17 m<sup>2</sup> and accommodating three children.

32. The Child Psychiatry Ward includes a 35 m<sup>2</sup> supervision room equipped with 8 beds, dedicated to patients in acute health conditions and ensuring continuous monitoring. The furnishings and equipment in this room are similar to those in the other rooms, with the distinction of permanent monitoring provided by a dedicated medical station.

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<sup>13</sup> [https://www.legis.md/cautare/getResults?doc\\_id=141327&lang=ro](https://www.legis.md/cautare/getResults?doc_id=141327&lang=ro)

33. The staff of the Child Psychiatry Section consists of: 1 head physician, 8 nurses, 12 auxiliary staff members, 1 speech therapist, 2 educators, and 1 psychologist.

34. The daily schedule for children includes educational and recreational activities aimed at supporting intellectual, moral, and physical development. The ward hosts School no. 88, which holds official status and is staffed by licensed teachers from the general education system. Daily activities include group tasks, applied exercises, rest, sports, games, and leisure time. The ward is equipped with hot water, bathrooms with continuous access, and provides appropriate accommodation conditions. The daily schedule involves waking up at 07:00 and going to bed at 22:00. Children have access to outdoor play and walks, depending on their health status, somatic condition, mental state, and weather conditions.

35. The children under the care of the staff at Codru Psychiatric Hospital benefit from all necessary resources for their proper upbringing and education. These include clothing, equipment, access to education, meals provided five times a day, medical care, activities aimed at developing general cultural knowledge, and appropriate accommodation conditions.

### ***Measures to establish a redress mechanism for individuals, particularly children, with mental disabilities***

36. The Government highlight that the new Law on Children's Rights, mentioned above, introduces provisions guaranteeing a child's right to compensation for material and moral damages caused by: (i) harm to their physical integrity or health; (ii) violations of personal non-patrimonial rights resulting from violence, neglect, exploitation, or failure by the legal representative/guardian to fulfil parental rights and obligations; and (iii) failure or improper fulfilment by a public authority or institution of its legal duty to protect against risks leading to harm. These provisions, regulated under Article 23 § 4 of the Law, ensure the protection of children's rights and provide clear mechanisms for redress in cases where their life or health has been harmed.

37. In order to establish an appropriate mechanism capable of providing compensation to individuals, particularly children with mental disabilities, who claim to be victims under Articles 3 and 14 of the Convention, the national authorities will conduct an analysis of the domestic legal framework. This analysis aims to identify necessary measures for either amending existing legislation or adopting specific guidelines to ensure effective compensation for damages resulting from ill-treatment in psychiatric institutions. The Government will keep the Committee of Ministers informed about the result of this assessment.

### ***Professional training and awareness raising***

38. The national authorities continuously provide training in the field of human rights for relevant professionals, including on matters related to the rights of persons with mental disabilities.

39. In partnership with the Council of Europe, the National Institute of Justice has developed a distance-learning course for judges, prosecutors, and lawyers on the topic "Anti-Discrimination Course"<sup>14</sup>. The course covers the jurisprudence of the European Court of Human Rights in cases of discrimination, including discrimination based on disability.

40. Additionally, under the auspices of the National Institute of Justice, as part of the Continuous Training Plan for Lawyers, 61 lawyers providing state-guaranteed legal

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<sup>14</sup> <https://www.inj.md/ro/curs-%C3%AEen-domeniul-antidiscrimin%C4%83rii-help>



assistance have been instructed on the topic: *"Specificities of providing quality legal assistance to persons with intellectual and psychosocial disabilities"*<sup>15</sup>.

41. In 2023, 350 psychiatrists, paediatricians and neurologists from public healthcare institutions participated in the course *"Mental health issues in children and adolescents"*. Approximately 2,500 mental health professionals have been trained in areas such as human rights, aggression management, psychodiagnostics, and cognitive-behavioural therapy. Additionally, family doctors and medical assistants have received training in delivering community-based mental health care services, with a focus on early diagnosis and treatment of depression and anxiety.

42. During the third meeting of the Advisory Council of the Government Agent<sup>16</sup> held on 24 May 2024 with the support of the Council of Europe's Project *"Strengthening the human rights compliant criminal justice sector in the Republic of Moldova"*, the present case was thoroughly discussed by all participants, taking into account the violations found by the Court and the elements leading to these findings. The discussions focused on an exchange of views in regard to the measures already implemented at domestic level and those that are still pending implementation as regards the reform of the involuntary placement in psychiatric institutions and involuntary psychiatric treatment of persons with disabilities, especially children, in particular given the Court's instructions under Article 46 of the Convention. Besides the members of the Advisory Council, the meeting was also attended by members of Parliament, representatives of the Ministry of Health and the Ministry of Labour and Social Protection, as well as by representatives of the Department of Execution of European Court of Human Rights Judgments.

#### IV. CONCLUSIONS

43. In regard to the individual measures, the Government undertake to keep the Committee of Ministers informed about the outcome of the reopening of domestic investigation in the present case.

44. As for the general measures, the Government observe that the alignment of the domestic legal framework on the protection of the rights of persons with disabilities with international standards represents a priority for the Republic of Moldova. These are currently key-points in the national policies and in all international commitments, based on which continuous efforts are made in order to ensure the effective protection of rights of persons with disabilities in general, and of children in particular. The Government invite the Committee of Ministers to take note of the measures implemented by the national authorities and will keep it informed about any relevant evolutions in this regard.



**Doina MAIMESCU**  
**Acting Government Agent**

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<sup>15</sup> <https://www.inj.md/ro/activit%C4%83%C8%9Bi-semestriale>

<sup>16</sup> <https://www.agentguvernamental.md/comunicate-de-presa/a-treia-reuniune-a-consiliului-consultativ-pe-langa-agentul-guvernamental/>