



CPT/Inf (2012) 3
Translation

REPORT

**TO THE MOLDOVAN GOVERNMENT
ON THE VISIT TO THE REPUBLIC OF MOLDOVA
CARRIED OUT BY THE EUROPEAN COMMITTEE
FOR THE PREVENTION OF TORTURE
AND INHUMAN OR DEGRADING TREATMENT
OR PUNISHMENT (CPT)**

FROM 1 TO 10 JUNE 2011

The Moldovan Government has requested the publication of this report.

Strasbourg, 12 January 2012

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APPENDIX I: List of the CPT’s recommendations, comments and requests for information (in the original French version only, available at this address: <http://www.cpt.coe.int/documents/mda/2012-03-inf-fra.pdf>)

APPENDIX II: List of the national authorities, bodies and organisations with which the CPT’s delegation held consultations (in the original French version only, available at this address: <http://www.cpt.coe.int/documents/mda/2012-03-inf-fra.pdf>)

Copy of the letter transmitting the CPT's report

Ms Carolina Bagrin
Department of Treaties and European
Integration
European Integration and International
Relations Directorate
Ministry of Justice
Str. 31 August 1989, 82
MD - 2012 CHIȘINĂU

Strasbourg, 16 December 2011

Dear Madam,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Moldovan Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to the Republic of Moldova from 1 to 10 June 2011. The report was adopted by the CPT at its 76th meeting, held from 7 to 11 November 2011. The present report will be made public in accordance with the decision of the Moldovan Government as to the automatic publication of visit reports and responses.

The various recommendations, comments and requests for information formulated by the CPT are listed in Appendix I of the report. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Moldovan authorities to provide within **six months** a response giving a full account of action taken to implement them.

The CPT trusts that it will also be possible for the Moldovan authorities to provide, in the above-mentioned response, reactions to the comments formulated in this report which are summarised in Appendix I as well as replies to the requests for information made.

The CPT would ask, in the event of the response being forwarded in the State language, that it be accompanied by an English or French translation.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Yours sincerely,

Lətif Hüseynov
President of the European Committee for
the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a periodic visit to the Republic of Moldova from 1 to 10 June 2011. The visit formed part of the Committee’s programme of periodic visits for 2011. It was the Committee’s fifth periodic visit to the country¹.

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

- Jean-Pierre RESTELLINI, Head of delegation
- Régis BERGONZI
- Anna LAMPEROVÁ
- Anna MOLNÁR
- Joan-Miquel RASCAGNERES
- Xavier RONSIN.

They were supported by Johan FRIESTEDT, Isabelle SERVOZ-GALLUCCI and Petr HNATIK and of the CPT’s Secretariat, and assisted by:

- Catherine PAULET, psychiatrist, Head of the Regional Medico-Psychological Service at Marseilles Penitentiary Centre, France (expert)
- Veronica BONARU-BOHANȚOV (interpreter)
- Sergiu DAMIAN (interpreter)
- Rodica IOVU (interpreter)
- Gheorghe MOLDOVANU (interpreter)
- Andriana SINDIRINSCHI (interpreter)
- Angela SOLTAN (interpreter).

¹ The CPT’s previous periodic visit to the Republic of Moldova took place in 2007. The Committee subsequently carried out two visits of an *ad hoc* nature, in 2009 and 2010. The reports on those visits, together with the responses of the Moldovan Government, were made public at the request of the Moldovan authorities (see documents [CPT/Inf \(2008\) 39](#), [CPT/Inf \(2008\) 40](#), [CPT/Inf \(2009\) 37](#), [CPT/Inf \(2010\) 9](#), [CPT/Inf\(2011\) 8](#) and [CPT/Inf\(2011\) 9](#)).

B. Establishments visited

3. The delegation visited the following places of deprivation of liberty:

Establishments under the Ministry of the Interior

- Directorate General of Operational Services, Chişinău
- Directorate of Criminal Investigations, Chişinău
- Temporary Detention “Isolator” (TDI) of the Chişinău Police Headquarters
- Ciocana District Police Station, Chişinău
- Rîşcani District Police Station, Chişinău

- Bălţi Police Station and TDI
- Hînceşti Police Station and TDI

- Temporary Placement Centre for foreign nationals, Chişinău

Establishments under the Ministry of Justice

- Penitentiary establishment No. 11, Bălţi
- Penitentiary establishment No. 17, Rezina
- Psychoneurological Unit of the Pruncul Prison Hospital

Establishments under the Ministry of Health

- Orhei Psychiatric Hospital
- Secure pavilion of Chişinău Psychiatric Hospital (Units 31 and 37)

Establishments under the Ministry of Labour, Social Protection and the Family

- Orhei Psychoneurological Home for Boys.

C. Consultation held by the delegation and co-operation encountered

4. The delegation held consultations with Oleg EFRIM, Minister of Justice, Iurie CHEPTĂNARU, Deputy Minister of the Interior, Gheorghe ȚURCANU, Deputy Minister of Health and Vadim PISTRINCIUC, Deputy Minister of Labour, Social Protection and the Family, as well as other senior officials from these ministries, including Vadim COJOCARU, Director General of the Department of Penitentiary Institutions. The delegation also held in-depth discussions with Andrei PÂNTEA, First Deputy Prosecutor General, and Ion CARACUIAN, Head of the Anti-Torture Division within the Prosecution Service, as well as with prosecutors handling cases involving allegations of ill-treatment.

Further, it held consultations with Anatolie MUNTEANU, Parliamentary Advocate (Ombudsman), Head of the Human Rights Centre and the Consultative Council for the Prevention of Torture. Meetings were also held with representatives of the United Nations Organisation in Moldova as well as with members of non-governmental organisations active in areas of concern to the CPT.

A list of the national authorities, bodies and organisations consulted during the visit is set out in Appendix II to this report.

5. The co-operation provided to the delegation throughout the visit was excellent. In particular, it obtained rapid access to the places of deprivation of liberty visited and to the information required to carry out its task and it was able to speak in private with the persons deprived of their liberty with whom it wished to meet. It also conducted interviews with many professionals working in fields which fall within the Committee's mandate, who spoke very frankly and openly.

The CPT also wishes to thank the liaison officer designated by the national authorities, Carolina BAGRIN of the Ministry of Justice, for the assistance she provided to the delegation.

6. At the end of the visit, the CPT delegation had a meeting with the Minister of Justice and other official representatives of the Moldovan authorities to inform them of its main findings. On that occasion, the delegation made three requests: 1) that an investigation be opened into possible acts of police brutality allegedly perpetrated against a person being detained by the police before and after his first interview with the delegation and that the results of this investigation be transmitted to the CPT; 2) that the CPT be informed of the measures taken by the prosecutor in charge of the investigation into the allegations that members of the "Pantera" special intervention squad made excessive use of force during the operation they carried out in Penitentiary establishment No. 11 in Bălți in April 2011 and of the results of this investigation; 3) that the CPT be informed of the future of the Orhei Psychoneurological Home for Boys when the support arrangements for this institution end in 2013.

The above requests were subsequently confirmed in a letter sent by the President of the CPT on 21 June 2011. By letter dated 10 October 2011, the Moldovan authorities informed the Committee of the measures taken in response to these requests and made other comments in reply to the delegation's preliminary observations. This information will be examined later in the report.

D. Functioning of the National Preventive Mechanism

7. During its visit to the Republic of Moldova in 2009, the CPT noted a number of difficulties faced by the Moldovan national preventive mechanism established under the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. In particular, it found that the setting-up of the Consultative Council for the Prevention of Torture attached to the Human Rights Centre² had not been accompanied by the allocation of sufficient budgetary resources, that many seats were vacant and that there was no member with recognised medical expertise on the Council. The Committee also noted that there had been a number of problems of access to police stations and that members of the Council had been unable to conduct some of the interviews with persons deprived of their liberty in private. In its report, the CPT recommended that measures be taken to ensure that the Consultative Council for the Prevention of Torture exercised its powers to the full, taking due account of the recommendations, observations and guidelines drawn up by the United Nations Subcommittee on Prevention of Torture and other cruel, inhuman or degrading treatment or punishment (SPT) concerning national preventive mechanisms and that detailed information on the mandate and powers of members of the Consultative Council should be distributed to the competent authorities and staff concerned. In its response, the Moldovan Government informed the Committee that new circulars had been disseminated within the Ministry of the Interior and that meetings had been organised with the National Preventive Mechanism so as to avoid a recurrence of the problems encountered in the past.³

8. At the time of the 2011 visit, the membership of the Consultative Council was being reviewed. Its new composition was decided on 27 July 2011 by the Director of the Human Rights Centre, following an opinion from the Parliamentary Committee on Human Rights and Inter-ethnic Relations.⁴ The delegation was told that new members are competent in legal, prison, psychiatric and police matters. For certain visits, outside experts are called upon to allow filling the gaps concerning specific needs. Nonetheless, a number of the persons with whom the delegation spoke raised the question of the low operating budget allocated to the Consultative Council for the Prevention of Torture and the resources earmarked for recruiting outside experts. **Care should be taken to comply with the SPT guidelines adopted in November 2010, in particular by ensuring that the national preventive mechanism is allocated sufficient resources to permit its effective functioning.**⁵

9. The CPT notes with satisfaction that the delegation was not informed of any major problem having arisen during the national preventive mechanism's visits to police establishments in 2010 and the first half of 2011. It was reportedly given rapid access to police stations and was always able to interview persons deprived of their liberty in private.

² The Human Rights Centre is composed of four Parliamentary Advocates, one of whom is the Centre's Director and heads the National Preventive Mechanism. At the time of the 2011 visit, the Centre had 38 members of staff, five of whom were assigned to the running of the national preventive mechanism.

³ See paragraphs 41-46 of document CPT/Inf (2009) 37 and the Moldovan authorities' reply in document CPT/Inf (2010) 9.

⁴ Opinion No. 6/161 of 15 July 2011.

⁵ In this connection, see paragraph 11 of the SPT guidelines (document [CPT/OP/12/5](#) of 9 December 2010).

E. Establishment of an Anti-Torture Division within the Prosecution Service

10. In its report on the 2009 visit, the CPT recommended that, in the medium term, the Moldovan authorities set up an independent agency specialised in the investigation of cases of possible ill-treatment. In response, the Committee was informed that an Anti-Torture Division had been set up within the Prosecution Service in May 2010 with the aim, inter alia, of better managing investigations into such matters.⁶ This division, theoretically staffed by four prosecutors,⁷ supervised the activities of 70 "contact prosecutors" for combating torture, appointed by the heads of the regional branches of the prosecution service on the basis of their competencies and their independence in relation to the police.

11. During the 2011 visit, the delegation examined the manner in which four investigations of alleged cases of police brutality in the capital and the regions of Ialoveni and Orhei had been conducted (the oldest of these investigations had been opened several years earlier and the most recent two to four months before the visit). The examination of these cases with the prosecutors concerned rapidly brought to light a number of major problems likely to jeopardise the performance of the task entrusted to the Anti-Torture Division and the anti-torture prosecutors.

12. Firstly, in practice, the anti-torture prosecutors seemed to have to contend with a genuine shortage of resources, since they were left to act alone without being able to call on either consultants or a specialised corps of independent operational support staff, as could prosecutors dealing with other kinds of cases, nor even on mere secretarial assistance. In addition, some prosecutors told the delegation that, after they had questioned the conduct of certain police officers, they had found themselves in an awkward position vis-à-vis the local police force, while, at the same time, the prosecution services they worked for were generally materially dependent on the police. Further, in some cases prosecutors encountered great difficulties in obtaining objective medical data.

The CPT recommends that the Moldovan authorities (i) as a first step, set up a reinforced team, comprising several prosecutors for each case, whose role is to carry out investigations throughout the country into cases involving alleged ill-treatment perpetrated by one or more police officers or any other public officials (such as prison staff); (ii) as a second step, provide them with specialised support staff; (iii) as a third step, examine the feasibility of completely separating the Anti-Torture Division from the Prosecution Service so as to establish a genuine independent, specialised agency. With regard to the availability of objective medical data, reference is made to the recommendations set out in paragraphs 24 to 28 and 79 to 83.

⁶ See paragraph 67 of document CPT/Inf (2009) 37 and the Moldovan authorities' corresponding responses in documents CPT/Inf (2010) 9 and CPT/Inf (2011) 9.

⁷ One post was vacant at the time of the visit.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police establishments

1. Preliminary remarks

13. The legislation governing the duration of police custody has not been amended since the visit carried out in 2010. In this connection, it can be recalled that a person suspected of having committed a criminal offence can be detained by the police for up to 72 hours from the moment of deprivation of liberty;⁸ the person concerned must be brought before an investigating judge before the expiry of this period. A protocol of detention must also be drawn up within three hours of the deprivation of liberty.⁹

During the visit, the time-limits set out above seemed as a rule respected. Nonetheless, it again emerged that, in a number of cases, the three-hour deadline required by law for drawing up protocols of detention had not been complied with. In most of these cases the persons concerned had apparently been apprehended in the evening or at night and their apprehension had rapidly been followed by preliminary questioning by operational officers over a period of up to 15 hours before the detention protocol was signed. The Moldovan authorities are perfectly aware of the increased risks of ill-treatment in such circumstances¹⁰. In their letter dated 10 October 2011, they informed the Committee that, following the visit, all the local sub-divisions of the police had been reminded that the three-hour deadline for drawing up the protocol of detention, imposed by the Code of Criminal Procedure, must be complied with in practice and that protocols of detention must always specify not only when and where they were drawn up, but also the time and place of the person's apprehension¹¹. This initiative is to be welcomed. **The CPT recommends that the Moldovan authorities pursue their efforts to ensure that all protocols of detention are drawn up without delay following apprehension and that the time and place of apprehension are always specified.**

It should also be noted that, during its interviews with members of the police, the delegation heard diverging interpretations of the legislation concerning the concept of deprivation of liberty. Some consider that the "moment of deprivation of liberty" begins when a person arrives at a police establishment after being apprehended, and not as from the apprehension proper. **The CPT recommends that a clear reminder be issued to all members of the police that the "moment of deprivation of liberty" must be considered as the moment when a person is obliged to remain with the police, that is the moment of *de facto* deprivation of liberty.**

⁸ See in particular Article 166, paragraph 5, of the Code of Criminal Procedure. Where juveniles are concerned, the period of detention cannot exceed 24 hours (see Article 166, paragraph 6, of the same Code).

⁹ Article 167, paragraph 1, of the Code of Criminal Procedure.

¹⁰ See the Moldovan Government's response to the report on the 2010 visit (CPT/Inf (2011) 9).

¹¹ Instruction No. 6/1820 of the Ministry of the Interior dated 15 July 2011.

14. During the visit, the delegation's official interlocutors highlighted the efforts made by the Moldovan authorities to ensure the greatest possible compliance with the provisions on the transfer to penitentiary establishments of all persons remanded in custody or of persons serving administrative sentences¹². They also recalled that the return of remand prisoners to police temporary detention "isolators" (TDIs) had to serve a clearly defined purpose, in particular a reconstruction of events under Article 122 of the Code of Criminal Procedure, an identification procedure pursuant to Article 116 of that code or the appearance of the person concerned before a judge who is to decide on an extension of the period of remand in custody.

In practice, the delegation noted that, more often than not, the time spent in the TDI corresponded to the period of police custody. However, according to the registers consulted by the delegation, some remand prisoners or administrative detainees had been kept there for longer periods, of as much as one month without interruption. Further, in some cases, the length of time spent in TDIs by remand prisoners who had been returned there¹³ seemed scarcely justified by the measures set out above. **The CPT recommends that the authorities intensify their efforts to ensure that (i) all persons remanded in custody or serving an administrative sentence are promptly transferred to penitentiary establishments and (ii) the return of remand prisoners to police establishments, for any purpose whatsoever, is sought and authorised only when there is absolutely no other alternative and for the shortest time possible.**

2. Torture and other forms of ill-treatment

15. The proportion of detained persons (including women and juveniles) who complained of ill-treatment by the police during the months preceding the visit, approximately one-third of the persons questioned by the delegation on this subject, remains high. The allegations of ill-treatment mainly concerned punching, kicking or kneeling shortly after the apprehension of the persons concerned, while they were handcuffed. These forms of ill-treatment allegedly took place during searches or preliminary questioning by operational officers in a police station, at the home of the person apprehended or in other little frequented places out of the sight of others. In some cases, police criminal investigators allegedly encouraged this behaviour. The aim of the alleged ill-treatment was generally to secure confessions. A number of alleged ill-treatments could be qualified as acts of torture (violent extensive beatings, suffocation with a plastic bag, beating with a truncheon on the soles of the feet).

Mention was also made of oppressive interrogation techniques (by groups of up to ten police officers), rape threats (with presentation of a dildo) and mock summary executions¹⁴.

¹² Articles 303, paragraph 1, and 313, paragraph 3, of the Code of Execution.

¹³ Periods of up to some ten days were noted.

¹⁴ For example, operational officers allegedly told a person interviewed by the delegation that if he/she did not confess he/she would be executed. The person was taken to an isolated location, required to kneel and a firearm was placed against his/her temple.

The delegation also heard allegations of excessive use of force at the time of apprehension (punching after the person apprehended had been brought under control) either by operational officers or, in exceptional cases, by masked members of the "Fulger" special police force.¹⁵

In a number of cases, the delegation's doctors observed injuries, and/or found medical information in the documents consulted, which bore out the allegations of the detained persons concerned. Moreover, traces of excessively tight handcuffing were observed on the wrists of several detained persons.

16. The case of one detained person with whom the delegation spoke on two occasions during the visit gives cause for particular concern. This person, who at the time of the first interview bore visible traces of violence, was apparently subjected to further ill-treatment by the police during the few days that separated the two interviews with the delegation. At the end of the visit, the delegation informed the Prosecution Service's Anti-Torture Division of this person's identity, so that appropriate protective measures could be taken. It also asked the Moldovan authorities to open an investigation into this matter and to inform the CPT of the results. In their letter of 10 October 2011, the authorities informed the Committee that a criminal investigation into possible ill-treatment suffered by the person concerned had been opened under Article 274 of the Code of Criminal Procedure. The Prosecution Service had interviewed a number of individuals, obtained copies of the relevant medical documents from the health-care establishments where the detained person had been treated and commissioned a forensic examination on the injuries sustained. In August 2011, a supplementary examination was drawn up. **The CPT wishes to receive up-to-date information on this investigation's progress, including the results of the forensic examinations.**

17. On a more positive note, with only one exception, the delegation heard no allegations of ill-treatment concerning members of the police working in the TDIs. Similarly, it heard no allegations and noted no other indications that persons placed in the Chişinau Temporary Placement Centre for Foreign Nationals had been ill-treated by the police.

18. The torture prevention action plans drawn up by the Ministry of the Interior cover a number of key aspects: messages of "zero tolerance" for perpetrators of ill-treatment are conveyed by the ministry's senior management and during initial and in-service training for the police¹⁶ and training in investigation methods and questioning techniques is being improved. The delegation was also informed of a scheme to install video surveillance systems in police stations (the video recordings are to be kept for a period of six months). In this connection, it studied with interest the pilot project being implemented at the Rîşcani district police station in Chişinau (equipment of interview rooms and of the corridors in the detention area, in particular).

¹⁵ *Brigada de poliție cu destinație specială « Fulger ».*

¹⁶ See CPT/Inf (2011) 9. In addition, in their letter of 10 October 2011, the Moldovan authorities informed the Committee that they had asked all the local sub-divisions of the police to prevent all practices similar to those described by the delegation at the end of the visit.

In the light of the delegation's findings during the visit, **the CPT recommends that the Moldovan authorities continue to implement these measures with the greatest possible resolution. In particular,**

- (i) it should be ensured that the "zero tolerance" message concerning ill-treatment is well understood by all criminal investigators, operational officers and members of the special police forces. If necessary, a statement should be adopted at the highest political level;**
- (ii) vocational training of police criminal investigators and police operational officers should place emphasis on a physical evidence-based approach, thereby reducing reliance on confessions obtained through questioning¹⁷;**
- (iii) interviews should as a rule be conducted by not more than two interviewers, in rooms specifically equipped and designed for the purpose. A system of ongoing monitoring of police interviewing standards and procedures should also be put in place; this would require the accurate recording of all police interviews, which, if possible, should be conducted with electronic recording equipment (audio, in addition to any video recordings made). It should also be required that a record be systematically kept of the time at which interviews start and end, of any request made by a detainee during an interview, and of the persons present during each interview;**
- (iv) police officers should be reminded that, where it is deemed necessary to handcuff a person at the time of apprehension or during the period of police custody, the handcuffs should under no circumstances be applied excessively tightly and should be used only for as long as is strictly necessary¹⁸.**

The CPT would also like to receive clarification regarding the security features of video and audio recording systems, and more specifically on measures which are adopted to protect against potential manipulation of those recordings.

¹⁷ In particular, training in the seizure, retention, packaging, handling and evaluation of forensic exhibits and continuity issues pertaining thereto should be developed. Investments should also be made to ensure ready access to evidence collection tools, such as DNA technology and automated fingerprint identification systems.

¹⁸ In this respect, it should be recalled that excessively tight handcuffing can have serious medical consequences (for example, sometimes irreversible ischemic lesions).

19. It is moreover essential to do more to promote, within the police force itself, a culture where it is regarded as unprofessional – and unsafe from a career path standpoint – to work and associate with colleagues who resort to ill-treatment. In more precise terms, an atmosphere must be created in which the right thing to do is to report ill-treatment by colleagues. The CPT notes with great interest that some detained persons interviewed by the delegation stated that certain police officers had prevented or stopped colleagues from ill-treating them shortly after their apprehension or during preliminary questioning. However, the delegation was informed that no cases had been referred to the Prosecution Service following reports lodged by police officers, despite the fact that the Ministry of the Interior had issued an instruction reminding members of the police of their obligation to refer to the prosecution service all possible cases of ill-treatment that came to their knowledge.

In the CPT's view, **proper conduct by members of the police vis-à-vis detained persons should be fostered, in particular by doing more to encourage police officers to prevent colleagues from ill-treating detained persons and to report, through appropriate channels, all cases of violence by colleagues; there must be a clear understanding that culpability for ill-treatment extends beyond the actual perpetrators to anyone who knows, or should know, that ill-treatment is occurring or has occurred and fails to act to prevent or report it. This implies the existence of a clear reporting line as well as the adoption of whistle-blower protective measures.**

20. It goes without saying that the application of appropriate sanctions to any police officer involved, in some way or another, in acts of torture or other forms of ill-treatment of detained persons will have a highly dissuasive effect. In this connection, **the Committee requests that the Moldovan authorities provide it with the following information for 2011 and the first three months of 2012: (i) the number of cases of ill-treatment by colleagues reported by police officers to the Ministry of the Interior and the Prosecution Service's Anti-Torture Division; (ii) the number of complaints of police ill-treatment; (iii) the number of administrative investigations and/or criminal proceedings initiated in response to such reports/complaints; (iv) a list of the administrative and/or criminal sanctions imposed.**

3. Safeguards against ill-treatment

21. Article 64, paragraph 2, sub-paragraph 12, of the Code of Criminal Procedure provides that a person detained by the police shall be entitled to immediately notify a relative or any other person, at the latest within six hours, of the place where they are being detained. Article 173, paragraph 1, of the same Code moreover stipulates that the officer who draws up the protocol of detention shall give the detained person the possibility of exercising this right.

It emerged from the delegation's findings during the 2011 visit that the vast majority of persons placed in police custody had been afforded the possibility of informing a relative of their situation when the protocol of detention was drawn up. However, this meant that many of them had been unable effectively to exercise this right for a period of up to fifteen hours following their apprehension (see paragraph 13). Furthermore, a number of persons with whom the delegation spoke said that, when a police officer had performed the notification on their behalf, they did not know whether their relatives had effectively been informed of their situation according to their request.

The CPT calls upon the Moldovan authorities to take the necessary measures, including from a legislative standpoint, so as to guarantee all persons detained by the police the effective right to notify a relative or another third party of their detention from the very outset of their *de facto* deprivation of liberty. It should also be ensured that measures are taken to provide such persons with feedback on whether it has been possible to notify a close relative or other person of their detention.

22. In its previous reports, the CPT considered that Article 173, paragraph 4, of the Code of Criminal Procedure should be amended, inter alia so as to define more clearly the possibility of delaying exercise of the right to notify a relative or another third party and to reduce to a maximum of 48 hours the period during which notification of a relative or another third party may be withheld. At the time of the 2011 visit, the legislation in these matters had not been modified.

According to the representatives of the Ministry of the Interior with whom the delegation spoke, this provision, intended in particular to combat organised crime, was in fact virtually never applied. It is true that, during the visit, the delegation found no mention of recourse to this type of measure in the files it consulted. However, a number of detained persons said that they had not been authorised to exercise the right to notify a relative or another third party on the day of their apprehension, not even during the entire period of their custody, without Article 173, paragraph 4, being invoked.

The CPT once again calls upon the Moldovan authorities to implement its longstanding recommendation that steps be taken to define more clearly the possibility afforded by law of delaying the exercise of the right of detained persons to notify a relative or another third party of their detention and to reduce to a maximum of 48 hours the period during which the right of notification can be withheld. It should also be ensured that recourse to this type of measure is always officially approved by an investigating judge, as required by law.

23. Article 64, paragraph 2, of the Code of Criminal Procedure provides that a person detained by the police shall have the right to be assisted by a lawyer of their choice or, if they have insufficient resources to pay for the services of a lawyer, the right to the free assistance of an *ex officio* lawyer, from the moment they are notified of the procedural step whereby they are recognised as being suspected of having committed a criminal offence¹⁹. This article also provides that all persons in police custody shall have the right to obtain legal advice from a lawyer in private before the beginning of their first interview as a suspect²⁰.

With only a few exceptions, the findings made during the visit were consistent with this legislative framework. The CPT moreover notes that, following the visit, the Moldovan authorities reminded all the local sub-divisions of the police that any breach of the legislation governing the right of access to a lawyer of the detained person's choice or appointed *ex officio* was unacceptable. Nonetheless, even when the law was complied with, this right was generally not effective before signature of the protocol of detention. Consequently, a number of persons detained by the police had, in practice, undergone preliminary questioning by operational officers for several hours following their apprehension (see paragraph 13), and had possibly been ill-treated (see paragraph 15), without having access to a lawyer. The persons with whom the delegation spoke had reportedly had their first contact with a lawyer, at best, shortly before the first formal interview with a criminal investigator or, at worst, when they were first brought before a judge.

The CPT calls upon the Moldovan authorities to amend the provisions of the Code of Criminal Procedure concerning the right of access to a lawyer so that this right is guaranteed from the very outset of *de facto* deprivation of liberty, that is from the moment when a person is obliged to remain with the police (rather than the moment when they are officially suspected of having committed a criminal offence). More precisely, if, from the very outset of deprivation of liberty, the person requests the assistance of a lawyer, it should be ensured that initial questioning, of any kind, can begin without the person's chosen or *ex officio* lawyer being present only after a specified time-limit. Only for clearly defined exceptional reasons, such as prevention of imminent harm to others, should it be possible, with a prosecutor's express authorisation, to begin questioning a person in police custody without awaiting the arrival of their chosen or *ex officio* lawyer. Such measures will necessitate a review, in consultation with the Bar Association, of the conditions of intervention of *ex officio* lawyers.

24. During the visit, all of the delegation's official interlocutors, whether at the Ministry of the Interior or at the Prosecution Service's Anti-Torture Division, acknowledged that the right of access to a doctor was fundamental for both preventing and sanctioning police brutality. They recalled that, under Article 64, paragraph 2, sub-paragraph 15, of the Code of Criminal Procedure, a person suspected of having committed a criminal offence was entitled to make certain requests, including concerning independent medical treatment. In its previous reports the CPT had considered that this provision was still far from complying with the Committee's already longstanding recommendation that all persons in police custody should be expressly guaranteed the right of access to a doctor from the very outset of their deprivation of liberty.

¹⁹ Sub-paragraph 5, as amended by Law LP89-XVI of 24 April 2008, which entered into force on 1 July 2008.

²⁰ Sub-paragraph 4.

According to information provided by the Ministry of the Interior at the beginning of the visit, all persons detained by the police are entitled to be *examined by an independent doctor* if they refuse to be examined by a police feldsher (health officer). Except in cases of emergency, the detained persons with whom the delegation spoke during the 2011 visit had apparently not been allowed such an independent medical examination when they requested it. Following the visit, all the local sub-divisions of the police were reminded that all persons placed in TDIs must have access to an independent medical examination at their request, if they refused to be examined by the health-care professional reporting to the police.

The Committee calls upon the Moldovan authorities to implement its longstanding recommendation that the relevant legal provisions be revised so as to guarantee that all persons taken into police custody have the right to be examined by a doctor from the very outset of their *de facto* deprivation of liberty. This entails that, during the period of deprivation of liberty prior to placement in a TDI, any request by a detained person to see a doctor should also be granted without delay. Furthermore, the right of access to a doctor should include, if the detained person so wishes, the right to be examined by an independent doctor in addition to any examination performed by a health-care professional reporting to the police.

25. As in the past, except in cases of emergency, the first health-care professionals seen by persons in police custody were usually *feldshers working in the TDIs*. Nonetheless, some persons had had to wait some days for a medical examination following their admission, which was not devoid of consequences with regard to screening for possible injuries and evaluation of health-care needs and health risks. For example, the person mentioned in paragraph 16 had informed the delegation that he suffered from insulin dependent diabetes. Consultation of the registers showed that this person had still not been examined by a feldsher since his admission two days earlier; this person was no longer receiving any treatment. At the time of the second interview with the delegation, several days later, this person had still not seen a feldsher, but had felt unwell and had been taken to the emergency department the previous evening. Such a situation endangers the health of detained persons.

The CPT notes with satisfaction that, following the visit, the Moldovan authorities reminded all the local sub-divisions of the police that all persons placed in a TDI must obligatorily be examined by a health-care professional upon their admission and on leaving the TDI. In addition, **the Committee recommends that health-care professionals working in TDIs again be informed that a thorough medical examination must be performed and that persons examined must receive appropriate care, if need be.**

26. During the official talks at the outset of the visit, the representatives of the Ministry of the Interior informed the delegation that measures had been taken to guarantee the *confidentiality* of medical examinations of detained persons arriving at or leaving TDIs. Although the relevant sections of the medical records consulted generally made no mention of the presence of custodial or escort staff, the vast majority of the detained persons met by the delegation stated that they had been examined in the presence of staff having no medical or care duties. **The CPT recommends the adoption of new instructions for police and health care staff dealing with persons in police custody, to the effect that all medical examinations must be conducted out of the hearing and – unless the health-care professional concerned expressly requests otherwise in a given case – out of the sight of any staff having no medical or care duties.**

27. In their letter of 10 October 2011, the Moldovan authorities consider that the confidentiality of medical documentation drawn up during such examinations cannot be guaranteed. More specifically, they emphasised that a copy of the document must be included in the detained person's administrative/police file, where it can be consulted by investigating, custodial or escort staff so that they have access to certain information essential to the performance of their duties (the presence of contagious diseases, for instance).

The CPT acknowledges that it should be possible for health-care professionals dealing with detained persons to inform police and possibly prison staff of particular medical treatment needs and particular health risks. However, there is no justification for giving staff having no medical or care duties access to information concerning the diagnoses made or injuries noted (including the detained persons' statements concerning the cause of such injuries). **The CPT recommends that measures be taken, in the light of these remarks, in order that staff having no medical or care duties have access to medical information strictly on a need-to-know basis.**

28. At a more general level, many of the persons with whom the delegation spoke during the 2011 visit raised the question of the *independence of health-care professionals working in the TDIs* in relation to the police.²¹ During discussions with the delegation, some of these professionals themselves mentioned the awkward position they found themselves in vis-à-vis their police colleagues, and also their patients, when they had brought to the attention of the relevant prosecutor information concerning injuries consistent with possible ill-treatment by the police, especially when the prosecutor reacted openly to this information. Moreover, in some of the investigation records examined by the delegation, the relevant prosecutors had rightly called into question the objectivity of the results of examinations of detained persons conducted by feldshers. In their letter of 10 October 2011, the Moldovan authorities informed the CPT that the Ministry of the Interior had proposed that all health-care staff working in the TDIs should report to the Ministry of Health. The CPT is of the view that **this initiative must be supported and implemented as soon as possible. It should be noted that the proposed transfer must concern all health-care staff working in places of deprivation of liberty coming under the Ministry of the Interior** (in this connection, see paragraph 46).

²¹ The feldshers of the Ministry of the Interior working in the TDIs have a status equivalent to officers. This problem was already raised by the CPT in its report on the 2009 visit, where the Committee recalled that it was important that the status of such staff be aligned as closely as possible with that of mainstream health care professionals (CPT/Inf (2009) 37, paragraph 24).

29. Under Article 64, paragraph 2, of the Code of Criminal Procedure, a person taken into police custody must receive written information on rights immediately after being officially recognised as being suspected of having committed a criminal offence, or having been taken into police custody. Article 167, paragraph 1, also provides that the information on rights shall be provided when the detained person is served with the protocol of detention.

During the 2011 visit, most detained persons with whom the delegation spoke had received written information on their rights during their police custody. This information was generally received when the protocol of detention was drawn up (that is to say, in a certain number of cases, up to some fifteen hours after their apprehension). Furthermore, several detained persons informed the delegation that the police officers had not explained their rights to them or that the form setting out their rights that they had received was available only in the State language, which they apparently did not understand (the persons concerned could read only Russian). In this connection, the delegation noted that bilingual forms (State language/Russian) were still not available in the police stations visited.

In their letter of 10 October 2011, the Moldovan authorities informed the Committee that, following the visit, all the local sub-divisions of the police had been asked to ensure that all persons apprehended were immediately given initial verbal information on their rights at the time of their *de facto* deprivation of liberty, priority being given to the most important rights, including in particular the right to be assisted by a lawyer of their choice or appointed *ex officio*, the right to consult their lawyer in private before first being questioned and the right to request independent medical treatment. Further information must subsequently be provided in writing, along with explanations, upon the person's arrival at a police station. The obligation to provide the bilingual version of the form, along with explanations, was also reiterated. This measure is to be welcomed. **The CPT trusts that additional measures will be taken to ensure that this approach is clearly reflected at the legislative and/or regulatory level.**

Moreover, **the right to notify a relative or another third party of the detained person's situation must also be added to the list of the most important rights on which verbal information must be given from the outset of the *de facto* deprivation of liberty.**

30. The situation of juveniles in police custody varied from case to case. Some had apparently been rapidly informed of their rights and been able to exercise them, whereas others had allegedly been made to sign documents without the presence of a lawyer and/or another trusted person. **The CPT recommends that the Moldovan authorities remain vigilant in ensuring that juveniles placed in police custody do not make any statement or sign any document relating to the offence of which they are suspected without the benefit of a trusted adult and/or a lawyer being present to assist them.**

31. The delegation found during the 2011 visit that efforts had been made to improve the keeping of registers. However, some errors (dates/times) or discrepancies were noted. Similarly, in the police stations visited the records did not specify for how long detained persons had been kept in holding cells. **The Committee recommends that the authorities pursue their efforts to improve the keeping of custody registers so that they accurately record the dates and times of deprivation of liberty, release or transfer, and reflect all other aspects of custody (precise location where a detained person is held; visits by a lawyer, relative, doctor or consular officer; taking out for questioning, transfer to hospital, etc.). It should also be ensured that the registers mention placements in police station holding cells and the duration for which detained persons are kept there.**

4. Conditions of detention in police stations and police temporary detention "isolators"

32. The delegation had been informed that the implementation of a nationwide scheme to renovate police temporary detention "isolators" (TDIs) was being pursued²². At the time of the visit, 39 TDIs were operational and eight had been taken out of use because detention conditions there had been deemed unsuitable. 134 cells out of a total of 287 had been renovated or taken out of use.

The refurbishment of the TDI of the Chişinău police headquarters, which was to be carried out on the basis of a Council of Europe expert report performed in August 2010, was still pending. The delegation was informed that the work was scheduled to begin during the weeks following the 2011 visit.

The Bălţi TDI was being partially renovated. The future renovated cells would accommodate not more than two persons and would offer sufficient lighting and ventilation, unlike the cells currently in use.

At Hînceşti, little had changed since the CPT had visited this establishment ten years earlier. Only one cell out of nine had been refurbished²³. The cells were dark and, according to certain persons detained who had been held there in winter, very poorly heated during cold weather (only the corridor benefited from a heating system). The refurbished cell (No. 4) had an in-cell toilet, whereas persons detained in the other cells had to relieve themselves in buckets, except for twice a day when they were given access to the communal toilet facilities. In their letter dated 10 October 2011, the Moldovan authorities informed the Committee that, following the visit, the non-renovated cells (which were consequently not equipped with in-cell toilets) had been taken out of use.

33. The TDIs visited by the delegation had secure exercise yards. Nonetheless, at the TDI of Chişinău police headquarters, a number of detained persons again stated that they were not permitted to take more than 15-20 minutes of outdoor exercise per day. At Hînceşti, certain detained persons stated that they had been unable to benefit from daily outdoor exercise due to a shortage of staff; when outdoor exercise did take place, it was reportedly limited to 30 minutes.

²² Further to the government's decision No. 511 of 22 June 2010, MDL 2.2 million had been made available for the renovation of the TDIs.

²³ Three cells had also been partially refurbished.

34. The custodial and escort staff of the TDIs visited were entirely male (at Chişinău a custodial post reserved for a female member of staff was vacant). The female officers of the police stations to which the TDIs belonged were apparently called upon when the need arose.

35. In the light of the above, **the CPT recommends that the Moldovan authorities resolutely pursue the implementation of the nationwide scheme for the renovation of the TDIs. In this connection, special attention should be paid to the Hînceşti TDI, ensuring as a matter of priority that:**

- **the cells that have been taken out of use are refurbished, while ensuring that they have sufficient lighting and ventilation, and are equipped with toilets;**
- **all the cells are adequately heated in cold weather.**

With regard to the TDIs at Chişinău police headquarters and at Bălţi police station, the Committee would like to receive updated information on the progress of the renovation work.

The Committee also recommends that, in the TDIs at Chişinău police headquarters and at Hînceşti (and in all other TDIs in the country) any person detained for more than 24 hours has *de facto* access to outdoor exercise for at least one hour per day, except where contraindicated for medical reasons. If necessary, the number of custodial and escort staff within these establishments should be reviewed.

Furthermore, appropriate steps should be taken to ensure a better gender mix among the custodial staff of the TDIs visited.

36. The holding cells in the police stations visited were sometimes extremely small (scarcely 2 m² at the Ciocana district police station in Chişinău)²⁴. They were theoretically intended to be used for a few hours; however, it would seem from a consultation of the registers that, in certain cases, persons could have been held there overnight. In addition, at the Ciocana district police station in Chişinău, the delegation heard complaints of long delays when detained persons asked to use the toilets.

The CPT recommends that measures be taken to ensure that any cell measuring less than 5 m² is not used for periods of detention exceeding a few hours. Furthermore, it should be ensured that persons placed in holding cells at the Ciocana district police station are granted rapid access to the toilets on request, including at night.

²⁴ At Hînceşti, on the other hand, the holding cell measured 5 m².

5. Temporary Placement Centre for foreign nationals in Chişinău

a. introduction

37. For the first time, the CPT visited the temporary placement centre for foreign nationals in Chişinău. The centre, which is run by the Immigration and Asylum Office of the Ministry of the Interior, was opened in mid-2009 following comprehensive renovation work; two new buildings were completed in 2011, but the areas for foreign nationals were not yet in use at the time of the visit.

The legal framework for persons held under the legislation on the entry and residence of foreign nationals had been changed substantially, with the amendments made to the Criminal Code and the Code of Administrative Offences following the entry into force of the 2008 Law on refugees and the 2010 Law on foreign nationals. Illegal entry into Moldovan territory is an offence subject to imprisonment, while illegal residence is an administrative offence which may lead to expulsion. Until the two above-mentioned laws entered into force, irregular migrants subject to detention measures were held in prisons or in police TDIs.

The maximum length of time for which individuals may be held in the centre is six months²⁵.

38. With an official capacity of 120 places, the centre was accommodating 15 people (including two women and a nine-year-old child) at the time of the visit. It had housed 210 foreigners since being opened. Approximately 40% of those detained left the centre in the first three months, 20% spent three to five months there and 40% up to six months. A specific regulation for the centre was adopted by decree and entered into force on 22 July 2011. Until that date, the decree establishing the centre served as the internal rules.

b. conditions of detention

39. The material conditions were very good because of recent refurbishments and the very low level of occupancy. As mentioned in paragraph 37, only one of the three buildings in the centre was serving as the main living area for the foreign nationals at the time of the visit. Of the two buildings where the areas for detained foreign nationals were not yet in use, one²⁶ housed the canteen and the other the accommodation zone for families, with an adjacent playground outside.

²⁵ Thereafter, they are released and issued with a six-month, renewable “migrant’s certificate” with which they may remain in Moldovan territory, subject to an obligation to notify the authorities of their address.

²⁶ This building also housed a “segregation” room (see paragraph 49), the main guard station and administrative offices.

The main building, with a capacity of 78 beds, was on three floors. The ground floor housed the admission unit, the medical unit and the visiting areas, while the first floor housed an accommodation unit which, at the time of the visit, was being used for men, with eight bedrooms, two common rooms and a multi-confessional room. The second floor included the accommodation unit for women, with six bedrooms, a common room, a sports room (with fitness equipment and a table-tennis table) and a temporary canteen²⁷.

The bedrooms measured 15.5 m² to 25.5 m² and accommodated one to four people. They had bunk-beds, small tables, chairs and lockable lockers, as well as call buttons. The rooms were very clean, bright, well ventilated and in a very good general state.

The detainees could take a shower every day. There was a room with four showers on the first floor, while the women used two showers on the ground floor.

40. The detainees had an open regime during the day in their respective accommodation zones and had access to a large exercise yard and a volleyball pitch which were adjacent to the building. However, **exercise yards should be fitted with a shelter to offer protection against bad weather and sunshine.**

Various leisure activities were available for the detainees (fitness room, table tennis, TVs, radios, books, board games, etc.). Children²⁸ who spoke Romanian, Russian or Ukrainian were able to attend local schools. In the case of the little girl living in the centre with her mother, the social worker gave her regular lessons and offered her various activities, including outside the centre. Having said that, there was a lack of structured activities (language courses, organised sports activities, work, etc.). The longer the period for which persons are detained, the more developed should be the range of activities which are offered to them. **The CPT invites the Moldovan authorities to extend the range of activities offered, in particular for children, and to recruit staff to that end.**

c. staff

41. The staff at the centre totalled 21 individuals²⁹, 12 of whom were security staff (four teams of three, working 24 hours on and three days off). These staff were also in charge of all escorts, of which there were three to seven a week³⁰ and which required two security staff for one detainee and three security staff for two detainees. The centre director said that this meant it was necessary to use off-duty staff to carry out escorts alongside the routine work in the centre and that a request had recently been made for an increase in escort staff.

²⁷ The men and women ate there separately, with the women staying either in their rooms or in the common room when the men were eating. The permanent canteen was in the second building but was not yet in use at the time of the visit.

²⁸ Eight children had passed through the centre since it opened.

²⁹ Including the director, three persons in the investigation/identification department, 12 in the security and escorts department (including three women), three in the logistics department and two in the medical service.

³⁰ 119 escorts had been organised in the first five months of 2011.

The security staffing levels were therefore inadequate taking into account the fact that they had to perform escort duties on the one hand and from the perspective of full-capacity operation of the centre on the other. One possibility might be to set up a separate escort department. **The CPT recommends that steps be taken to increase security staffing levels in the light of the above remarks.**

42. There was one full-time social worker's post³¹, which was filled by the International Organisation for Migration (IOM); there were also regular visits to the centre by a lawyer from the NGO Institute for Penal Reform (IPR), and a lawyer from the UNHCR (twice a week and more often if necessary).

d. medical care

43. The health-care staff included a general practitioner who worked full-time, Monday to Friday. In principle, there was also a feldsher working on the same basis, but she was on maternity leave at the time of the visit and had not been replaced. No medical staff were officially on call at night-time and weekends, but the centre doctor did visit patients at the weekend if need be. The emergency medical service was called if necessary. An IOM psychologist also held regular consultations in the centre.

These staffing levels were adequate for the occupancy levels recorded, but **the number of feldshers would have to be increased if the centre were to operate at full capacity.**

44. All new arrivals underwent a medical examination upon admission, which was performed by the medical staff. There was a medical quarantine zone (medical "isolator") comprising two single rooms next to the medical unit. At the time of the visit, there was no specific register for the use of the rooms, but the decree of July 2011 establishing the internal rules made provision for a specific register for the use of the medical "isolator". **The CPT wishes to receive confirmation that the register of the use of the medical "isolator" has actually been introduced.**

Before each expulsion, the doctor examined the person concerned. If necessary, the doctor was included in the escort team.

There were no regular visits by specialists to the centre. Access to specialised care was generally by means of transfer to the Ministry of the Interior polyclinic or a Ministry of Health hospital depending on the pathology concerned. **The CPT invites the Moldovan authorities to establish a system of regular visits by specialist doctors (dentists, paediatricians, psychiatrists, etc.).**

³¹ Under a project in co-operation with the Immigration and Asylum Office of the Ministry of the Interior and the NGO "Institute for Penal Reform".

45. The medical files were well kept. However, the situation in terms of medical confidentiality was not satisfactory. Copies of medical admission records were kept in the detainees' personal files and were therefore accessible to non-medical staff, and medical consultations took place in the presence of staff having no medical or care duties. Moreover, the health care staff apparently assigned the distribution of medicines to the custodial staff. Apart from the fact that the administration of treatment by untrained individuals may be harmful, it is in principle incompatible with the requirements of medical confidentiality.

In their letter dated 10 October 2011, the Moldovan authorities informed the CPT that, following the preliminary observations made by the delegation at the end of the visit, medical consultations would henceforth be conducted solely in the presence of medical staff, which the CPT welcomes.

In addition, the authorities indicated that the medical files are kept in the medical unit and are accessible solely to the medical staff. In this connection, it should be recalled that information on the health of detainees should be stored in a manner which ensures respect for medical confidentiality. Naturally, the medical staff must be able to inform the custodial staff of the need for a medical treatment to be followed by a detainee and of particular health risks; however, the CPT is of the view that placing copies of medical admission records in detainees' personal files, which are accessible to staff having no medical or care duties, does not satisfy the requirement to respect medical confidentiality. Consequently, **the Committee wishes to receive confirmation that the personal files of foreign nationals held in the temporary placement centre no longer include copies of their medical admission records. The recommendation in paragraph 27 concerning respect for medical confidentiality in police TDIs also applies to temporary placement centres for foreign nationals.**

The CPT also recommends that the Moldovan authorities take the necessary steps to ensure that management of medicines is performed solely by medical staff.

46. The medical staff working in the centre came under the Ministry of the Interior and also provided care for the police and their families. A situation of this kind is likely to give rise to an obvious conflict of interest. **The CPT refers to the comment in paragraph 28 concerning the possible attachment of the staff working in TDIs to the Ministry of Health.**

e. other issues

47. Various information brochures in several languages³² about the rights of irregular migrants, the procedures applicable and asylum applications were available in the accommodation units and the admission zone. The internal rules were posted in the corridors and all the bedrooms, and the detainees had to sign a document indicating that they were aware of them. In addition, the detainees met the social worker upon admission and a lawyer on request.

48. Contact with the outside world did not seem to pose any problems. The foreign nationals in detention could receive open visits around a table in a room provided for that purpose³³ on the ground floor of the main building. The room also used an area with a partition and an intercom; according to the management, this area had not been used yet.

However, Rule 76 of the centre rules, which entered into force in July 2011, provides that visits to detained foreign nationals take place under the constant supervision of the centre staff, without indicating whether that means only visual supervision or also auditory supervision. The CPT does not see any reason why persons held under aliens legislation, who are neither convicted nor suspected of criminal offences, should be subject to visiting arrangements that are usually seen in prison establishments. **The CPT recommends that measures be taken in the placement centre for foreign nationals in Chişinău to ensure that the supervision of visits takes place out of the hearing of the centre staff, unless that is required by security considerations based on an individual risk assessment.**

The accommodation units were equipped with payphones (the social worker facilitated calls for indigent detainees) and detainees could have access to their mobile phones on request. According to the management, mobile phones without cameras or recorders could be left with the detainees in the centre. In addition, the exercise yard had a letter box which was emptied three times a week by the Moldovan postal service.

49. The centre had a “segregation” room in the second building. During the visit, there was one person who had been held there since his arrival at the centre (four days earlier). The delegation was informed that the person concerned had been placed there by joint decision of the centre director and the doctor, given the aggressiveness he had displayed upon admission. When the delegation met him, the detainee said he had been well treated, had had daily outdoor exercise and appreciated being on his own.

³² English, Chinese, Farsi, French, Urdu, Romanian and Russian.

³³ 200 visits recorded in the first five months of 2011, lasting 15 to 45 minutes.

The room measured some 10 m² and was equipped with a board bed, a mattress, a table, a washbasin and a floor-level toilet. The artificial lighting was sufficient for reading. A custodial staff was posted outside within hearing range on a 24-hour basis when the room was in use. However, the room only had a small opening in the wall, which hardly allowed any access to natural light. As this shortcoming was highlighted by the delegation on the spot, **the CPT wishes to receive confirmation that the small opening in the isolation room has been replaced by a window giving access to natural light.**

50. The arrangements for the use of the room were not defined. There were no formal procedures for isolation on security grounds and no record was kept. However, the July 2011 decree establishing the centre rules makes reference to the possibility of isolating an aggressive person in a specially adapted room.

The CPT is of the view that it is in the interest both of the detainees and of the staff working in holding centres for foreign nationals that a procedure for isolation on security grounds be established. Any grey areas in this sphere bring the inevitable risk of the development of unofficial (and uncontrolled) systems.

Such an isolation procedure designed to ensure security must be exceptional, very limited in time and strictly justified by the behaviour of the individual concerned (disruption or threats to the safety of other detainees). In principle, it should only be decided after a period of assessment in a normal location and on the basis of a full psychological and, if necessary, psychiatric evaluation of the detainee. Detainees should be informed in writing of the reasons for the measure and sign an attestation that they have received the decision. They must be able to express their views, to appeal to an independent body against the placement (the means of appeal must be mentioned in the decision) and to have their case reviewed on a regular basis, according to the same procedure. The prosecutor's office in the place of detention should also be notified immediately. In addition, a specific register should be introduced, recording the name of the individual and the time of and reasons for the placement. **The CPT recommends that the procedure for isolation on security grounds at the temporary placement centre for foreign nationals include these various elements.**

51. With regard to complaints and inspections, the centre had been visited by the Ombudsman and members of parliament. As mentioned in paragraph 42, apart from the presence five days a week of an IOM social worker – who met the detainees systematically upon their admission and regularly during their stay, both in her office and in the living areas – lawyers from the UNHCR and the NGO, IPR, were also present on a regular basis. Lastly, the accommodation units had complaints boxes under the dual responsibility of the Immigration and Asylum Office and IPR.

B. Penitentiary establishments

1. Preliminary remarks

52. For the first time, the delegation carried out a visit to Penitentiary establishment No. 11 in Bălți. It also visited Penitentiary establishment No. 17 in Rezina, where it focused, once again, on the life-sentenced prisoners' unit and, for the first time, on accommodation blocks nos. 2 and 3, which housed the establishment's general prison population³⁴. The delegation also visited the Psychoneurological Unit of Pruncul Prison Hospital.

53. The Bălți and Rezina penitentiary establishments both served as "isolators" for criminal investigations (remand prisons) and were designed to house remand prisoners and prisoners serving their sentences under the "initial" detention regime³⁵.

Opened in 1812, in the centre of the town of Bălți, Penitentiary establishment No. 11 was one of the oldest prisons in the country. With an official capacity of 550, at the time of the visit it held 506 prisoners, in three accommodation blocks, including 200 convicted prisoners serving their sentences under the "initial" detention regime, 64 remand prisoners and 57 prisoners who had appealed against their convictions. The prison population included 15 women and 13 juveniles.

Situated in the town of Rezina, near the river Dniester, Penitentiary establishment No. 17 had just celebrated its 16th year in operation. With an official capacity of 510, it held 415 prisoners (including five women and two juveniles) on the first day of the visit. Of these prisoners, 159 were serving their sentences under the "initial" detention regime, 86 were serving life sentences, 55 were on remand, 13 were awaiting execution of their sentences and six prisoners had appealed against their convictions.

54. As regards the duration of imprisonment in these establishments, it should be recalled that pre-trial detention may be extended to up to six or 12 months maximum, depending on the gravity of the charges, and that once a case has come before the courts, the person can be kept on remand for a further maximum period of six or 12 months, depending on the charges³⁶. At the time of the visit, many of the remand prisoners had been held in these establishments for periods of fewer than six months. A number of them, however, had been on remand for over a year.

³⁴ The establishment also has a hospital for prisoners with tuberculosis, which was the subject of a targeted visit, together with the unit for life-sentenced prisoners, in 2007 (see document [CPT/Inf \(2008\) 39](#)).

³⁵ Placement under the "initial" detention regime is similar to segregation and is applied automatically at the start of the prisoner's sentence, or later on the basis of an administrative decision. In closed and semi-closed establishments, it involves placement in a "completely separate" cell housing two or four persons maximum.

³⁶ Article 186 of the Code of Criminal Procedure.

In the case of persons sentenced to imprisonment in semi-closed or closed penitentiary establishments, the length of time for which they are segregated under the “initial” detention regime is six or nine months, depending on the sentence pronounced by the court³⁷. The CPT considers that segregation under the “initial” detention regime should never be pronounced – or imposed at the discretion of the court – as part of the sentence. It may be necessary for a convicted prisoner to be kept apart from the other prisoners for a certain period of time; however, the decision whether or not to impose such a measure should lie with the prison authorities, and should not be part of the catalogue of criminal sanctions. **The Committee recommends that the legislation be amended so that the decision to segregate a prisoner under the “initial” detention regime is based on a thorough risk and needs assessment made by the prison authorities, as part of an individualised sentence plan, for the shortest period possible.**

55. At the outset of the visit, the delegation was informed of the results achieved in terms of reducing the general prison population in the Republic of Moldova. In total, 6,501 persons were incarcerated at the time of the 2011 visit (against an official capacity of 8,580), compared with 8,033 at the time of the 2007 visit. The number of remand prisoners had also fallen, albeit less markedly: the prison population included 1,190 persons on remand at the time of the visit, compared with 1,290 at the time of the 2007 visit. According to the Moldovan authorities, the progress achieved to date was the result of action on several fronts, including legislative changes designed to encourage wider use of alternatives to imprisonment³⁸.

56. Despite these encouraging results, in the preliminary observations presented at the end of the visit, the delegation pointed out that the national standard of at least 4 m² of living space per prisoner was far from being met in the penitentiary establishments visited (see, in this respect, paragraph 73). In their letter of 10 October 2011, the Moldovan authorities informed the CPT that, in the light of the delegation’s findings, an action plan had been drawn up and included in the work programme of the Department of Penitentiary Institutions (DIP) for the second half of 2011.

The first part of this action plan has to do with reducing the prison population in penitentiary establishments such as “isolators” for criminal investigations, the aim being to introduce a mechanism for efficient co-operation between the judiciary and prison authorities so as to bring the number of persons imprisoned down to a reasonable level. The Moldovan authorities are hoping to achieve this target through three types of measures: (i) the organisation of meetings between representatives of the DIP and the Supreme Court of Justice on this subject; (ii) the evaluation of the costs involved in equipping penitentiary establishments of this type with videoconferencing systems for appeals and complaints proceedings; (iii) the preparation of a report for the Higher Judicial Council on the consequences for prisons of non-compliance with time-limits for court decisions on the execution of sentences.

³⁷ Articles 250 and 251 of the Code of Execution.

³⁸ See *inter alia* Laws Nos. 292-XVI of 21 December 2007 and 14-CVI of 15 February 2008.

The second part of the action plan concerns overcrowding in individual penitentiary establishments, with the focus on meeting the national standard of at least 4 m² of living space per prisoner in cells. This part of the plan would be implemented in two phases: (i) rationalise the allocation of prisoners in cells within each establishment, making sure that the different categories of prisoners are separated according to the statutory requirements; (ii) carry out a review of living space per prisoner in all penitentiary establishments (surface area and occupancy level per cell, assessment of compliance with international standards and formulation of an action plan for each establishment, with an estimate of the cost of any modifications that might be required).

1. The CPT wishes to commend the Moldovan authorities on their responsiveness and their determination to find ways of reducing the prison population and overcrowding in penitentiary establishments. **The Committee would like to receive detailed information on the implementation of these measures and on the follow-up to be given in 2012.**

With regard to living space per prisoner, **it is important to examine not only the number of prisoners being held in the cells of penitentiary establishments at any given time, but also the official occupancy levels (number of beds per cell) in the light of the standard of at least 4 m² of living space per prisoner, and to revise the official capacity of the establishments accordingly. The space taken up by in-cell sanitary facilities/toilets should not be included in this calculation. In addition, the standard of 4 m² should apply only to multi-occupancy cells; in the case of single-occupancy cells, any cell of this type measuring less than 6 m² should be taken out of service or enlarged.**

2. For the Moldovan authorities, renovating and increasing the capacity of penitentiary establishments operating as pre-trial detention facilities (“criminal investigation isolators”) is a priority for two reasons: upgrading rundown premises and housing everyone who has been remanded in custody. The most advanced project involves building a facility to house detainees awaiting trials from Chişinău and the central regions of the country (Anenii Noi, Hînceşti, Ialoveni, Străşeni, etc.), as well as all prisoners in the Republic of Moldova who have lodged appeals³⁹. According to the Moldovan authorities, thanks to this new 1,600-place facility, they will be able to close down the existing Penitentiary establishment No. 13 in Chişinău and end the practice of housing remand prisoners in various police DPIs currently operating in the Republic of Moldova. The CPT understands that the Moldovan authorities’ decision to build a large-capacity establishment was motivated by constraints related to the land available for building. **Care must be taken, however, to ensure that the size of this establishment in no way interferes with the introduction of appropriate regimes, in principle enabling prisoners to spend a reasonable part of the day outside their cells and to take part in purposeful activities of a varied nature. In order to operate such an establishment, it will need to be staffed accordingly.**

In their letter of 10 October 2011, the Moldovan authorities also informed the Committee about a similar project involving the construction of a new 650-place “remand prison” to replace the existing Penitentiary establishment No. 11 in Bălţi, whose infrastructure is deemed incapable of being adapted.

³⁹ In addition, it should be noted that an application for funding has been submitted to the Council of Europe’s Development Bank.

The CPT wishes to be informed of the progress of these construction projects. Moreover, it wishes to receive information on decisions concerning the possible reconstruction of Penitentiary establishment No. 17 in Rezina.

2. Ill-treatment

3. During the 2011 visit, many prisoners said that the prison staff's attitude towards them was reasonable. Furthermore, the delegation did not receive any allegations of ill-treatment in the Psychoneurological Unit of Pruncul Prison Hospital.

4. The delegation did, however, hear a few allegations of physical ill-treatment of prisoners by members of staff in Penitentiary establishment No. 17 in Rezina and, to a lesser extent, Penitentiary establishment No. 11 in Bălți. The alleged ill-treatment consisted of punches, kicks and/or blows with a rubber truncheon⁴⁰. The prisoners concerned had usually been segregated for their own safety, and so would not have the “protection” of senior members of the informal prisoner hierarchy⁴¹. Some prisoners were regarded as “quibblers” and had allegedly irritated the prison staff with their complaints or threats to bring complaints, while others were reportedly so-called “humiliated” prisoners, i.e. the lowest caste in the informal prisoner hierarchy⁴². In some cases, in Rezina, the ill-treatment was inflicted – according to the prisoners – during “fake” cell searches, the sole purpose of which was apparently to subject a particular prisoner to ill-treatment. The prison staff were reportedly hooded during these operations and, although recognisable by their bearing and voices, tried to pass themselves off as members of the Special Intervention Squad (*Detașamentul cu Destinație Specială or DDS*) “Pantera”⁴³.

The CPT recommends that the Moldovan authorities exercise increased vigilance regarding the attitude of staff in Penitentiary establishments No. 11 in Bălți and No. 17 in Rezina towards prisoners who have been segregated for their own safety. In particular, steps should be taken to:

- (i) regularly remind them that any act which could be considered to amount to ill-treatment perpetrated, tolerated or encouraged by a prison officer against these prisoners, or any other prisoner, will be severely punished;**
- (ii) ensure that cell searches are carried out in accordance with the relevant laws and regulations, with the officers concerned keeping their faces uncovered** (see also paragraph 62 on this subject).

⁴⁰ It should be noted that no written record of any need to use force and/or “special means” (truncheons) was found in the relevant documentation supplied to the delegation during and after the visit to these establishments.

⁴¹ This hierarchy is a long-standing feature of the prison subculture. Generally a breeding ground for criminality, it operates according to its own rules within the prison system.

⁴² This category is rather like a cast of “untouchables” in the informal hierarchy that exists among prisoners. Such persons are rejected by the other inmates for various reasons (e.g. for having a different sexual orientation, for having suffered sexual abuse or committed sex offences, or simply for having been in contact with other so-called “humiliated” prisoners).

⁴³ The delegation received confirmation during the visit that no DDS “Pantera” operation had been carried out at this establishment in 2010, or between January and June 2011.

5. During the visit to Penitentiary establishment No. 11 in Bălți, the delegation raised questions about the proportionality of the use of force by members of the “Pantera” squad against several prisoners during an operation carried out in April 2011⁴⁴. Some prisoners reported having been struck, on 12 April in particular, with truncheons, on various parts of the body, including the head, in the exercise areas. The prisoners concerned indicated that the individuals responsible were members of the “Pantera” squad because of the insignia on their black uniforms. They also said, however, that the persons usually wore hoods, as well as protective helmets in some cases, and that there were no numbers that would make it possible to identify particular individuals.

The description of the events provided by the prison officers in their reports on the use of physical force and “special means”⁴⁵ differed sharply from the accounts given by the prisoners interviewed by the delegation. According to the staff reports consulted, the blows with truncheons had been administered in order to subdue a prisoner who was behaving aggressively, refusing to obey and/or offering physical resistance, in the cell or shortly after being removed from the cell. Several prisoners stated in separate interviews, however, that they had received numerous blows in the exercise areas purely as a form of punishment, even though they had offered no resistance.

An inquiry by Bălți military prosecutor into a possible abuse of power with recourse to violence⁴⁶ was under way at the time of the visit, following complaints from some prisoners. During the final talks, the delegation asked to be informed of the outcome of this inquiry. In their letter of 10 October 2011, the Moldovan authorities told the Committee that, according to the initial evidence, the prisoners had been struck two or three times with a rubber truncheon on the back, arms and legs. Dozens of persons had been interviewed and the relevant medical files seized, and forensic medical examinations were in the process of being completed in August 2011. Owing to the discrepancies in the statements and the complex nature of the investigations, however, the Moldovan authorities said that a number of measures still remained to be taken and that the Committee would receive a full report subsequently.

6. The CPT recommends that the Moldovan authorities remind all members of the Special Intervention Squad “Pantera”, in particular during in-service training courses, that:

- (i) the use of force and “special means” to control violent and/or recalcitrant prisoners should be no more than is strictly necessary, and that once a prisoner has been brought under control there can be no justification for striking them;**
- (ii) the use of force and “special means” for the purposes of punishment is prohibited.**

⁴⁴ This operation was carried out in accordance with Instruction No. 30d issued by the Director General of the DIP on 5 April 2011. The DDS team in charge of the operation in Bălți consisted of 10 people.

⁴⁵ Prison staff are authorised to use physical force and “special means” (such as handcuffs and truncheons) when, for example, a prisoner refuses to obey a legitimate, reasonable order, engages in rioting or attacks other people.

⁴⁶ Article 328, paragraph 2, sub-paragraph a, of the Criminal Code.

The Committee also wishes to emphasise that it is in principle opposed to the wearing of hoods by special intervention forces in penitentiary establishments. Such practices can, *inter alia*, make it difficult to identify suspects if allegations of ill-treatment are made by prisoners. The CPT recognises that, for operational and/or security reasons, the wearing of protective helmets may be necessary. A reference number, however, should be clearly displayed on the uniform and/or helmet so that the staff concerned can be identified at all times. **The Committee recommends that the Moldovan authorities take the necessary measures in the light of these remarks.**

The CPT wishes to receive as soon as possible the prosecution service's inquiry report on the DDS "Pantera" operation in Penitentiary establishment No. 11 in Bălți in April 2011.

7. The records concerning the use of force and "special means" in the Bălți and Rezina prisons and Pruncul Prison Hospital were suitably detailed, a positive point which the Committee wishes to underline (for example, in the reports, the exact circumstances surrounding the use of force/"special means" were specified, together with the types of means used and, where applicable, the length of time for which prisoners were handcuffed and a description of the blows administered in cases where a rubber truncheon was used). However, the length of time for which restraints were applied was not always transcribed in the register specially provided for this purpose, especially in Pruncul Prison Hospital. It transpired from interviews with the prisoners and an inspection of the registers and other relevant material in the Bălți and Rezina penitentiary establishments that the use of force and/or "special means" had not always given rise to a medical examination of the prisoner concerned and that the incident had not always been recorded.

The CPT recommends that the attention of the management of Penitentiary establishments No. 11 in Bălți and No. 17 in Rezina and of the competent prosecutors be drawn to the need to take special care to ensure that any use of force and "special means" against prisoners automatically gives rise to a medical examination and is duly and correctly recorded in the relevant reports and registers.

As regards the prison staff's practice of carrying rubber truncheons openly in prisoner accommodation areas in Bălți and Rezina, **the CPT reiterates its recommendation to the effect that, if it is deemed necessary to allow prison staff operating in the accommodation areas to carry truncheons, the latter should be kept hidden from view.**

8. For many years now the CPT has been paying particular attention to the risks of inter-prisoner violence and/or intimidation linked with the informal prisoner hierarchy to which prisoners in the Republic of Moldova are subject usually from the time they enter the prison environment. In response to the CPT's concerns, the Moldovan authorities have adopted a number of measures to address these risks. In terms of legislation, Article 206 of the Code of Execution allows any prisoner to request that they be segregated for their own safety. In addition, the DIP has adopted an instruction designed to restrict, or even prevent, other prisoners from entering areas where inmates have been placed under protection⁴⁷. Moreover, a number of measures have also been taken in connection with the implementation of the national strategy for combating violence in prisons⁴⁸.

⁴⁷ Instruction No. 25 issued by the Director General of the DIP on 20 February 2008.

⁴⁸ Instruction No. 168 issued by the Director General of the DIP on 2 August 2005.

Despite this, in the course of the 2011 visit the delegation heard several allegations, both in Penitentiary establishment No. 11 in Bălți, and in Penitentiary establishment No. 17 in Rezina, concerning violent beatings by prisoners tasked by senior members of the informal hierarchy with keeping inmates “in order” within the penitentiary population. The prisoners who alleged having been the victims of such acts had apparently either broken the hierarchy’s internal “rules” or complained to persons outside the prison and were therefore regarded as troublemakers both by the local prison administration and by the informal prisoner hierarchy. Most worrying is the fact that these acts in some cases appear to have been perpetrated with the assent, encouragement or even complicity of prison staff (e.g. by allowing direct access to the cells in which the alleged victims were being held or by knowingly exposing the latter to other prisoners who wished to harm them)⁴⁹. Certain interviews held by the delegation with members of the prison staff seemed to support these allegations.

Whatever the difficulties facing a prison administration, such an approach is diametrically opposed to the efforts to combat violence in prisons at national level. Maintaining order and creating a safe environment in prison should not be based on a more or less tacit agreement between inmate “leaders” looking to establish their authority among the other inmates, and members of the prison staff anxious to preserve the appearance of order in the establishment at any price. The development of constructive relations between the staff and all the prisoners, based on the notion of dynamic security⁵⁰, is a crucial factor in the effort to combat inter-prisoner violence. Moreover, another key component is the careful assessment, classification and cell allocation of individual prisoners within the prison population. Care should also be taken to ensure that prisoners placed under protection are never exposed in any way to other prisoners who might cause them harm. **The CPT recommends that the Moldovan authorities step up their efforts to prevent and eliminate inter-prisoner violence and intimidation in the light of the above, with particular attention being given to the root causes of the phenomenon in Moldovan penitentiary establishments.** Reference is also made to the recommendation contained in paragraph 95 regarding staffing.

The Committee also recommends that staff in Penitentiary establishments No. 11 in Bălți and No. 17 in Rezina be clearly and regularly reminded that any prison staff tolerating, encouraging or colluding in “punitive raids” or any other form of inter-prisoner violence or intimidation of prisoners will be the subject of criminal proceedings.

⁴⁹ For example, a prisoner in Penitentiary establishment No. 11 in Bălți reported having been subjected to blows in his cell, a few days before the visit, by prisoners from another cell acting on behalf of the informal hierarchy, because he had broken the internal “rules”. Before asking staff to re-open the cell door, the persons responsible apparently made it clear to the other prisoners who witnessed the incident that there were certain internal “rules” that had to be observed. In Penitentiary establishment No. 17 in Rezina, a prisoner was beaten up in an exercise area by other prisoners, shortly after being summoned by the prison administration regarding a complaint; apparently he had been asked that day to take his exercise, contrary to the usual practice, with prisoners who, unlike him, had not been segregated for their own safety. Similarly, another prisoner believed he had been deliberately transferred to a cell with inmates who made no secret of their intent to harm him. It appears he was partially scalded and struck with an iron bar by his fellow prisoners and spent the next few months in hospital.

⁵⁰ The development of positive relationships with prisoners must be combined with an understanding of their personal situation and any risk posed by individual prisoners.

9. In both establishments, the proportion of prisoners who had asked to be segregated for their own safety under Article 206 of the Code of Execution was very high (over 25 % of prisoners in Penitentiary establishment No. 11 in Bălți, for example). Requests for segregation, which were usually prompted by the fear of being attacked by other prisoners subject to the informal hierarchy⁵¹, were usually granted promptly.

It appears, however, that, at first, some requests were not taken seriously in Penitentiary establishment No. 17 in Rezina. For instance, one prisoner who had asked to be placed under protection because of the sexual abuse to which he claimed to be regularly subjected by his fellow inmates was initially told by staff that he had only to give his fellow prisoners what they wanted and he would have no more trouble.

Dealing with the growing number of requests for segregation for protection purposes was a real challenge for the administrations in both establishments. In the case of some prisoners, placement in the same establishment with other prisoners under protection was not enough (because, it seems, the cells in question had been “infiltrated” by prisoners acting on behalf of the informal hierarchy or because of disputes with fellow prisoners who had likewise been placed under protection).

On several occasions, the prison administrations’ response to requests for protection was to place the individuals in question in disciplinary confinement, sometimes for months⁵². The material conditions in the cells were not acceptable (see paragraph 98) and the proposed regime was akin to being placed in solitary confinement (the only activities being daily exercise, reading and perhaps television). The prisoners concerned felt that they were paying a heavy price for their own safety. Such conditions, furthermore, are liable to cause long-term psychological damage in some prisoners.

The CPT recommends that the issue of prisoners segregated for their own safety be addressed through a national approach. All other options, such as transferring the prisoner concerned or the prisoners causing the problem to another penitentiary establishment, or mediation, should be considered first. Where segregation is unavoidable, the cells used for this purpose should meet the same minimum standards as other forms of accommodation for prisoners. Where it is clearly apparent that a prisoner needs long-term protection, efforts should be made to improve the regime by introducing a programme of suitable activities. Where a prisoner is segregated in a single-occupancy cell, special efforts should be made to identify other prisoners with whom the individual concerned might maintain contact in total safety, and situations where, in addition to daily outdoor exercise, they could be allowed out of their cell. The prison health service, furthermore, should be more proactive, especially in terms of psychological and psychiatric care.

⁵¹ In Penitentiary establishment No. 11 in Bălți, a number of requests seemed to be motivated by the local informal hierarchy’s supposed allegiance to the inmate “leader” in another Moldovan prison, thereby explaining why some prisoners had asked to be segregated for their own safety before they had even joined the general prison population.

⁵² At the time of the visit, the six cells in the disciplinary unit of Penitentiary establishment No. 11 in Bălți were accordingly occupied by prisoners segregated for their own safety who could not be housed in a multi-occupancy cell. On the delegation’s arrival at Penitentiary establishment No. 17 in Rezina, a prisoner serving a life sentence had just spent several months in a disciplinary cell because of a dispute with his fellow inmates.

The CPT also recommends that the Moldovan authorities ensure that, in multi-occupancy cells, measures designed to segregate prisoners for their own safety are always effective. In Penitentiary establishment No. 17 in Rezina more particularly, any request from a prisoner to be segregated for their own safety should always be dealt with swiftly and rigorously. Where the request is motivated by possible sexual abuse, the health service and the competent investigative authorities must be alerted.

3. Prisoners serving life sentences

10. At the time of the visit, 85 lifers were serving their sentences in Penitentiary establishment No. 17 in Rezina⁵³. Most of these prisoners were in the unit specially designed for this purpose in accommodation block no. 1.

More than 20% of all the prisoners sentenced to life imprisonment had been segregated for their own safety, under Article 206 of the Code of Execution. A number of prisoners placed under protection had had to be housed in separate cells located in other accommodation blocks (see, on this subject, paragraph 74).

11. The standard of at least 4 m² of living space per prisoner had been observed in the cells (three prisoners in a cell measuring 16 m², for example) and the material conditions of detention were generally good. Overall, the cells were in a good state of repair, bright, well ventilated and clean, with partitioned sanitary annexes. Moreover, the communal shower room had been refurbished.

12. The prisoners had access to various exercise areas on the top floor of accommodation block no. 1, for up to two hours a day. In general, the areas in question were adequately equipped (with benches, shelters, etc.).

As far as possible, prisoners should have regular access to exercise areas on the ground floor.

13. Additional efforts had been made to allow this category of prisoners to take part in a number of activities, despite the statutory and material constraints⁵⁴. The prisoners with whom the delegation spoke had regular access to a sports room. In addition, from January until the beginning of June 2011, 44 prisoners had taken part in sports activities under the “prosport” programme (organisation of sports events), 40 had taken part in the targeted programme to reduce violence in prisons and 22 had taken part in creative activities. The activities organised under these programmes were not regular events, however, and none of the prisoners had had the opportunity to engage in paid work or an education programme. As a result, many of the prisoners were still spending most of their time in their cells, about 22 hours a day.

⁵³ Two other life-sentenced prisoners were also being held in other penitentiary establishments.

⁵⁴ For instance, Article 254, paragraph 4, of the Code of Execution states that life-sentenced prisoners may engage in paid work only in cells or in a workshop specially designated for this purpose.

The CPT recommends that the Moldovan authorities redouble their efforts to provide a wide range of activities to life-sentenced prisoners through individual programmes. Particular attention should be given to structured activities extending over the long term (work leading to qualifications, education programmes, etc.) and to the introduction, where necessary, of an appropriate infrastructure.

14. Further to the CPT's earlier recommendations, the Moldovan authorities have amended the regulations on body searches and handcuffing of lifers when outside their cells. Under the new rules, body searches and handcuffing are to be carried out only where it has been established by means of an individual risk assessment conducted at least once every six months that the prisoner poses a high risk to others (staff, prisoners or any other person) or has refused to undergo such an assessment⁵⁵. At the time of the visit, 24 prisoners out of 86 were no longer handcuffed when outside their cells. Each decision was taken by the prison board, on the basis of, *inter alia*, the person's disciplinary record and a psychological evaluation.

The CPT encourages the Moldovan authorities to continue their efforts to reduce to the necessary minimum the use of body searches and handcuffing in the case of life-sentenced prisoners when outside their cells.

15. In the course of the 2011 visit, the delegation learned that a new segregation unit was being built at Penitentiary establishment No.1 in Taraclia to accommodate lifers who could be housed under the "common" detention regime (after serving ten years of their sentences under the "initial" detention regime, or less, by decision of the DIP). The new unit was due to open by the end of 2011. According to staff, up to fifty or so prisoners could be transferred there. The new premises were also to include a special workshop, giving prisoners the opportunity to work.

The CPT would like to receive updated information on the opening of this unit, the number of prisoners transferred and the conditions of detention (size of the cells and occupancy levels, activities proposed, etc.). The Committee also wishes to know what measures have been taken or are envisaged vis-à-vis prisoners who have been segregated for their own safety, under Article 206 of the Code of Execution (see paragraph 66).

16. The construction of the unit described above is part of the process of keeping all life-sentenced prisoners apart from the other prisoners, as is still provided for in Article 224, paragraph 1, sub-paragraph f, of the Code of Execution. In its previous reports, the CPT held that the placement of persons sentenced to life imprisonment should be the result of a comprehensive and ongoing risk and needs assessment, based on an individualised sentence plan, and not a result of their sentence. The Committee notes that, according to the individual risk assessments referred to above, a number of prisoners are deemed not to pose a high risk to others (see paragraph 70).

⁵⁵ Article 95 of the Regulation on the Execution of Sentences, as amended by Governmental Decree no. 1069 of 19 September 2008.

The CPT reiterates its recommendation that the Moldovan authorities reconsider their legislation and policy on the systematic segregation of life-sentenced prisoners from the rest of the general prison population, by making greater use of the system of individual risk assessments introduced in the context of searches and handcuffing.

4. Conditions of detention of the general prison population

17. As regards occupancy levels in the cells of the prisons visited, the delegation noted that the prisoners were usually housed in overcrowded conditions that were totally unacceptable. The living space per prisoner in the cells, including in-cell toilets, was usually less than 3.5 m² and could be as little as 1.5 m² (e.g. 18 prisoners in a cell measuring some 28 m² in Bălți and four prisoners in a 11 m² cell, containing six beds, in Rezina)⁵⁶.

18. The dilapidated state of the facilities in these establishments presented a real challenge. With few exceptions, the material conditions in the cells were very modest in the *penitentiary establishment in Bălți*. A number of prisoners, moreover (especially in accommodation block no. 2) were housed in large-capacity cells (e.g. 30 beds in a 60 m² cell), which inevitably meant a lack of privacy for prisoners in their everyday lives and created a breeding ground for criminal subcultures. Furthermore, the toilets were not always partitioned. That said, the cells were relatively bright and well ventilated. Overall, they were also in an acceptable state of repair and cleanliness.

In accommodation blocks no. 2 (“remand prison”) and no. 3 (“execution of sentence”) of *Penitentiary establishment No. 17 in Rezina*, while there was reasonably adequate access to natural light and artificial lighting, the state of repair of the cells and facilities overall left much to be desired. Mattresses were often worn and hygiene conditions poor and the delegation heard numerous complaints about cells being infested with lice and other insects. Some of the accommodation, such as the cell housing juveniles and the one housing so-called “humiliated” prisoners, was in an advanced state of dilapidation; moreover, the Committee was concerned to learn that the cell housing juveniles was connected, via a makeshift opening in the wall, with the neighbouring cell used to house adults at the time of the visit. In addition, the in-cell toilets in the vast majority of the cells were not partitioned.

19. The prisoners generally had access to the shower rooms once a week. In Bălți, however, some prisoners segregated for their own safety said they often had to make do with one shower every two weeks. The prison’s single shower facility contained only five shower heads (for some 500 prisoners).

⁵⁶ Efforts had been made to allow women and juveniles more living space.

20. As well as measures to combat overcrowding in cells in all prisons, including in the establishments visited, the action plan drawn up by the Moldovan authorities following the visit (see paragraph 56) includes a section on keeping cells clean and in a good state of repair, through three types of measures: (i) distribution of the necessary products and materials; (ii) monitoring of prisons in order to determine what repairs are needed; (iii) regular assessment of the procedure for evaluating hygiene conditions, as followed by prison health care services. In addition, the CPT was informed that measures had been taken to repair the cells and their equipment in Penitentiary establishment No. 17 in Rezina, in particular the cells designated for juveniles. Such measures are to be welcomed.

In the light of the above comments, **the CPT refers to paragraphs 56 and 57 as regards compliance with the standard of at least 4 m² of living space in multi-occupancy cells. In addition, the Committee recommends that:**

- **the worn mattresses be replaced in Penitentiary establishment No. 17 in Rezina;**
- **arrangements be made to turn the large-capacity cells in accommodation block no. 2 in Penitentiary establishment No. 11 in Bălți into smaller living units;**
- **the in-cell toilets in all cells be eventually partitioned from floor to ceiling;**
- **care be taken to ensure that all prisoners segregated for their own safety have access to a shower at least once a week. The aim should be to eventually enable all prisoners to have access to a shower at least twice a week⁵⁷.**

The CPT would like to receive information on the implementation of the action plan in Penitentiary establishments No. 11 in Bălți and No. 17 in Rezina regarding the state of repair and hygiene conditions in the cells. In this respect, it also wishes to receive confirmation that the cells for juveniles and for so-called “humiliated” prisoners in Penitentiary establishment No. 17 in Rezina have undergone the necessary refurbishment and that the cell for juveniles is no longer connected to cells housing adults.

21. All of the prisoners with whom the delegation spoke said they had access to exercise areas for at least one hour per day (two hours in the case of juveniles). In *Penitentiary establishment No. 11 in Bălți*, the outdoor exercise yards, attached to accommodation blocks nos. 2 and 3, were small in size (between 15 and 30 m²), and only some were properly equipped (shelters, benches and even sports equipment). The prisoners in accommodation block no. 2 in *Penitentiary establishment No. 17 in Rezina* had access to exercise boxes on the top floor of block no. 1. Some of the areas were very small (e.g. 13 m²) and had no equipment. The prisoners in block no. 3 had access to exercise areas on the ground floor which were slightly more spacious (e.g. 33 m²). Only one of these, however, had shelters and sports equipment.

⁵⁷ See also Rule 19.4 of the Appendix to Recommendation Rec (2006) 2 of the Committee of Ministers of the Council of Europe to member states on the European Prison Rules.

The CPT recommends that the Moldovan authorities ensure that all the facilities provided for outdoor exercise are spacious enough to really enable prisoners to exert themselves physically and suitably equipped (with at least a sheltered area and benches). In addition, as far as possible, prisoners in accommodation block no. 2 should have regular access to the exercise areas located on the ground floor.

22. In the course of the 2011 visit, the delegation noted that a number of activity programmes had been introduced in recent years in the penitentiary establishments visited, in particular: the access to (paid and unpaid) work programme, the “prosocial” programme (information, reorientation, social skills and anger management), the “prosport” programme, the programme of creative activities and the programme to reduce violence in prisons. In addition, educational and occupational guidance programmes have been introduced for juveniles. The prisoners also had access to a sports room, library and various cultural and religious activities.

The number of prisoners wishing to participate and benefiting from such activities remained relatively low, however. By way of example, according to the figures supplied to the delegation, fewer than 14% of all prisoners in blocks nos. 2 and 3 in the penitentiary establishment in Rezina had paid jobs and fewer than 7% unpaid jobs. This situation was partly due to the fact that the possibilities for providing work for remand prisoners and prisoners serving their sentences under the “initial” detention regime were severely limited by statutory and material constraints⁵⁸. Moreover, the need to keep some of the prisoners under protection created additional organisational constraints. In the case of juveniles, the educational activities were supposed to be held twice a week but apparently usually took place twice a month in Rezina.

As regards the “prosport” and “prosocial” programmes and the creative activities in Rezina, these did not involve regular participation. Between January and the beginning of June 2011, 147, 25 and 54 prisoners took part respectively.

As a result, the majority of the prisoners in the penitentiary establishments in Bălți and Rezina typically spent 23 hours a day in their cells, in a state of enforced idleness. During the week, their days were mainly punctuated by daily visits to the exercise yards and, with varying frequency and for varying periods of time depending on the category of prisoner, to the sports room.

The CPT recommends that the Moldovan authorities continue their efforts to develop activity programmes, while taking into account the specific needs of remand prisoners on the one hand and of prisoners starting their sentences under the “initial” detention regime on the other hand. The aim should be to enable prisoners to spend a reasonable part of the day outside their cells and to participate in regular, purposeful and varied activities. In this context, the relevant legislation should be amended and the teams in charge of educational and psychosocial activities reinforced.

⁵⁸ See Article 254, paragraph 4, of the Code of Execution, which imposes on remand prisoners and prisoners serving sentences under the “initial” detention regime (closed or semi-closed) the same constraints as for life-sentenced prisoners as regards access to work (paid work to be performed only in the cells or in a workshop specially designated for this purpose).

5. Health-care provision for prisoners

a. introduction

23. In its report on its first visit to the Republic of Moldova in 1998, the CPT noted that greater involvement of the Ministry of Health in health-care provision for prisoners would help to optimise such care and to implement the principle of equivalent care in prison establishments compared with the community at large. The Committee therefore sought to enter into a discussion on this subject.

The issue was still topical during the 2011 visit. Steps had been taken to ensure greater equivalence of care and strengthen supervision of prison and police health-care services. The delegation was also informed that, in this context, a request had been submitted to the Government for the incorporation of the services concerned into the Ministry of Health. The CPT fully supports this approach and **invites the Moldovan authorities to take appropriate steps to strengthen the Ministry of Health's role in the supervision of hygiene, the standard of health care and the organisation of health-care services in prison establishments and to allow the staff concerned to operate with complete independence within the bounds of their qualifications and competence, in the light of Recommendation R (98) 7 of the Committee of Ministers to member States concerning the ethical and organisational aspects of health care in prison.**

b. health-care services in the penitentiary establishments visited

24. As regards the health-care staffing levels in *Penitentiary establishment No. 11 in Bălți*, the medical team comprised a full-time head doctor and five part-time doctors (50%) (including a psychiatrist, a gynaecologist, a dermatologist, a radiologist and a stomatologist-dental surgeon). The paramedical team comprised four feldshers, who provided 24-hour cover in the establishment.

The medical team in *Penitentiary establishment No. 17 in Rezina* comprised a full-time head doctor, a full-time psychiatrist and a part-time stomatologist. Recourse was also had to the general medical team and the specialist staff from the prison hospital for prisoners suffering from tuberculosis. However, the post of gynaecologist (0.25 full-time equivalent) was vacant; given the regular presence of women in the establishment, **urgent steps need to be taken to fill the post.** The paramedical team comprised four feldshers (two of whom were in training) and a medical assistant. The health-care staff from the prison hospital covered all the needs of penitentiary establishment No. 17 in Rezina at night, during weekends and on public holidays.

25. At the time of the visit, the Code of Execution still only required an initial examination by a health-care professional within 15 days of admission⁵⁹. In the establishments visited, new arrivals were usually seen quickly by a feldsher, i.e. on the date of admission or the following day. The feldshers received any complaints and information about any ongoing treatments, checked the prisoners for any traumatic injuries, took the patients' blood pressure and weighed them. The vast majority of the prisoners were then seen by a doctor, who carried out various checks. However, some prisoners admitted a few days earlier had apparently still not been seen by a health-care professional. **The CPT reiterates its recommendation that all newly-arrived prisoners be examined by a health-care professional within 24 hours of admission. The relevant legislative provisions should be amended in this respect.**

26. In Rezina, the results of the physical examination of a patient were recorded in medical certificates which were included in the medical file. In Bălți, however, the delegation noted from the files consulted that, apart from the information recorded in the registers of traumatic injuries, the results of the external examinations were not recorded on a certificate when the patient's file already included a medical certificate drawn up by a health-care professional working in a police temporary detention "isolator". **The CPT recommends that this shortcoming be remedied.**

27. By law, the medical examination must be conducted in total confidentiality⁶⁰. However, it emerged from discussions with the health-care staff that the examination carried out upon admission was usually conducted in the presence of prison custodial staff. **The CPT recommends that steps be taken to ensure that all medical examinations (whether during the admission procedure or after a violent incident in prison) are conducted out of the hearing and – unless the health care professional concerned expressly requests otherwise in a given case – out of the sight of any staff members who do not perform medical or care duties.** In addition, **the recommendation made in paragraph 27 must also be applied in prisons.**

28. Overall, measures had been taken in both establishments to allow the transfer of prisoners requiring care to nearby hospital facilities. However, the CPT is very concerned by the conditions in which care was provided in outside hospitals. The security measures employed were in some cases disproportionate and not consistent with medical ethics. By way of example, one prisoner stated that he had been examined and then received treatment in an operating theatre while he was permanently handcuffed and watched over by four prison escort staff. The latter were said to have refused the hospital staff's request to leave the sterile area, even though the operating theatre had only one exit.

⁵⁹ Article 251, paragraph 2, of the Code of Execution.

⁶⁰ Article 251, paragraph 1, of the Code of Execution.

The Committee recognises the need to take account of security considerations. However, the principle of confidentiality must also apply in outside hospitals and requires medical examinations to be conducted out of the hearing and – unless the doctor expressly requests otherwise in a given case – out of the sight of custodial and escort staff. To preserve the confidentiality of medical examinations and care, it must be ensured that health-care facilities where prisoners may be treated have rooms with adequate levels of security. It is also vital that, where necessary, escort staff preserve the sterile environment in operating theatres and allow hospital staff to work under good conditions. In addition, examining or treating prisoners who are under restraint is a highly questionable practice, from both the ethical and the clinical point of view; ultimately, the decision on this point must lie with the health-care staff. **The CPT recommends that the Moldovan authorities review the rules governing transfers of prisoners on medical grounds (guarding and escorting) in the light of the above.**

29. The health-care services in the establishments visited had had to deal with a very high number of cases of self-harm (for instance, 75 cases had been recorded from January to the beginning of June 2011 in penitentiary establishment No. 17 in Rezina). The prisoners concerned had been asked to reimburse the health-care expenses caused by their acts (medical consultations, bandages, any hospitalisation, etc.), in accordance with Article 251, paragraph 6, of the Code of Execution. Moreover, such acts generally led to a disciplinary sanction⁶¹ (including placement in a disciplinary cell).

Several prisoners with whom the delegation spoke put their acts down to a desire to be listened to more by the prison administration, a period of psychological weakness and/or a reaction to a certain feeling of insecurity.

The CPT believes that it is totally inappropriate to require prisoners who commit acts of self-harm to reimburse the medical expenses caused. The same applies for any purely repressive approach to acts of self-harm. The Committee would underline that such acts very often reflect difficulties and situations of a psychological or psychiatric nature; above all, they should be addressed from a therapeutic angle. Moreover, placing the prisoners concerned in disciplinary cells could exacerbate their psychological or psychiatric difficulties. In this context, beyond the need for somatic medical intervention, in all cases of self-harm, the psychological state of the prisoner should be assessed after each incident. **The CPT recommends that an overall policy on self-harm be drawn up, taking due account of the above remarks.**

30. During the visit, the delegation received information about the efforts to combat tuberculosis in prisons. 263 prisoners were suffering from tuberculosis as at 1 January 2011 (or approximately 4% of the prison population) and 165 were under observation (in the 12 months following the treatment). The incidence of tuberculosis had fallen from 465 cases in 2006 to 164 in 2010. According to the authorities, first and second-line medicines were fully available thanks to World Bank funding.

⁶¹ A similar situation was observed in Pruncul Prison Hospital.

According to the authorities, the progress achieved is largely the result of better screening, in particular at the time of admission, and better organisation of care. The delegation was again able to see the progress for itself: compulsory regular X-ray examinations, isolation in the event of suspected infection and immediate transfers to Pruncul or Rezina prison hospitals.

31. The Moldovan authorities have also taken a number of measures in terms of HIV prevention and screening. A voluntary advice and screening service for prisons has been established⁶² and eight advice centres have been set up, including in penitentiary establishments No. 11 in Bălți and 17 in Rezina. By way of illustration, HIV had been detected in four prisoners in establishment No. 17 in Rezina; however, only one of them was receiving antiretroviral treatment. **The CPT wishes to receive the following information for 2011: (i) the number of HIV positive prisoners; (ii) the number of patients receiving antiretroviral treatment; (iii) the number of patients whose condition has improved.**

In terms of prevention, specific syringe-exchange and condom-distribution programmes have been established. Such programmes were in the process of being rolled out in penitentiary establishment No. 11 in Bălți. In May 2011, for instance, 524 syringes and 492 condoms had been distributed. However, conversations with the prisoners showed that many of them were completely unaware of the objective of the distribution programmes and that most of the products were not used for their original purpose. **Management of the implementation of these programmes should be reviewed. The health-care service of the relevant establishment should play a key role in this respect.**

c. psychoneurological unit of Pruncul Prison Hospital

32. With an official capacity of 35 beds, the psychoneurological unit of Pruncul Prison Hospital was accommodating 38 patients, i.e. 27 men and 11 women, in 12 rooms – and one permanent observation room with video monitoring – with between two and nine beds. The unit was holding the patients, both remand and sentenced prisoners, from all the prison establishments in the country.

Personality disorders as a result of brain injuries and strokes, as well as reactional psychoses, schizophrenia and depressive syndromes, were the main pathologies. No forensic assessments were performed in the unit.

The average length of stay was three to four weeks for patients with psychiatric disorders (60 to 70% of the patients) and two months for those suffering neurological disorders (30 to 40% of the patients).

⁶² Order No. 254 of 30 December 2008 of the Director General of the DIP.

33. The material conditions were poor, with most of the rooms being dilapidated and small⁶³. Having learned that the unit was to be refurbished very shortly⁶⁴, the CPT will merely reiterate that the objective of all psychiatric establishments must be to offer material conditions conducive to the treatment and well-being of the patients; in psychiatric terms, the aim is to create a positive therapeutic environment, which involves, first of all, providing sufficient living space per patient, as well as adequate lighting, heating and ventilation, maintaining the establishment in a satisfactory state of repair and meeting hospital hygiene requirements. **The CPT recommends that these points be duly taken into account in the refurbishment of the psychoneurological unit of Pruncul Prison Hospital. In this respect, the CPT wishes to receive a description of the refurbished premises once they are operational.**

Three exercise yards to which the patients had access for one hour a day were just as dilapidated as the rest of the unit. **Reference is made in this respect to the above recommendation.**

34. It emerged during the visit that the women in the unit had somatic problems. According to the management, they had been placed there because it was the only unit in the hospital which had closed rooms and the hospital did not have a special unit for somatic treatment for women. This situation is not acceptable.

The CPT recommends that measures be taken to remedy the problem by providing in Pruncul Prison Hospital a unit for women prisoners hospitalised for somatic care.

35. With regard to medical staffing levels, the psychoneurological unit had one full-time psychiatrist⁶⁵. Two doctors' posts were vacant at the time of the visit (one psychiatrist, one neurologist). The chief medical assistant worked six hours a day and there was a medical assistant on duty on a 24-hour basis. A prison custodial staff that had been specially trained to work in the hospital was also present in the unit around the clock. The medical and paramedical staffing levels were very inadequate. **The CPT recommends that the vacant posts of psychiatrist and neurologist be filled without delay and that the number of medical assistants present during the day be increased.**

A prisoner was also employed eight hours a day in the unit on duties such as cleaning, helping patients (to wash, get dressed and eat) and assisting with paraclinical examinations. In the CPT's view, prisoners should never be involved in care duties. **The CPT recommends that nursing auxiliaries be assigned to Pruncul psychoneurological unit so that prisoners are never employed on care duties. Where necessary, similar measures should also be taken in other prison treatment units.**

⁶³ For instance, a 22.5 m² room was accommodating six patients at the time of the visit and had nine beds.

⁶⁴ The work was due to begin in July 2011. Much of the hospital had been refurbished in 2003.

⁶⁵ Working 24 hours on duty and two days off.

36. The treatments administered to the patients were almost exclusively pharmacological. The patients' files did not include individualised treatment protocols. **The CPT recommends that measures be taken at Pruncul Psychoneurological Unit with a view to introducing individualised treatment protocols for all patients, setting out therapeutic and rehabilitation activities and specifying the treatment goals, the therapeutic means employed and the staff responsible. This means recruiting appropriately trained staff (psychologist, occupational therapist).**

37. It emerged that medical consultations usually took place either in the presence, or within the hearing, of a prison custodial staff (door of the consultation room open and a custodial staff nearby in the corridor). **The CPT recommends that all medical consultations/treatments be conducted out of the hearing and – unless the doctor/care staff concerned expressly requests otherwise in a given case – out of the sight of custodial staff.**

Moreover, the entrance to the treatment room was separated from the corridor by bars and medical procedures were apparently conducted through the bars in full view of other prisoners and the staff present. This state of affairs was already criticised in the past in other Moldovan prison establishments. While recognising that special security measures may be necessary during medical procedures/examinations in a given case when health-care staff perceive a threat to safety, the CPT is of the view that nothing justifies arrangements of this kind, which can scarcely be described as conducive to a genuine therapeutic relationship; moreover, it is degrading both for the patients and for the staff. Other solutions can and should be found for reconciling legitimate security requirements with the carrying out of medical procedures. One possibility would be to install a call system to enable medical staff to alert the custodial staff quickly in exceptional cases where a prisoner becomes agitated or threatening during a procedure. **The CPT calls upon the Moldovan authorities to take measures to bring practices into line with these considerations.**

38. With regard to the use of means of restraint, in the case of very agitated patients, the medical assistants were able to administer injectable treatments prescribed by the doctor (aminazine or haloperidol). There was no specific constraint equipment; patients could be tied to their beds with sheets. These episodes were recorded in the patients' medical files and the duty logbook, but there was no special register.

In the CPT's view, all psychiatric establishments should have a detailed general policy on restraint. Among other things, this policy should indicate that any involvement of non-medical staff in the restraint of a patient should only take place under the strict supervision of health-care staff. It should also indicate the means of restraint which may be used, the circumstances in which they may be applied, the practical measures for their application, the supervision required and the measures to be taken once the restraint ends. The use of chemical restraint (medicating a patient against his/her will for the purpose of controlling behaviour)⁶⁶ should be subjected to the same safeguards as mechanical restraints.

⁶⁶ See paragraph 39 of the CPT's 16th General Report (document CPT/Inf (2006) 35).

The CPT recommends that the Moldovan authorities take steps to ensure that such a policy is defined and implemented in the psychoneurological unit of Pruncul Prison Hospital, in the light of the above remarks. In addition, each case of the use of restraint – whether physical or chemical – must be recorded in a special register, as well as in the patients' medical files. The register should indicate the times at which the measure began and ended, the circumstances, the reasons for resorting to restraint, the name of the doctor who ordered or approved it and an account of any injuries sustained by the patient or staff. That will greatly facilitate the management of such incidents and give an idea of the frequency of their occurrence.

6. Other issues of relevance to the CPT's mandate

39. With regard to the numbers of custodial staff present in the detention areas of penitentiary establishments No. 11 in Bălți and No. 17 in Rezina, during daytime (8 a.m. – 5 p.m.), there was approximately one custodial staff for every 25 prisoners in establishment No. 11 in Bălți and for every 20 to 26 prisoners in accommodation blocks no. 2 and no. 3 in establishment No. 17 in Rezina, and one custodial staff for less than 14 prisoners in the unit for life-sentenced prisoners in Rezina. A reduced team of nine custodial staff remained on duty from 5 p.m. to 8 a.m. in each of the establishments visited, which required them to work for 24 hours without a break.

The CPT must recall that low numbers of custodial staff in detention areas and/or specific arrangements for the presence and deployment of custodial staff in these areas which limit the possibilities for direct contact with prisoners increase the risk of violence and intimidation between prisoners and of tension between prison staff and prisoners. **The Committee recommends that the Moldovan authorities conduct an in-depth analysis of the number and deployment of custodial staff in the various detention areas of penitentiary establishments No. 11 in Bălți and No. 17 in Rezina, as well as all other penitentiary establishments operating as pre-trial detention facilities. Besides, efforts should be made to put an end to the 24-hour shift system for custodial staff.**

40. As far as discipline is concerned, the delegation did not note any excessive resort to sanctions in penitentiary establishments No. 11 in Bălți and No. 17 in Rezina⁶⁷.

With regard to procedure, prisoners were generally informed in writing of the charges against them and had some time to give their version of events in writing. They were also given written notification of the decisions concerning them and the means of appeal. However, they were rarely heard in person by the prison board. In addition, even though the staff said that prisoners had the right to call witnesses on their behalf and have evidence against them cross-examined and were entitled to legal assistance⁶⁸, the prisoners whom the delegation met were not aware of the fact. **The CPT recommends that it be ensured that the prisoners concerned are entitled to be heard in person by the prison board. It must be ensured that they are properly informed of their rights from the very outset of the procedure, including their right to call witnesses on their behalf and have evidence against them cross-examined and of their right to legal assistance.**

41. In its report on the 2007 visit, the CPT expressed concern about the active involvement of health-care staff in the disciplinary procedure. During the 2011 visit, the situation had not changed. A doctor from the health-care service sat as a full member on the prison board in all disciplinary proceedings. Moreover, after examining the prisoner during his or her placement in a disciplinary cell, the doctor was required to certify in writing that the prisoner could “be kept in disciplinary isolation”. In the CPT’s view, health-care professionals in prisons should pay particular attention to the health of prisoners in disciplinary cells and should visit them on a daily basis. However, obliging them to sit on the prison board during disciplinary proceedings and to certify that prisoners are fit to undergo punishment is scarcely likely to promote the relationship of trust that should exist between doctors and their patients. **The CPT calls upon the Moldovan authorities to review the role of prison health-care services in disciplinary matters, in the light of these remarks⁶⁹.**

42. The detention conditions in the disciplinary cells were not acceptable in either penitentiary establishment No. 11 in Bălți and penitentiary establishment No. 17 in Rezina. The cells were usually small (some in Rezina were no larger than 4.5 m², toilet included, and the six disciplinary cells in Bălți measured under 6 m², toilet included). They were also too narrow (less than two metres between the walls). Moreover, in both establishments, they were very dark and poorly ventilated; in Rezina, they were also damp. **The CPT recommends that steps be taken immediately to completely refurbish the disciplinary units in penitentiary establishments No. 11 in Bălți and No. 17 in Rezina. In this context, any cells measuring less than 6 m² should either be taken out of service or enlarged and it should be ensured that there is at least two metres’ space between the walls of each cell in use.**

⁶⁷ It should be recalled that, under Articles 305 and 246 of the Code of Execution, the harshest disciplinary sanction for prisoners is placement in isolation for a maximum of 10 days for remand prisoners and 20 days for sentenced prisoners.

⁶⁸ In their response to the CPT’s report on the 2010 visit to Moldova, the Moldovan authorities indicated that prisoners enjoyed safeguards of this kind.

⁶⁹ See also the European Prison Rules (especially Rule 43.2) and the comments by the CPT in its 15th General Report (see paragraph 53 of CPT/Inf (2005) 17).

43. When prisoners commit several serious disciplinary offences, they may be declared “violators of the detention regime” (“*violator al regimului de deținere*”) and be subjected to administrative segregation, which involves a transfer or being kept under the “initial” detention regime for a renewable period of one year⁷⁰. The relevant decisions are taken by the members of the prison board after the prisoner has been heard and may be appealed against. Penitentiary establishments No. 11 in Bălți and No. 17 in Rezina also received this category of prisoners from various other prison establishments throughout the country. There were 36 such prisoners in Bălți and 46 in Rezina.

It emerged during the visit that the prisoners concerned could be heard in person by the prison board. The files consulted also showed that the decisions on placement and renewal of placement were based on assessment of the prisoners’ attitude and behaviour.

However, the CPT has doubts about the legitimacy of some criteria taken into account in the behaviour assessment process (“repeated complaints”, for instance). In addition, the duration of the measure meant it was not possible to motivate the prisoners to make progress. The prison staff whom the delegation met rightly believed that this was a “loophole” in the law. According to them, the duration was such that they had only very little room for manoeuvre and their efforts to encourage the prisoners concerned to improve their behaviour could only be very limited. This probably had an impact on the fact that the measure had to be continued for years on end for many of those concerned.

The Committee must underline that the imposition of a measure of segregation under the “initial” detention regime on a prisoner declared a “violator of the detention regime” must not be a purely passive response to the prisoner’s attitude and behaviour. Decisions on placement or renewal of placement should be based on an objective, in-depth assessment or re-assessment and form part of a constructive process designed to respond to the prisoners’ problems and enable them to (re-)integrate into the “common” regime. Prisoners must always be notified in writing of the decisions taken concerning them, and the reasons should be given. Moreover, prisoners should not remain segregated under the “initial” detention regime for longer than necessary; in the CPT’s view, the measures should be reviewed at least once every three months. **The Committee recommends that the Moldovan authorities take the necessary measures for these principles to be reflected in the relevant legislation and regulations.**

44. The detention conditions for these prisoners were similar to those for the other prisoners starting to serve their sentences under the “initial” detention regime (see paragraphs 73 to 78). The vast majority of them were usually locked in their cells 23 hours a day. The CPT believes that such a limited activity programme is not a good means of responding to problematic behaviour in prison. It is essential that the prisoners concerned are offered appropriate programmes of activities. **The Committee recommends that an appropriate activity programme (work, group activities and targeted rehabilitation programmes) be developed for prisoners declared “violators of the detention regime” who are segregated under the “initial” detention regime. The programme should be drawn up and revised by a multidisciplinary team, on the basis of a personalised risks and needs assessment, following consultation of the prisoner concerned.**

⁷⁰ See Article 267, paragraph 3, of the Code of Execution.

45. The legal provisions concerning contact with the outside world remained practically unchanged at the time of the visit.

Sentenced prisoners were entitled to at least one short visit (1 to 4 hours) per month. In principle, they were also entitled to at least four long visits (12 to 72 hours) per year. However, life-sentenced prisoners and prisoners starting their sentences under the “initial” detention regime were not entitled to the latter type of visit.

46. The fact that life-sentenced prisoners and prisoners starting their sentence under the “initial” detention regime were not entitled to long visits was heavily criticised, including by the prison staff with whom the delegation spoke. The staff believed that this general ban made little sense, as it did not allow individual situations to be taken into account. In the case of life-sentenced prisoners in particular, it was even deemed to be counterproductive, as they are precisely the category of prisoners for whom the risk of the breakdown of family ties is the greatest. The prisoners regarded the ban as an additional punishment on top of their actual imprisonment, which applied not only to them but also to the members of their families.

In a letter dated 10 October 2011, the Moldovan authorities indicated that they did not believe it was appropriate at present to grant these prisoners the right to receive long visits. The CPT understands that there may be security considerations which should be taken into account in certain cases. However, the fact that the law prohibits all these prisoners from receiving long visits cannot be justified.

The Committee recommends that the Moldovan authorities amend the legislation so that prisoners serving life sentences and those beginning their sentences under the “initial” detention regime may, in principle, receive long visits on the basis of periodic, individualised risks and needs assessments.

Moreover and more generally, **the CPT recommends that the Moldovan authorities allow prisoners who so desire to receive at least one visit a week, with the possibility of accumulating the visiting times over a period of a month when there are no weekly visits.**

47. For each short visit, *remand prisoners* or their visitors must first obtain dual authorisation from the person in charge of the investigation, the investigating judge or the court, on the one hand, and the prison administration, on the other⁷¹.

During the 2011 visit, the remand prisoners whom the delegation met rarely received visits. The main reasons for this were the reluctance of the bodies responsible for authorising visits and the slowness of the authorisation procedure. Moreover, when visits did take place, they were in booths with partitions.

⁷¹ See Section 25-a of the Regulation on the Execution of Sentences and Article 232, paragraphs 2 and 4, of the Code of Execution.

In the light of Rule 99 of the European Prison Rules⁷², **the CPT recommends that the Moldovan authorities take the necessary steps to ensure that requests for visits by remand prisoners or their possible visitors are no longer in principle subject to prior authorisation by the investigating or judicial authorities and that any bans or restrictions (visits with partitions, for instance) imposed by the judicial authorities in particular cases are specifically justified by the needs of the investigation or on security grounds and are applied for a limited period of time and are the least strict possible.**

48. With regard to the right to *access to a telephone*, the prisoners' right to at least one 10-minute call every two weeks seemed to be observed in practice, both in Bălți and in Rezina. **The CPT encourages the Moldovan authorities to allow the prisoners to make phone calls more frequently.**

49. During the 2011 visit, the prisoners seemed to be generally well informed about their rights and were aware of the bodies with which complaints could be lodged. However, a number of prisoners believed that they could see a causal link between making complaints and the use of physical violence against them by the staff or by prisoners acting on behalf of the informal prisoner hierarchy (see, in this respect, paragraphs 60 and 64). **The CPT calls upon the Moldovan authorities to take the necessary steps so that any information suggesting that a prisoner has been subjected to threats and/or reprisals for having exercised his/her right to lodge applications or complaints is investigated properly and, if necessary, results in appropriate sanctions.**

⁷² Rule 99 of the European Prison Rules provides that untried prisoners must be able to receive visits in the same way as convicted prisoners, unless there is a specific prohibition for a specified period by a judicial authority in an individual case.

C. Psychiatric establishments

1. Preliminary remarks

50. The delegation visited for the first time Orhei Psychiatric Hospital, and paid a follow-up visit to the pavilions for detained persons undergoing forensic psychiatric assessment (section 31) and for patients declared criminally irresponsible and placed under "strict supervision" (section 37) of Chişinău Psychiatric Hospital. The latter establishment had been visited in 2007, and the secure pavilion housing units 31 and 37 had also been visited in 1998⁷³.

51. Orhei Psychiatric Hospital is located in a forest outside the town. It was established following the closure and transfer of the hospital in Churchi⁷⁴. The hospital has four floors and was renovated between 2000 and 2003 at the time of the transfer. It includes a department for male patients (60 beds), a department for female patients (50 beds), a mixed psychogeriatric department (35 beds), a mixed addictology department (45 beds), an admission department and a medical "isolator" (10 beds).

With an official capacity of 200 beds, the hospital was accommodating 183 patients at the time of the visit (122 men and 61 women), including three who had been found criminally irresponsible under Article 99 of the Criminal Code and placed under "ordinary supervision" and one who, at the time of the visit, was in the process of being compulsorily hospitalised under Article 28 of the Law on Psychiatric Assistance⁷⁵. The 179 other patients had not been hospitalised without their consent under Article 28. However, the vast majority of patients were not allowed to leave the pavilions where they were confined. It follows from the information obtained during the visit that several patients had in fact not been in a position to give free and informed consent at the time of hospitalisation (see paragraphs 137 and 138).

Virtually all the patients were spending one or two months in this hospital. The three criminally irresponsible patients had been in the establishment respectively since June 2008, June 2009 and December 2010. The patient undergoing civil hospitalisation under Article 28 of the Law on Psychiatric Assistance had arrived there a few days earlier.

52. At the time of the visit units 31 and 37 of Chişinău Psychiatric Hospital were respectively accommodating six patients – including one woman – (for a capacity of 25 beds) who were detainees undergoing forensic psychiatric assessment, and 72 patients (for a capacity of 85 beds) deemed criminally irresponsible and placed under "strict supervision".

Persons placed in unit 31 generally spent four weeks there. The patients in unit 37 stayed there for an average of three or four years.

⁷³ See paragraphs 129 to 137 and 157 to 173 of document CPT/Inf(2000)20 and paragraphs 115 to 146 of document CPT/Inf (2008)39.

⁷⁴ Visited by the CPT in 1998, shortly before its closure.

⁷⁵ Article 99 of the CC had not been amended since the last visit. Article 28 of the Law on Psychiatric Assistance had been slightly amended since 2007 and provided that a person suffering from psychiatric disorders could be hospitalised without his/her consent or that of his/her legal representative, before the judicial decision was taken, provided that examination or treatment was possible only under hospital conditions, that the psychiatric disorder was serious and that it entailed: a) a direct danger to the person him/herself or to others; b) serious harm to his/her health in the event of failure to provide psychiatric assistance.

53. At the beginning of the visit, the delegation was informed that serious problems had been encountered with financing the cost of caring for patients allocated to the secure pavilion of Chişinău Psychiatric Hospital and, in this connection, an agreement had just been reached with the national sickness insurance fund⁷⁶. According to the staff of the hospital, this constituted progress; however, the agreement was apparently far from meeting the needs. **The CPT wishes to receive the Moldovan authorities' comments on this matter.**

2. Ill-treatment

54. The delegation heard no allegation and found no other evidence of ill-treatment of patients by the staff of these establishments. On the contrary, the patients spoke positively of the staff. There was a relaxed atmosphere, particularly at Orhei Psychiatric Hospital.

3. Living conditions

a. Orhei Psychiatric Hospital

55. Living conditions were generally appropriate. The premises were clean, ventilated, light and well kept, and the conditions of hygiene were very satisfactory. Having said that, conditions were cramped in a number of the rooms (four patients accommodated in 12 m², seven in 20 m²). Further, the rooms were equipped only with beds and bedside tables. In addition, the premises were impersonal.

The CPT recommends that the Moldovan authorities take steps to reduce the maximum occupancy rate in the rooms of Orhei Psychiatric Hospital.

In addition, patients should be provided with a more congenial and personalised environment and should in particular be given access to lockable storage space enabling them to keep personal belongings.

56. Each department had sanitary facilities equipped with WCs, washbasins and a shower room. Many of the rooms were also equipped with washbasins, and patients had access to the showers every day if they so wished. The premises were very clean and the equipment was in a state of good repair, apart from two of the four WCs in the department for male patients and the shower in the addictology department (consisting of a rigid pipe, with no shower head, that delivered only a trickle of water), **a situation that should be remedied.**

⁷⁶ The Ministry of Health had made specific funds available to cover the cost of caring for the detained persons undergoing forensic psychiatric assessment.

57. Regarding food, a review of the menus showed that the provision of meat was very irregular and that patients received virtually no fish or fruit. Some patients, moreover, complained to the delegation that the meals were lacking in variety. The hospital's management also informed the delegation that, although under the relevant national standards MDL 22 was to be spent on food per patient per day, the establishment's budget allowed it to spend only MDL 15. **The CPT recommends that the Moldovan authorities ensure that the patients at Orhei Psychiatric Hospital are properly fed in terms of both quality and quantity.**

b. secure pavilion of Chişinau Psychiatric Hospital (units 31 and 37)

58. Only three of the six rooms in *unit 31* were in use⁷⁷ at the time of the visit⁷⁸ and conditions there were spartan. These rooms were equipped solely with beds. In addition, the sanitary annexe in each room (a washbasin and a floor-level toilet) were fitted only with low partitions, despite the CPT's repeated recommendations on this subject during the previous two visits to this unit. In spite of the work under way, the three rooms being renovated shared the same deficiencies as the non-renovated rooms. In short, no effort had been made to remedy the austere and impersonal physical environment characterised by an impression of bareness throughout unit 31, which has long been criticised by the CPT.

59. The premises of *unit 37* offered similar conditions to those observed by the CPT in 2007 and were also characterised by their bareness. The rooms were equipped solely with beds and, in some cases, a few bedside tables. The storage space available to patients for their personal belongings was still insufficient. The communal WCs were still not partitioned so as to preserve patients' privacy and were in need of renovation.

The configuration of the room for patients under constant observation did not permit individualised care for patients in an acute state (the room is divided in two by a metal barred partition, with on one side eight beds, positioned almost one against the other, and on the other side a bed and a table where the patients took their meals). In addition, different categories of patients could be accommodated there simultaneously: newly admitted patients under observation for seven to ten days; patients subject to means of physical restraint; and patients who were in a state of decompensation and unable to bear contact with other patients.

60. On a more positive note, conditions of hygiene were satisfactory in both of these units.

⁷⁷ The other three were being renovated.

⁷⁸ The remainder of the unit had already been renovated between the CPT's visits in 1998 and 2007 (see paragraph 119 of CPT/Inf (2008)39).

61. **The CPT reiterates its recommendations that the Moldovan authorities take measures to:**

- **fully partition the toilets in units 31 and 37; further, the toilets in unit 37 should be renovated;**
- **make the rooms in units 31 and 37 less austere by offering patients a more congenial and personalised environment and enabling them to have access to lockable storage space for their personal belongings.**

The CPT also recommends that the constant observation room in unit 37 be refitted so that its configuration permits individualised care for patients in an acute state.

Further, the CPT invites the Moldovan authorities to consider, in unit 37, the possibility of providing individual rooms for patients incapable of cohabiting with others on a temporary or permanent basis.

62. During the visit, it became apparent that the rooms and sanitary facilities of units 31 and 37 of Chişinău Psychiatric Hospital were fitted with video surveillance cameras and afforded no privacy to patients using the WCs or washing themselves⁷⁹. All the cameras were carefully hidden (except in the observation room of unit 37) and the patients were not informed of their existence. Further, the lights in the rooms of unit 31 were kept switched on round the clock to facilitate the video surveillance.

As regards the use of video surveillance systems, the CPT wishes to recall that the privacy of the persons concerned must be preserved when they use the toilets, washbasins and showers. In addition, systems of this kind must not affect the frequency of visits by staff, or replace such visits, and should have no impact on the quality of the time spent by health-care staff with persons placed in these two units. Further, persons allocated to these units should be informed of the video cameras' existence. On the other hand, the ordinary rooms in unit 37 should not be equipped with video cameras with a view to preserving a minimum of privacy. **The CPT recommends that the policy governing the use of video surveillance in these two units meet the above requirements.** In addition, **strong or medium lighting in rooms should be used at night only in case of need.**⁸⁰

⁷⁹ Unit 31 had been equipped with the video surveillance system in 2008, and unit 37 in 2010.

⁸⁰ See also paragraph 133 below.

4. Staffing and treatment

a. Orhei Psychiatric Hospital

63. The staff of Orhei Psychiatric Hospital included seven full-time psychiatrists and, working part-time: a neurologist, a general practitioner, a gynaecologist, an ophthalmologist, an infectiologist, a physiotherapist and a laboratory technician. A dentist was employed full time. There was also a full-time psychologist, 75 medical assistants⁸¹ and 110 orderlies⁸². Two posts of psychiatrist were vacant in the department for male patients, which had only one psychiatrist on a full-time equivalent basis. In addition, the hospital had neither an occupational therapist nor a pharmacist (medical assistants were acting as occupational therapist and pharmacist).

64. The psychiatric treatment on offer was mainly pharmacological in nature. Access to the doctors posed no problem, and patients' medical files were well kept; however, there were no individualised treatment protocols.

The hospital pharmacy lacked the most recent psychotropic drugs. Further, the hospital's management indicated that, for both recent and basic psychotropic medication, supply shortages occasionally occurred.

65. Access to somatic care posed no particular problem; the hospital received regular visits by a number of specialists and had a contract with Orhei General Hospital. If the need arose, the emergency unit was called upon.

66. Regarding occupational activities, patients merely had access to a few board games and could watch television. It should be noted that two of the departments had occupational therapy rooms (with a television set, books and board games), but, given the lack of an occupational therapist, these rooms were not utilised.

67. In view of the above remarks, **the CPT recommends that measures be taken at Orhei Psychiatric Hospital to:**

- **fill the vacant posts of psychiatrist in the department for male patients;**
- **introduce a wider range of therapeutic options, in particular psychosocial rehabilitation activities to prepare patients for living independently and returning to their families. Occupational therapy should play an important part in the rehabilitation programme, with provision being made for motivational work, evaluation of learning and relational skills, the acquisition of specific skills and improvement of self-esteem;**

⁸¹ Qualified nurses ("assistente medicale" in the State language).

⁸² "Infirmieri" in the State language.

- **draw up an individualised treatment protocol for each patient, including pharmacotherapy and a broad range of therapeutic and rehabilitation activities, specifying the treatment goals, the therapeutic resources used and the members of staff responsible; this will entail recruiting staff qualified in this field (occupational therapist, social worker) so as to allow the development of a multidisciplinary approach.**

In addition, **the CPT recommends that the Moldovan authorities take the necessary measures, without delay, to ensure a regular supply of medication to Orhei Psychiatric Hospital, and other psychiatric establishments in the country if necessary (see also paragraph 130). The recruitment of a pharmacist should also be envisaged.**

68. It became apparent during the visit that the orderlies had no initial training in health-care matters and received training only after being recruited. **The CPT reiterates the recommendation it made at the time of the previous visit in 2007, to the effect that the Moldovan authorities should set up proper initial training in health care for orderlies working in psychiatric units.**

69. Patients moved around the hospital only to a very limited extent. In each department, patients were allocated to different movement regimes: acute patients in the observation room who were under constant supervision and not permitted to leave the room; patients whose condition was stabilising who were permitted to walk around their departments or to go out on the balcony; patients authorised to leave the building under escort; and patients authorised to leave the building without an escort. The last two categories represented a minority of patients. Furthermore, the hospital had no secure outdoor exercise area and no lifts, which was not without repercussions, in particular for the patients in the psychogeriatric department, which was located on the top floor of the hospital.

As a result, many patients had no access to any form of outdoor activity. The delegation was informed that the establishment was awaiting a decision by the public authorities to allocate an adjacent four hectare plot to the hospital, which would make it possible *inter alia* to install a secure exercise yard.

The CPT recommends that the Moldovan authorities ensure, as quickly as possible, that all patients have access to outdoor activities for at least one hour per day, except where contra-indicated for medical reasons. In this connection, the provision of a fairly large and secure outdoor exercise area must be a priority.

b. secure pavilion of Chişinau Psychiatric Hospital

70. The staff of *unit 31* included two psychiatrists, eight medical assistants and fifteen orderlies, all working full-time. There was also a part-time psychologist. A medical assistant and two orderlies were on duty at nights and on weekends and public holidays. The unit had access to a pool of eight forensic psychiatric experts. No posts were vacant at the time of the visit. Overall, the staff/patient ratio was satisfactory.

Unit 37 was far less well staffed, with 3.5 psychiatrist posts, of which only 1.5 were filled. There were also 12 medical assistant posts, six of which were vacant, and 21 orderly posts, two of which were vacant. A psychologist worked there part-time.

71. Access to somatic care and to other specialists posed no particular problem.

72. As during the previous visit, the psychiatric treatment offered to patients in *unit 37* was essentially pharmacological in nature. There was no problem of access to the doctors, and the files were well kept, although they contained no individualised treatment protocols.

The hospital had a wide range of psychotropic drugs at its disposal, some of which were recent. Nonetheless, there were occasional supply shortages, which at the time of the visit concerned basic molecules such as amisulpride and risperidone. It had admittedly been possible to substitute other molecules for them, but this situation did not facilitate the development of trust/confidence in the treatment on the part of either the prescriber or the patient.

73. No change was observed with regard to psychosocial rehabilitation activities, which were non-existent for patients in *unit 37*. They had to make do with the television set, a small library, a few board games and sports activities (table tennis and gymnastics). By a letter dated 10 October 2011, the Moldovan authorities informed the CPT that, following the end-of-visit observations, activities had been introduced for patients in *unit 37*, but gave no further details.

The persons undergoing psychiatric assessment in *unit 31* had only a television set in the common room and a few board games. The common room was accessible every day from 10 a.m. to 1 p.m. and from 6 to 9 p.m.

74. The CPT has already had occasion to underline the particularly prison-like appearance of the secure pavilion of Chişinau Psychiatric Hospital. This pavilion is part and parcel of the psychiatric hospital and comes under the responsibility of the Ministry of Health; it should accordingly offer living conditions making it possible to create a positive therapeutic environment, conducive firstly to the observation and evaluation of persons undergoing psychiatric assessment (*unit 31*) and secondly to the treatment of the criminally irresponsible patients under the "strict supervision" regime (*unit 37*). However, the virtual lack of occupational and psychosocial rehabilitation activities, combined with the particularly austere material conditions, did nothing to foster the emergence of such an environment.

The CPT recommends that the Moldovan authorities take measures without delay to:

- fill the vacant posts for psychiatrists in unit 37;
- significantly increase the number of medical assistants working in unit 37, initially by filling the vacant posts;
- increase the number of staff qualified to propose therapeutic activities (psychologists, occupational therapists, social workers) and reinforce their role so as to permit the development of a multidisciplinary approach;
- develop the range of therapeutic options, in particular psychosocial rehabilitation activities, to prepare patients in unit 37 for living independently and returning to their families. Occupational therapy should be part and parcel of the rehabilitation programme, with provision being made for motivational work, the development of relational and learning skills, the acquisition of specific skills and improvement of self-esteem;
- draw up an individualised treatment protocol for each patient in unit 37, including the need to limit the risks of recidivism, covering pharmacotherapy and a broad range of therapeutic and rehabilitation activities and specifying the treatment objectives, the therapeutic resources used and the members of staff responsible;
- put in place therapeutic activities for persons placed in unit 31.

With regard to the supply of medication, reference is made to the recommendation in paragraph 123.

75. Regarding training for orderlies, reference is made to the recommendation set out in paragraph 124.

76. The persons undergoing psychiatric assessment in *unit 31* were allowed one hour of outdoor exercise per day, in a yard without any shelter, and patients of *unit 37* up to two hours per day. However, patients allocated to the constant observation room of unit 37 were not allowed outdoor exercise. **The CPT recommends that the Moldovan authorities ensure, as quickly as possible, that all patients have access to outdoor exercise for at least one hour per day, except where contra-indicated for medical reasons.** In addition, the yard of unit 31 should be equipped with a shelter to offer protection against bad weather and sunshine.

77. It emerged during the visit that the police officers working within the secure pavilion could enter unit 31 in the same way as health-care staff (they moreover had a surveillance post at the entrance of unit 31), whereas members of the police could enter unit 37 solely at the express request and under the supervision and authority of the health-care staff.

In this connection, it should be noted that the video surveillance system in unit 37 was monitored by health-care staff, whereas that of unit 31 was monitored by police staff. In addition, the police staff had received no specific training in working with psychiatric patients.

Bearing in mind the challenging nature of their work, it is of crucial importance that staff assigned to security-related tasks in a psychiatric hospital be carefully selected and that they receive appropriate training before taking up their duties as well as in-service training. Furthermore, during the performance of their tasks, they should be closely supervised by qualified health-care staff, which entails that they should intervene within units only under the authority of the health-care staff.

The CPT recommends that the Moldovan authorities improve the training and the supervision of police officers and ensure that this category of staff only intervene in units 31 and 37 at the request and under the authority of the health-care staff.

The Committee also recommends that monitoring of the video surveillance system of unit 31 be the sole responsibility of health-care staff.

5. Means of restraint

78. Standardised guidelines had been introduced in the establishments visited concerning immobilisation, fixation and chemical restraint. These guidelines referred to the Law on Mental Health, to the Law on Patients' Rights and Obligations and to Council of Europe documents, including the CPT standards. Recourse to chemical and/or physical restraint is possible where a patient poses an immediate risk for him/herself or others, by decision of a psychiatrist and after other means, such as persuasion or immobilisation by health-care staff, have failed. Immobilisation and fixation (using sheets to attach the patient's ankles, wrists and torso) can be implemented by one or more members of the health-care staff who have been trained for this purpose. The reasons for resorting to the measure, the means used, the times at which the measure begins and ends, the medication used and a description of the patient's somatic state must be entered in a special register and in the patient's medical file. Recourse to the assistance of other patients in applying such measures is prohibited.

Special registers existed since January 2011 at Orhei Psychiatric Hospital and since January 2009 at Chişinău Psychiatric Hospital and showed that there had been limited recourse to means of restraint⁸³. A review of the registers and of patients' files showed that the procedures used were well documented and that the measures had lasted for not more than 15 to 30 minutes. Nonetheless, at Orhei Psychiatric Hospital and in unit 37 of Chişinău Psychiatric Hospital, the delegation noted that patients subject to physical means of restraint were placed in the constant observation room (under the surveillance of an orderly at Orhei) in sight of other patients.

79. The CPT notes with satisfaction that standardised guidelines have been introduced, thereby implementing the CPT's long-standing recommendation.

⁸³ At Orhei Psychiatric Hospital three cases since the beginning of 2011, and at Chişinău Psychiatric Hospital three cases in unit 37, and none in unit 31, since the beginning of 2009.

In this connection, the CPT wishes to underline that such guidelines should also include the supervision required and the action to be taken once the measure is terminated. They should be accompanied by practical training sessions on the approved control and restraint techniques, in which all the staff members concerned should participate (doctors, nurses, orderlies, etc.) and which should be regularly updated. The involvement and support of both staff and management in elaborating the guidelines is essential. Patients should be duly informed, in writing, of the establishment's policy on restraint and of the available avenues of complaint. When chemical restraint measures (administration of medication to a patient against his/her wishes so as to control his/her behaviour) are used, the same safeguards should be provided as for means of mechanical restraint, and measures should be duly recorded in the special register and in patients' files. In the CPT's opinion, such general guidelines are not only a major support for staff, but are also helpful in ensuring that patients and their guardians or legal representatives understand the rationale behind a measure of restraint that may be imposed.

In addition, the application of means of restraint is often perceived by patients as a form of punishment. To avoid misunderstandings and preserve the doctor/patient relationship, a debriefing should take place with all patients who have been the subject to or who have witnessed the application of the measure, once means of restraint have been removed. For the doctor, this will provide an opportunity to explain the rationale behind the measure and eliminate doubts as to its justification. For the patient, such a debriefing is an opportunity to explain his/her emotions prior to the restraint, which may help both the patient – and the staff – to improve their understanding of the patient's behaviour.

The CPT recommends that all psychiatric hospitals in the Republic of Moldova develop exhaustive guidelines on the use of means of restraint, in the light of the above observations.

In addition, the CPT recommends that the Moldovan authorities take measures to guarantee that the immobilisation of patients never takes place in sight of other patients, unless the patient concerned explicitly requests otherwise or when the patient is known to have a preference for company.

6. Safeguards

80. The legal provisions governing civil hospitalisation and the involuntary placement procedures were described in the CPT's earlier reports and generally offered guarantees of independence, impartiality and objective medical evaluation and provided for a regular review of the need for placement. The Law on Psychiatric Assistance of 1997 had been amended in 2008, when it was renamed the Law on Mental Health, and afforded enhanced guarantees in these matters.

Under the law, the hospital's board of psychiatrists conducts a psychiatric examination of a person admitted under Article 28 within a period of 48 hours. If his or her state of health justifies compulsory hospitalisation, the board has 24 hours in which to submit an opinion to the judicial authority having territorial jurisdiction, which will then be required to take a decision within a period of three days. The person concerned is entitled to take part in the hearing and the presence of a legal representative is obligatory if the person has been declared incompetent. The person concerned is entitled to a lawyer and the law, as amended in 2008, also provides for access to an *ex officio* lawyer. The patient, or his/her representative, has 15 days in which to appeal against the decision. Under the Law on Patients' Rights and Obligations of 2005, the patient, or his/her legal representative, can request a second medical opinion.

The need for hospitalisation without consent must be reviewed by the hospital's board of psychiatrists at least once per month. The hospital informs the court of the board's opinion every six months; a judge reviews the court's placement decision on an annual basis.

It should be noted that, under Article 24 of the Civil Code, a person who is incapable of understanding the significance of his/her actions and of controlling them as a result of mental problems (a mental illness or deficiency) is to be placed under guardianship by a court decision.

81. The delegation's findings indicate that the judicial procedure for hospitalisation without consent was rarely applied in practice. This procedure seemed to be used only in respect of patients who refused to sign the consent form upon admission or where a family member could not or would not sign this form on their behalf.

At the time of the visit, only one hospitalisation without consent procedure was being examined at Orhei Psychiatric Hospital, concerning a patient admitted a few days earlier who had refused to sign the consent forms (to hospitalisation and to treatment). A review of the patient's file brought to light a very detailed and comprehensive medical report upon admission. The hearing took place at the hospital in the presence of the patient, accompanied by an orderly, the director of the hospital, the head doctor and the doctor in charge of the department for male patients. No legal representative⁸⁴ was present; the patient had been informed that he could request the assistance of a lawyer, but had not done so. The patient was heard by the judge, as were the hospital's director and the head doctor. The need for placement was confirmed, and the patient was informed that he had 15 days to appeal against the decision.

It emerged from discussions with the doctors and the judge that the decision was sent to the hospital, which was required to transmit it to the patient concerned without delay and to have the patient sign it.

82. With regard to the other patients, all the files contained consent forms (to hospitalisation and to treatment) that had been duly signed at the time of their admission. Nonetheless, it seemed that, where patients were incapable of signing the form, the accompanying family member did so on their behalf, without the patient having been legally placed under guardianship. Furthermore, some patients said they had signed papers at the time of admission without really paying attention to what they were signing. This situation is unacceptable.

⁸⁴ The patient was deemed to be under his spouse's guardianship, although his file made no mention of it.

The CPT calls upon the Moldovan authorities to take the necessary measures to ensure that the hospitalisation without consent procedures under Article 28 of the Law on Mental Health are duly complied with and that the legal safeguards are genuinely effective. The CPT also recommends that the Moldovan authorities ensure that the procedures and safeguards relating to guardianship of persons deprived of legal capacity, as laid down by law, are complied with.

83. With regard to patients found to be criminally irresponsible, the law provides that such persons shall be hospitalised under “strict”⁸⁵ or “ordinary”⁸⁶ supervision, based on a forensic psychiatric expert's opinion. The placement is reviewed by a judge at least once every six months on the basis of a report established by a board composed of psychiatrists from the hospital.

A review of the files showed that they were well kept. The procedural time-limits were complied with, and a lawyer was present at the court hearings. Having said that, patients usually did not attend hearings. Certain doctors moreover told the delegation that they could see no point in the patient's presence at the hearing. The judicial decision prolonging the placement was notified in writing to the hospital, but not the patient; it was for the doctors to inform the patient. The interviews with patients showed that they were generally informed of the prolongation of their hospitalisation by the doctor, but not all of them were aware of the existence of the board of psychiatrists nor of the holding of the court hearings concerning them.

The CPT recommends that these shortcomings be remedied. Patients and/or their legal representatives should be systematically informed, notably in writing, of the six-monthly reports on them by the board of psychiatrists. Patients should also enjoy the effective right to be heard in person by a judge in the review proceedings.

84. The review of the files also revealed that many patients found to be criminally irresponsible but deemed competent had signed a form of consent to treatment. However, Article 11 of the Law on Mental Health still contained a general exception to the requirement of free and informed consent to treatment in cases of hospitalisation without consent, whether of a civil or a criminal nature. **The CPT calls upon the Moldovan authorities to guarantee that any exception to the principle of free and informed consent to treatment with regard to involuntary patients applies only in exceptional circumstances clearly defined by law.**

85. In all the departments of *Orhei Psychiatric Hospital* there were large notice boards giving detailed information on health insurance, patients' rights (including the right to refuse treatment) and the number of the Ministry of Health's relevant free helpline. Patients were informed verbally of the hospital rules.

According to the staff of *unit 37* of Chişinău Psychiatric Hospital, patients received verbal information on their rights and on the hospital's rules upon their admission. However, it emerged from the discussions with patients that they had little or no knowledge of their rights.

⁸⁵ Patients of unit 37 of Chişinău Psychiatric Hospital.

⁸⁶ Three cases at Orhei Psychiatric Hospital at the time of the visit.

The CPT recommends that a brochure setting out the hospital's rules and patients' rights – including information on avenues of complaints relevant bodies – be produced and issued systematically to patients and their families upon admission to any psychiatric institution. Patients who are unable to understand this brochure should receive appropriate assistance.

86. Regarding contact with the outside world, there were no restrictions on visits at *Orhei Psychiatric Hospital*. Patients in *unit 37* of Chişinău Psychiatric Hospital could receive visits five days out of seven.

Although the patients of Orhei Psychiatric Hospital could receive calls on the phones located in the offices of the medical assistants/doctors of each department, a number of patients complained that they could make only local calls, as the telephones did not permit access to the long distance service. The hospital had only one pay phone, which was located in the admission department and was accessible only to patients accompanied by an orderly. Having said that, some patients had mobile phones.

In unit 37 of Chişinău Psychiatric Hospital, the patients complained about problems of access to the section's sole telephone, which was available only two hours per day.

The CPT invites the Moldovan authorities to envisage installing telephones in the other departments of Orhei Psychiatric Hospital and to facilitate access to a telephone for the patients of unit 37 (under supervision if need be).

The persons undergoing psychiatric assessment in *unit 31* were subject to the same regime as remand prisoners. In this connection, **the CPT refers to the recommendation set out in paragraph 103.**

87. The Law on Mental Health, as adopted in 2008, still provides that patients are entitled to submit complaints and petitions to a lawyer, the public authorities, the Public Prosecutor's Office and the judicial authorities without any form of censorship. A complaints register was available in the visiting rooms of the various departments of Orhei Psychiatric Hospital. However, the patients interviewed by the delegation in both hospitals mostly seemed to have no idea of the external avenues of complaints available.

The CPT recommends that the Moldovan authorities establish a formal patient complaints system. Firstly, patients should be informed of the bodies authorised to receive complaints; secondly, complaints boxes for receiving patients' complaints should be installed in the two hospitals (staff should not have free access to these boxes).

88. With regard to external monitoring, Orhei Psychiatric Hospital had been visited by an NGO in 2005 and had received a questionnaire from another NGO with a view to a forthcoming visit. The national preventive mechanism had not yet visited the establishment at the time of the CPT's visit. Chişinău Psychiatric Hospital had been visited by several NGOs in recent years as well as by intergovernmental organisations and the national preventive mechanism.

D. Orhei Psychoneurological Home for Boys

1. Preliminary remarks

89. Orhei Psychoneurological Home for Boys with severe mental disabilities comes under the authority of the Ministry of Labour, Social Protection and the Family. It occupies a site of four hectares, comprising a building, grounds and a farm. It had 292 residents at the time of the visit, aged from 6 to 37 years old (143 juveniles and 159 adults), who were divided into groups according to their psychomotor and intellectual development. Of this total, 108 residents were unable to cope alone. Only eight residents, all adults, could leave the institution unaccompanied.

90. In July 2010, the Moldovan Government adopted a Strategy for the Social Inclusion of People with Disabilities (2010-2013), an Action Plan and an Inclusive Education Development Scheme for 2011-2020 in the perspective of the ratification of the United Nations Convention on the Rights of Persons with Disabilities shortly after in September 2010⁸⁷. The aim is to prevent institutionalisation, promote de-institutionalisation (creation of suitable housing and specialised community-based homes, recourse to foster families, support so that the persons concerned can continue to live with their families) and to bring the Moldovan legislation into line with international standards on the re-integration of people with disabilities. **The CPT would like to receive detailed information on the structures permitting the de-institutionalisation of people with severe mental disabilities and on the projects to build new structures for them.**

In this connection, the Orhei Psychoneurological Home for Boys was involved in a pilot project with the Ministry of Labour, Social Protection and the Family, with three foreign non-governmental organisations to prepare residents for de-institutionalisation. The intention was to enable the institution to revert to its initial status as a psychoneurological home for persons under the age of 18. At the end of the visit, the Ministry of Labour, Social Protection and the Family informed the delegation that the process initiated by this project, which had begun in 2008 and would end in 2013, was part of a general movement having as its aim the social rehabilitation of residents, the placement of adult residents in more suitable structures, and family placements, and would continue after the current partnership came to an end. This is an encouraging development. **The CPT would like to receive detailed information on the plans to transform the Orhei Psychoneurological Home and the concrete stages in this transformation up to the end of the pilot project** (see also paragraph 150).

91. The delegation heard no allegations and gathered no evidence of ill-treatment of residents by staff. On the contrary, the general atmosphere was relaxed, the staff's attitude towards residents was careful and respectful and relations between staff and residents were positive.

⁸⁷ The strategy also refers to Recommendation Rec(2006)5 of the Committee of Ministers of the Council of Europe on the Council of Europe Action Plan to promote the rights and full participation of people with disabilities in society: improving the quality of life of people with disabilities in Europe 2006-2015.

92. Having said that, the allocation of residents to groups was not done on the basis of their age but according to their psychomotor and intellectual development. This meant that juvenile and adult males shared the same dormitories⁸⁸. Despite an adequate staffing level at night (see paragraph 151), the staff's efforts to allocate the residents to distinct groups and an awareness among the staff of the problems inherent in this kind of situation, accommodating children and unrelated adults together inevitably brings with it the possibility of domination and exploitation. **The CPT recommends that, in the light of the above remarks, the Moldovan authorities take appropriate measures to protect the most vulnerable residents from other residents who might cause them harm; as a rule, children should be accommodated separately from adults.**

2. Living conditions

93. The installations dated from 1992, when large-scale equipment and renovation works had been launched within the establishment⁸⁹, primarily thanks to foreign NGOs. The establishment was organised in 22 living units (apartments) by groups of residents: 10 on the ground floor and 12 on the floor above. Each living unit (accommodating 12 to 18 residents) included one or two dormitories, a living room with a television set, a radio set, numerous games and soft toys, and a bathroom and toilets, and afforded access to the shady grounds, which were planted with trees and included many games areas. The dormitories also had their own kitchenettes. The dormitories and living rooms were well equipped and decorated and had adequate access to natural light and ventilation.

Both overall cleanliness and the residents' personal hygiene were excellent. The bathrooms and toilets of the living units had been recently renovated and were in a very good state of repair. There were no restrictions on access to them. A few sanitary facilities on the ground floor had not been renovated, but this should be done in the near future. **The CPT encourages the Moldovan authorities to pursue these efforts.**

In the dormitories solely accommodating adults, each resident had his own lockable storage space in which to keep his personal belongings. However, in the other dormitories, the residents had no storage space at their disposal, nor did they have any personal belongings: clothing was not assigned to any specific resident and was kept in unlocked cupboards in the living rooms, which were managed by an orderly. **It would be desirable that residents have their own clothing and have access to lockable storage space.**

94. It should be noted that these quite satisfactory conditions were mainly the outcome of the management's efforts to raise outside funding⁹⁰ and that the scheduled end of the above-mentioned project could seriously jeopardise the preservation of such conditions. The Committee is concerned about this situation and, referring to the remarks in paragraph 146, **would like to know the Moldovan authorities' intentions concerning the steps to be taken to ensure that the living conditions observed can be maintained when the pilot project comes to an end in 2013.**

⁸⁸ Fifteen groups were of mixed ages, three were made up exclusively of adults, three exclusively of juveniles, and one group included twelve adults and a juvenile over the age of 17.

⁸⁹ Heating system, pumping station, laundry room, sanitary facilities.

⁹⁰ The manager, who is a trained educational psychologist, had been in place since 1994.

3. Staff and care

95. The establishment had two full-time doctors (a psychiatrist and a paediatrician), who were present from 8 am to 3.30 pm Monday to Friday⁹¹; two other posts for doctors (a neurologist and a stomatologist) were vacant. There were also twenty medical assistants (qualified nurses) – plus six vacant posts; four medical assistants acted as physiotherapists. There were also 106 orderlies (who had no specific qualifications; orderlies were trained and supervised by the medical assistants and doctors upon arrival at the institution) – plus ten vacant posts. The foreign partner NGOs had for some years been making volunteer doctors available to the establishment for short periods. At night, 26 members of staff were present in the establishment: two medical assistants (one per floor), 22 orderlies (one per group, present in each living unit), and two caretakers⁹² outside the building.

96. Concerning medical care, 97 residents were undergoing permanent treatment with anti-epileptics. However, because the neurologist's post was vacant, their treatment could not be re-assessed on a regular basis (at least once per year). If a resident suffered an epileptic seizure in the doctors' absence (at night or on weekends and public holidays), the medical assistants administered the prescribed treatment and contacted one of the two doctors to seek an opinion. The emergency services were called upon if need be. Psychotropic treatments (in particular anxiolytics and neuroleptics) were used only for residents in an acute state. Access to somatic treatments did not pose any major problem. However, the fact that the stomatologist's post was vacant limited the provision of dental care, despite an agreement reached with the neighbouring polyclinic. Medical files were detailed and well kept.

97. Taking into account the above remarks, **the CPT recommends that the Moldovan authorities fill the posts of neurologist and stomatologist that are currently vacant at Orhei Psychoneurological Home, at least on a part-time basis. In addition, the six vacant medical assistant posts should be filled and physiotherapists should be recruited.**

98. Twenty-two specialised educators (psychologists, speech therapists, musicotherapists, etc.) ran the numerous and varied stimulating and occupational activities proposed to all residents according to their ability. Apart from the living rooms in the units, the building had a number of rooms for a variety of activities (music, singing, dancing, macramé, sewing and knitting, painting, drawing, etc.), a gym and three psychomotor exercise rooms. The grounds offered numerous games areas, and the residents spent much of their time there under the supervision of educators and orderlies. Trips into town were organised on a regular basis, the singing group had given a presentation there, and a few trips abroad had been organised with the support of NGOs. One resident had exhibited and sold his paintings.

A classroom had been installed, and seven or eight children went there in the morning to participate in activities run by an educator (doing jigsaws, drawing and reading for two or three children who were able to read). The establishment also had plans to introduce elementary level teaching.

⁹¹ They generally worked longer hours, for which they were paid overtime.

⁹² There were also four caretakers and four other staff to watch over the grounds and the pumping station.

Some forty residents also kept the kitchen garden and looked after the animals in the establishment's farm. Some also helped with the upkeep of the grounds or did small jobs such as distributing the post, shoe repairs, helping out in the laundry room and cleaning the common areas. Residents were rewarded by means of visits, trips out and consumption of home-grown vegetables and fruit.

As mentioned at the beginning of this section, all the residents were allocated to groups according to their psychomotor and intellectual development. They had benefited from a thorough assessment of their psychomotor and intellectual development thanks to the introduction of the pilot project as from 2008. Nonetheless, there was no structured periodical re-assessment, and no psychometric tests were performed.

99. While welcoming the efforts made, **the CPT recommends that each resident's treatment protocol indicate the goals of the treatment, the therapeutic means used and the resident's social assistance needs and be regularly revised in the light of the resident's physical and psychological state.** Moreover, **particular care should also be paid to resocialisation programmes preparing residents who have the potential to live in the community.** In this connection, **the Committee invites the authorities to consider recruiting a social worker for the home.**

4. Means of restraint

100. Physical restraint of agitated residents was rare and involved immobilising the arms using sheets for a period of between 30 minutes and two hours. There was no specific room set aside for this purpose within the establishment, since the policy was to leave residents in their natural environment under constant supervision. The orderlies had been trained by the doctors and medical assistants in manual restraint techniques. Cases of use of restraint were well documented in the nurses' duty register and the residents' medical files.

Use of chemical means of restraint (administration of medication to a patient against his wishes to control his behaviour) was also rare, and cases were well documented in the nurses' duty register and the residents' medical files.

In the absence of a doctor, the medical assistants could administer urgent sedative treatment, on the basis of a prior medical prescription, to residents suffering an epileptic seizure or behaving aggressively (valium, or more rarely risperidone). An orderly, under the medical assistant's responsibility, then remained with the resident until he or she calmed down.

101. Apart from the nurses' duty register and the residents' medical files, **the CPT recommends that a specific restraint register be introduced at Orhei Psychoneurological Home to record the times at which a measure begins and ends, the circumstances of specific cases, the reasons for resorting to the measure and any injuries sustained by residents or members of staff.** Such a recording system will greatly facilitate the management of these cases and provide enhanced information on their significance and frequency.

In addition, **means of restraint must be used solely when expressly ordered by a doctor, or their use must be immediately brought to a doctor's attention in order to obtain his or her approval.**

5. Safeguards

102. The procedure for placement of a juvenile in a psychoneurological home is triggered at the request of the parents or any other legal representative on the basis of a compulsory opinion from a medico-psychopedagogic board under the authority of the Ministry of Education, including a psychiatrist, a psychologist and an educator. For adults, placement takes place at the request of the person concerned or, in the case of persons deprived of legal capacity, of the guardianship body, on the basis of an opinion from a medical board, including a psychiatrist. In both cases, the Law on Mental Health provides that the establishment shall have residents' cases reviewed at least once a year by a medical board including a psychiatrist, so as to assess the need for continued institutional care.

103. The examination of the files revealed that all the residents had been placed in this institution while they were under age, at the request of their families or the social services. No resident had given written consent to continued placement in the institution on reaching the age of majority and no judicial procedure to determine legal incapacity had been initiated for any of the residents, despite the Civil Code's requirements in this respect. From a legal standpoint, the residents concerned therefore had no guardian, although the immense majority of them were incapable of understanding the nature of their placement or the related procedures. **The CPT recommends that measures be taken to remedy this shortcoming as quickly as possible.**

In addition, **the Committee wishes to obtain confirmation that all persons who are involuntarily placed in this type of establishment, whether or not they have a legal guardian, enjoy the effective right to apply to a court to obtain a ruling on the legality of their placement and are afforded appropriate legal safeguards in this matter (such as the assistance of a lawyer and the fact to be heard by a judge, for instance).**

104. One of the objectives of the pilot project introduced from 2008 was to evaluate the need for continued placement in the institution, and the number of admissions⁹³ had since then declined significantly in favour of other solutions, including support so that the persons concerned could continue to live with their families; at the same time the number of residents leaving the home for good had increased⁹⁴. An examination of the files showed that, previously, there had been no systematic, periodic review of the placement measure, in breach of the law of 2008. The delegation was told that reviews were performed on an ad hoc basis, on request from the establishment to the medico-psychopedagogic board, as was also the case concerning requests to be discharged.

The residents' files contained only a placement decision by the Ministry of Labour, Social Protection and the Family, valid until the resident concerned reached the age of majority, and the report on the assessment carried out in connection with the pilot project in 2008.

⁹³ 27 in 2006, 15 in 2007, nine in 2008, 10 in 2009, five in 2010 and none during the first five months of 2011.

⁹⁴ Eight in 2006, eight in 2007, 11 in 2008, 16 in 2009, 12 in 2010 and five during the first five months of 2011.

The CPT reiterates its recommendation⁹⁵ that the Moldovan authorities take the necessary measures to ensure that the legislation on the periodic review of the state of mental health of persons placed in a psychoneurological home is fully complied with and that the persons concerned or their legal representatives are duly informed of the results of such reviews.

105. The CPT is concerned about the fact that, when a person made subject to a guardianship measure is placed in a care home, that home can be appointed as their guardian. This situation can easily give rise to a conflict of interest, since the guardian has the task, in particular, of defending the rights of the person deprived of legal capacity vis-à-vis the care home. At the end of the visit, the Ministry of Labour, Social Protection and the Family informed the delegation that it had set up an inter-ministerial working group responsible, inter alia, for considering the issues raised by guardianship of persons deprived of their legal capacity. **The CPT would like to receive the conclusions of this working group in due course and trusts that this work will lead to solutions for avoiding this type of conflict of interest and will guarantee greater independence and impartiality of guardians.**

106. Contacts with the outside world were satisfactory. There were no restrictions on visits by relatives, or on residents leaving the home to stay with their families, and there was no problem with making phone calls. The home had a room for relatives wishing to stay overnight. Almost half of the residents received visits from members of their family, and about forty received such visits on a regular basis. **The CPT invites the Moldovan authorities to pursue their efforts aimed at encouraging residents' contacts with the outside world** (in this connection, see the recommendation made in paragraph 155 concerning the recruitment of a social worker at the Orhei Psychoneurological Home).

107. Concerning external inspections, the management of the establishment informed the delegation that the Orhei Psychoneurological Home had been visited by the Ombudsman in 2010 and that various NGOs also visited it on a regular basis.

⁹⁵ See paragraph 165 of CPT/Inf (2008) 39.