



CPT/Inf (2019) 10

Response

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

from 5 to 11 June 2018

Since April 2011, reports on CPT visits to the Republic of Moldova and related Government responses are published under an automatic publication procedure. The CPT's report on the June 2018 visit to the Republic of Moldova is set out in document CPT/Inf (2018) 49.

Strasbourg, 21 March 2019

Report on measures taken or planned to be taken in order to implement recommendations provided in the Report on ad hoc visit carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) to the Republic of Moldova, 5 – 11 June, 2018

According to Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as CPT or Committee) shall organise visits to places where people are deprived of their liberty by a public authority. Apart from periodic visits, the Committee may organise such other visits as appear to it to be required in the circumstances.

In the result of the ad-hoc visit carried by CPT to Republic of Moldova, from 5 to 11 June 2018, on 21 November 2018, via Ministry of Foreign Affairs and European Integration, was received the CPT report. The Committee requested, within three months, to be provided with a response giving full account of actions taken by national authorities to implement its recommendations. Since the ad-hoc visit of the Committee was focused only on Penitentiary No.6 Soroca, Penitentiary No.10 Goian and Penitentiary No.13 Chisinau, which are part of the national system of the penitentiary administration, these institutions being under the administrative subordination of the Ministry of Justice, the national response reflects exclusively the position and the measures taken by the Ministry of Justice in its field of competence.

In the first place, it is important to reiterate that the Ministry of Justice of the Republic of Moldova highly appreciates the work of the CPT and is committed to work closely in order to strengthen, in the spirit of the Committee's mandate, the protection of persons deprived of their liberty from torture and inhuman or degrading treatment or punishment.

The Moldovan Government is pleased to learn that the CPT received very good co-operation from the national authorities, enjoyed rapid access to all the prisons visited, was provided with the information necessary for carrying out its task and was able to speak in private with inmates. These express the national intention to remain bound to the desiderate of working closely with the CPT, while fully implementing the standards of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

Preliminary remarks:

The consolidation of the national mechanism for the prevention of torture and other ill-treatment is one of the key issues on the Human Rights agenda of the Moldovan Government. For this reason, a dedicated Field of intervention "*Strengthening national institutions for the protection of human rights*" has been provided for in the newly adopted National Human Rights Action Plan (NHRAP), envisaged for the period of 2018 – 2022¹, which includes, *inter alia*, actions oriented to consolidate the national mechanism against cases of torture and other ill-treatment. Following the adoption of the NHRAP, by Government Decision No. 65 of 11 February 2019, the National Human Rights Council was established. It will promote respect for and protection of Human Rights in the Republic of Moldova, coordinate the implementation of a uniform human rights

¹ Adopted by Parliament's Decision No.89 of 24 May 2018.

policy, control over the fulfillment by the public authorities of the recommendations of the international human rights mechanisms, and will facilitate interaction with international monitoring bodies. The Presidency of the Council is exercised by the Prime Minister, the Vice-Presidential position - by the Minister of Justice and the Minister of Foreign Affairs and European Integration. The Council will work in close cooperation with civil society since five of its members will be selected from among representatives of non-commercial organizations, on the basis of a public contest. The aim pursued by the Government is to create an efficient national mechanism to coordinate drafting exercise of human rights policy documents, their monitoring and evaluation, implementation of international human rights treaties to which Moldova is a party, and the fulfillment of the undertaken commitments. Moreover, it is important to ensure effective cross-sectoral cooperation, synergy of efforts and involvement of all relevant actors in the public and associative sectors.

The mission, vision and values of the penitentiary system of the Republic of Moldova are set out in the Penitentiary System Development Strategy for the years 2016-2020 (PSDS), approved by Government Decision No. 1462 of 30 December 2016.

Mission: The penitentiary system of the Republic of Moldova enforces custodial sentences and measures to increase the safety of society and prevent recidivism.

Vision: Effective penitentiary system - guarantor of the society' safety.

Values: Integrity, professionalism, transparency, respect.

According to the current strategic principles, the reform of the penitentiary system must ensure the shift of the emphasis from static security to dynamic. A real methodological support in this sense served the report of the Norwegian Mission of Rule of Law Advisers to Moldova (NORLAM), drafted in the context of the pilot project implemented in Penitentiary No. 7 Rusca, which offered a functional analysis of the institution. The expert's recommendations draw the attention of the authorities of the penitentiary system to the need to reorganize the penitentiary institutions and to revise the legislative and normative framework in order to ensure the individualized execution of the punishment. The outcome will reside in changing the emphasis on ensuring dynamic security in the penitentiary, focusing on the re-socialization and reintegration of detainees. Among the recommendations the Ministry of Justice has taken into account in the context of the amendments promoted to the criminal enforcement legislation are: a) introduction of a progressive detention regime, which imply an increase of dynamic interaction with the convicts thus contributing to the efficiency and motivation of the employees, which will boost the penitentiary institution's role, as well as b) rethinking of the employees' duties, so that the number of custodial staff ensuring the dynamic security will be increased.

In order to implement the recommendations, 3,00 million lei were provided to the budget of the National Administration of Prisons (NAP) for 2019, destined for the construction of a fence according to contemporary standards of detention, which will allow the human resource (currently representing a sensitive issue) to be directed within the penitentiary. Therefore the qualitative improvement of the working processes with detainees will be ensured.

Increasing the efficiency of the penitentiary administration system and the management of the human resources are general objectives within PSDS. These priorities determined and motivated

NAP to request, within the framework of the EU Project "Support to the enforcement, probation and rehabilitation systems in Moldova" an evaluation done by foreign experts in 15 penitentiary institutions². The exercise was conducted by a multidisciplinary team through four main dimensions: rehabilitation and reintegration, management, operational processes and human resources. It covered the period between October to December, 2017. The Report provided valuable observations and recommendations in order to improve functionality and performance of each penitentiary of the 15 evaluated and, as a consequence, improve the general functioning of the penitentiary system. The Report represents a useful tool for NAP in promoting and adjusting the current penitentiary system's policies.

The objective of promoting measures of respecting the rights of persons deprived of their liberty, eradication of torture and ill-treatment, was pursued by the adoption of the Law No. 163 of 20 July 2017 on amending and completing some legislative acts (Criminal Code, Criminal Procedure Code, Execution Code, and Contravention Code). The amendments adjusted the criminal legislation in line with the Council of Europe standards and thereby reduced the prison population by:

- ✓ Increasing the role of the court in the individualization of the punishment;
- ✓ Excluding mathematical increase of sentences for recidivists as well as excluding recidivism for minor and less serious offenses;
- ✓ Streamline the mechanism for early conditional release;
- ✓ Introducing of a new mechanism that would allow the courts to individualize the execution of the punishment by granting the possibility of partial execution of the sentence in the penitentiary and partial execution at large;
- ✓ Establish clearer criteria for the mechanism of applying a more moderate punishment than that provided by the law;
- ✓ Establish a preventive and compensatory mechanism in line with the European Convention on Human Rights (ECHR) standards for detaining prevented and sentenced persons in inhuman and degrading conditions.

The adopted amendments removed the existing procedural barriers that led to the overcrowding of the penitentiaries. Thus, until now, under the provisions of Art. 91 of the Criminal Code, 552 persons have been early conditionally released (a 59.7% increase); 275 persons have been released by applying Art.92 of the Criminal Code (replacing the prison sentence with a milder punishment) (an increase of 95.54%). The data was correlated with the similar period, until the entry into force of the Law No. 163/2017. In the same context, following the implementation of Law 163/2017, the personal files of 494 convicted will be reviewed in order to change the type of penitentiary, from closed to semi-closed regime.

The total number of prison population was reduced by 585 people. Thus, on 01.02.2019 there were 7029 prisoners in penitentiary institutions compared to 7614 in the same period of 2018.

² Penitentiary No. 1 - Taraclia, Penitentiary No. 2 - Lipcani, Penitentiary No. 3 - Leova, Penitentiary No. 4 - Cricova, Penitentiary No. 5 - Cahul, Penitentiary No. 6 - Soroca, Penitentiary No. 7 - Rusca, Penitentiary No. 9 - Pruncul, Penitentiary No. 10 - Goian, Penitentiary No. 11 - Balti, Penitentiary No. 13 - Chisinau, Penitentiary No. 15 - Cricova, Penitentiary No. 16 - Pruncul, Penitentiary No. 17 - Rezina, Penitentiary No. 18 - Branesti.

As previously mentioned, by Law No.163/2017 the Criminal Procedure Code was completed with three new articles (473²-473⁴) instituting the mechanism of challenging (alleged inadequate) conditions of detention in breach of Article 3 of the European Convention on Human Rights (ECHR). It shall be noted that this law is applicable to all kinds of detainees, including those sentenced to administrative arrest and those detained in police detention facilities, except for the individuals under house arrest. Therefore, any individual considering the conditions of his/her detention as being inadequate is entitled to file a complaint – either personally or represented by a lawyer – against the prison administration before the court of law with territorial jurisdiction over the prison in which he/she was or has been detained. In his/her complaint, the claimant shall both refer to the detention period and place(s), and thoroughly describe the material conditions of detention, as well as request the court to oblige the prison administration to remove any shortcomings in this respect. A convicted individual may also request the reduction of his/her punishment for being subjected to conditions of detention contrary to Article 3 of the Convention for more than 10 days. In such a case, the court may reduce the punishment by 1 to 3 days for each period of 10 days of detention in inadequate conditions, calculated cumulatively. Having proceeded to such re-calculation (i.e. reduction) of the punishment, and should there remain a period uncovered by that re-calculation, the court shall award the claimant compensation in amount of up to two conventional units (i.e. 100 Moldovan leis, currently equalling to 5.13 euros) for each day of inadequate conditions of detention for any damage, including costs and expenses. In other words, if the non-executed part of the punishment does not allow a full deduction, or if the period of inadequate conditions of detention was shorter than 10 days, the claimant may request financial compensation.

The Law No.163/2017 also amended the Criminal Procedure Code by opening several prospects to the remand detainees to make use of the (alleged inadequate) conditions of their remand detention. Thus, it modified the content of paragraph (4), and added paragraphs (5) and (6) to, Article 385 of the Criminal Procedure Code, in force, and thus applicable, as of 20 December 2017. They stipulate that if a court of law establishes a violation of the rights related to conditions of detention, it shall reduce the punishment by counting two days of imprisonment for one day of detention on remand. If the detainee on remand was held in inadequate conditions more than three months before the case was scheduled for trial, and if the court ordered, as main punishment, community service, payment of a fine or deprivation of the right to hold certain positions or to practice certain activities, it shall also exempt him/her from executing the (main) punishment. These provisions shall be applied when a detainee on remand was subjected to inadequate conditions of detention for more than 10 days. In any case, remand detainees may file civil actions in regard to the conditions of detention they were subjected to.

Additionally, by Law No. 245 of 15 November 2018 on amending the Criminal Procedure Code, has been extended the range of persons in the penitentiary system holding the right to ascertain the offenses committed in the places of detention, during the escort or in connection with the execution of sentences of conviction. Currently, all civil servants with special status within the penitentiary administration system hold this right. The purpose of the legal instrument is to increase quantitatively the number of employees of the penitentiary system provided with the right to find out illegal acts in prisons, including acts of violence among detainees.

Conditions of detention:

The new Penitentiary Center in Chisinau

The project of the new Penitentiary Center in Chisinau provides for the construction of an area of 11.07 ha, the total area of buildings – 44.651 m², and its capacity – 1536 places, including:

- 1176 places for men with preventive status;
- 140 places for females with preventive status;
- 128 places for households;
- 36 places for witness protection;
- 56 places in medical blocks (*44 patients for the treatment of somatic diseases and 12 patients for treatment of TB*).

In drafting the project documentation, Project Implementation Unit (PIU) members were guided by CPT recommendations and European Penitentiary Rules, thus taking care that every person in the custody of the state will have the necessary space to hold, while at the same time providing all necessary facilities for organizing daily activities (*involvement in training, cultural and educational, creative, sports, workshops, walks, outdoor sports exercises and games, etc.*). The facilities are designed for all residential blocks (A1, A2, A3, B and C), irrespective of the status of the person, subject to point 10 (1) of the Recommendations of the Committee of Ministers of the Member States on European Penitentiary Rules (Adopted by the Committee of Ministers on January 11, 2006, *during the 952nd Meeting of Delegates Ministers*): *The European Penitentiary Rules are applied to persons placed under preventive arrest by a judicial authority or to persons deprived of their liberty following a conviction and paragraph 95(3): In relation to preventive arrests, authorities should be guided by the rules applicable to the assembly of detainees and allow preventives to participate in the activities covered by these rules.*

At the current stage, the verification and examination of the project documentation takes place by the SE "State Service for the Verification and Examination of Projects and Buildings". The construction of the new Penitentiary Center in Chisinau is planned for the period July 2019 - June 2022. On February 15, 2019 in the Official Journal of the European Union and the Official Monitor of the Republic of Moldova was published the announcement regarding the initiation of the international tender for contracting the construction company. The detailed note on the status of the implementation of the new Penitentiary Center Project in Chisinau is provided in *Annex 1* of this report.

In order to maintain the physical conditions of detention in penitentiary institutions, the total amount of approved / allocated funds for current and capital repairs was gradually increased:

- 2016, 48 119.3 mln. lei were allocated (capital investments 27 400.0 mln. lei, capital repairs 10173.3 mln. lei, construction material 10 546.0 mln. lei);
- 2017, 41 979.1 mln. lei were allocated (capital investments 33 459.4 mln. lei, capital repairs 93.0 mln. lei, construction material 8 426.7 mln. lei);
- 2018, 176 094.4 mln. lei (capital investments 172,567.4 mln. lei, capital repairs 1,553.8 mln. lei, construction material 1,973.2 mln. lei);
- 2019 were allocated 181 095.9 mln. lei (capital investments 173 450.6 mln. lei and procurement of construction materials amounting to 7 645.3 mln. lei).

In order to promote measures to combat overcrowding, significant actions have been promoted in 2018 regarding the objectives that were underway from previous periods.

Name of the penitentiary institution	Cost of the project (thousand lei)	Degree of Achievement	Budgetary means (thousand lei)	Deadline for completion
Penitentiary No. 3 – Leova	35 437,3	94 %	33 239,7	Third Quarter 2019
Penitentiary No. 10 – Goian	38 226,5	89%	33 927,5	Third Quarter 2019
Penitentiary No. 11 – Balti	250 000,0	13,2%	33 195,5	2023

Additional:

- In Penitentiary No.5 Cahul were carried out reconstruction works of the building block No.1, the internal station No.1 with an area of 445 m² intended for the detention of the major female convicts. Current work on the repair of the internal station No.2 of the building block No.1, with a surface area of 432 m² intended for the detention of the male convicts is in progress.

- In Penitentiary No.6 Soroca were identified new spaces with a capacity of 70m² and initiated capital repair works. Generally speaking, it is worth mentioning that the provision of a safe detention environment is a long-term concern of NAP in relation to Penitentiary No. 6 Soroca, where several works in the detention blocks were carried out in time: in 2016 the sectors No.7, No.11, No.2, No.5 and No.9 were rebuilt; in 2017 – the sectors No.4, No.10, No.7, No.8a, No.8b were converted from large-capacity dormitories into smaller accommodation, and in 2018 - new residential spaces have been arranged in the sectors No.1, No.3, No.6, No.11, No.7, No.8 and No.4. Although the sector No.1, mentioned by the CPT in its report, has been subject to evaluation, no solutions have been identified for the construction of similar living units.

- Penitentiary No.7 Rusca – was approved the project for changing the destination of the old boiler house, the purchase of some building materials for the construction of a semi-closed penitentiary building block, which will increase the number of the detainees provided with at least 4m² of living space per person, and subsequently allow accommodation of 65 convicts.

- Within Penitentiary No.9 Pruncul was finished the division of the sector No.5 (the right wing) into a room system, and approved the documentation for replanning of the sector No.5 (the left wing) in order to create new dwellings and the hygiene area.

- In Penitentiary No. 13 Chişinău the capital repair of 32 cells was carried out and current repairs are made in 17 rooms. Also, currently cosmetic repair works are carried out by fully partitioning the in-cell toilets with doors. Since the old building design does not provide for forced ventilation system, at this point it is impossible for it to be ensured.

In order to strengthen the security regime for detainees, as well as to create an effective mechanism to exclude the risk posed by drug addicted condemned persons, their personal accountability, rehabilitation and reintegration, due to the collaboration with the Pompidou Group of the Council of Europe, it was possible to open, in Penitentiary No. 9 Pruncul, the first Therapeutic Community (TC) and train the staff working in the sector. TC was officially opened in November 2017, with a capacity of 26 seats and started its activity on 30.07.2018, when the first 3 beneficiaries were placed.

Currently, 13 residents are placed in the TC, selected as a result of the decision taken by the multidisciplinary team, in several stages. In the first stage, on 30.07.2018, 3 detainees from

Penitentiary No. 9 Pruncul, the second stage, on 06 and 13 August 2018, included two other convicts from Penitentiary No. 1 Taraclia and Penitentiary No. 6 Soroca. In the third stage, on 20.08.2018, 30.08.2018 and 20.09.2018, another 3 convicts from Prison No. 9 were included. Three other detainees were later included in the program (15.10.2018 - from Penitentiary No. 6 Soroca, 25.10.2018 - Penitentiary No. 15 Cricova and on 06.12.2018 - from Penitentiary No. 9 Pruncul).

Beneficiaries of the Therapeutic Community enjoy a complex of treatment methods that include activities, strategies, techniques, individual psychological counseling, peer counseling, interpersonal and social interactions focused to achieve the general goal of supporting the participation of each individual resident to the process of recovering and assimilating a fair way of life, behavioral change, development and formation of new social skills and responsibilities. The purpose of interventions within the community is also knowledge of the particularities of the personality structures of the drug user, in order to motivate the stop of their administration or the maintenance of motivation for abstinence. Daily activities and timetables are scheduled weekly by the TC coordinator and approved by the Director of the penitentiary institution, each Monday. The community-based staff consists of employees of the social reintegration section (TC coordinator, educator, social worker, psychologist) and representatives of the non-commercial organization (development partner).

Inter-prisoner intimidation and violence:

In order to reduce cases of violence and intimidation between detainees, NAP continues to carry out planned prophylactic measures by informing detainees of the disciplinary and criminal liability that may arise in the event of violence, intimidation or extortion, on the right to address to the administration of the penitentiary institution and to request protection if he/she become victim of violence, intimidation or extortion. By NAP Order No.169 of 06.09.2018, a unique documentation form for body injuries was established. All medical examinations are performed without the presence of any other personnel except the medical staff, under confidentiality. In all penitentiary institutions is implemented the "*Program for the Reduction of Violence in the Penitentiary Environment*", based on the Strategy on Combating Violence in Penitentiary Environments³. The aim of the Program is to draw up a personal plan for the prevention of violence. Beneficiaries of the program are detainees who have committed violent crimes and detainees who manifest aggressive behavior during detention, including detainees under psychologist's surveillance, the latter being included in the risk group of I (first) category. When a case of violence or the threat of violence occurs, it is subject to a rigorous documentation procedure. If necessary, detainees shall be immediately provided with personal security in accordance with Article 206 of the Enforcement Code, and the competent services shall take the necessary measures to resolve the conflict situation and to eliminate the danger to the detainees. During 2018, 369 inmates were given this assistance.

Additionally, individual conversations with prisoners are carried out, the necessary materials are prepared and submitted to the Prosecutor's Office and the People's Advocate. Inmates liable to acts of violence are detected and isolated, they are placed in separate cells with enhanced surveillance. Inmates that refuse to be part of the criminal subculture benefit from all the support

³ The Strategy approved by Order No.168 of 12.09.2005 of the Department for Penitentiary Institutions (DPI) (currently – NAP).

from the penitentiary administration being transferred to other institutions. According to statistics, during 2018, 86 detainees were transferred for this reason.

The implementation within penitentiary institutions of the programs of reducing violence has proven its effectiveness. However, the increase of the number of cases of conviction of sexual assault registered in the last period led to the development of a new program. As a consequence, starting with 2017, the implementation of the "*Program for Changing Sexual Assault Behavior*"⁴ was initiated, the purpose of which is to reduce the sexual offending behavior of convicted persons after their release, when returning to society.

At the same time, the increase of the number of participants in the psychosocial programs is due to the changes made in Article 90 of the Criminal Code⁵ which provide for the obligation to participate in the implementation of the individual punishment execution program in order to benefit from early conditional release⁶. Persons susceptible to violence and intimidation of other detainees are registered to the psychologist and included in the first risk category, as dangerous. With this category of detainees, various individual and group psycho-corrective activities are planned and undertaken.

In order to avoid conflict situations, according to Article 206 of the Execution Code, detainees are placed in separate living spaces to ensure their security. Placement in separate living spaces is ensured at the request of the inmate. Periodically, as well as depending on the situation, the accommodation is being reconsidered by measures of division of the detainees. Minor detainees are held in specially arranged cells under increased supervision of the penitentiary staff in order to limit their interaction with adult detainees. For example, we can mention that Penitentiary No.9 Pruncul has a Plan of measures to reduce the influence of criminal subculture.

Contrary to the CPT observation, employees of the penitentiary institutions do not use the help of informal leaders to maintain order and respect for detention by convicts in the penitentiary. The individual records of prisoners in penitentiary institutions are entrusted to the specialist for social reintegration in the administered sector, detainees are not involved in administrative tasks for the prison management. Ongoing monitoring of detainees is being carried out in order to undermine the practice of delegating informal leaders.

The Ministry of Justice currently finalizes the draft normative act on the approval of the standards of functions by field of activity for the penitentiary institutions and the subdivisions subordinated to the NAP, which proposes to intervene with unique provisions so to create staff units based on the institutional needs. The concept of the project proposes to redirect staff units to core internal structures (*for example: social reintegration, medicine, security and penitentiary regime*) in relation to internal support structures (*for example: logistics and administration, finance, secretariat, human resources*), which will improve the quality of the dynamic security. According to Article 19 of the Law No.270 of 23 November 2018 on the unitary pay system in

⁴ The Order DPI (currently NAP) No.43 of 06.02.2017.

⁵ The Law No. 163 of 20.07.17, in force since 20 December, 2017.

⁶ *The Article 90 Conditional Suspension of the Execution of Punishment* (Criminal Code)

(1)The person who serve a punishment of imprisonment may be subjected to the early conditional release if he has executed the individual punishment execution program, he has fully repaired the damage caused by the offense for which he was convicted, unless he proves that he has not had any possibility to meet them, and if it is found that correction is possible without the full execution of the punishment. The person may be suspended, entirely or partially, from the complementary punishment.

the budgetary sector, if staff is involved in additional work, night work and work on non-working days and / or rest days as a result of staff shortages, this will lead to additional allocation of financial sources from the state budget, proportionate to the work carried out over the program. Until the entry into force of the new salary mechanism, the difference in legally-guaranteed units and their *de facto* occupation within the NAP subordinated institutions was covered, by compromise, by the current staff, without paying overtime. Moreover, the lack of personnel units does not allow for the organization of the daily shift service, which can not exceed 12 hours, as stipulated in paragraph (1) of Article 99 Labor Code (*12 hours of work, over 24 hours of rest, 12 hours of work, over 48 hours of rest*), a mechanism that would increase employees' productivity in carrying out tasks as recommended by the CPT, as well as by development partners of the penitentiary administration. Currently, the 24-hour shift in the NAP subordinated institutions is organized differently, based on the current custodial staffing possibilities, with the additional involvement of the service employees. The existing deficiency is proposed to be fully solved by the adoption of the draft Government Decision mentioned *above*.

Providing employment opportunities to all prisoners is one of the issues that NAP constantly focuses on, taking into account the repeated recommendations and observations of the CPT as well as good international practices. According to Article 234 (3) of the Execution Code, detainees are involved in unpaid works of care and arrangement of the penitentiary and its territory, improvement of the living conditions and medical-sanitary possession. Starting with 2017-2018 within the penitentiary system a new form of dual technical vocational education is being implemented. Currently, the dual technical vocational education takes place in 10 penitentiary institutions. During 2019 this kind of training will gradually be ensured in all penitentiary institutions. This type of training offers the possibility for detainees to get employed after being released from the penitentiary, depending on the occupation learned during the period of detention.

In Penitentiary No.6 Soroca detainees are employed in housekeeping works by internal order, the limit for the respective activity in the penitentiary is set to 69 persons. The inmates are also employed under a service contract concluded between the penitentiary and the SE "Instituția CSC 29/6" Soroca. Within the penitentiary operates the vocational school where detainees have the opportunity to attend classes. On September 3, 2018, a new study year has begun, 25 inmates were enrolled for plaster work (the studies lasting 1 year).

Health care:

According to the provisions of Article 19 of Law No.270/2018, medical staff will be salarised after a new salary calculation mechanism. In order to promote a recruiting process based on *open competition, professional competence and merit, equality of access to the public position with special status, transparency*, by Order of the Ministry of Justice No.492 of 30.07.2018 was approved the Regulation on the organization and conduct of the selection procedure for public positions with special status within the penitentiary administration system. Therefore, according to the NAP, all vacancies (including doctors) of the subordinated institutions were competed. We emphasize that the recruitment of medical staff is a rather difficult process at national level, which has a direct negative impact on the selection of specialists for penitentiary institutions.

In order to fill the vacancy, the administration of the Penitentiary No.6 Soroca has forwarded repeated letters to public medical sanitary institutions to recruit a general practitioner: Soroca Health Center; PMSI Soroca District Hospital "A. Prisacari"; Floresti Health Center; PMSI Floresti District Hospital; Drochia Health Center and PMSI Drochia District Hospital "Nicolae Testemitanu".

Since the entry into force (on 16.05.2018) of the Law No.300/2017 on the penitentiary administration system, adjustments were operated to the penitentiary institution's schemes. In Penitentiary No. 6 Soroca, 2 nurses were employed, working on a full-time basis. As a result of the CPT ad-hoc visit to Penitentiary No. 6 Soroca, financial resources has been allocated for the repair of the medical unit and initiated, at the same time, the process of sanitary authorization of functioning.

In 2018, for the medical units in all penitentiary institutions were purchased: radiological tubes, medicines, parapharmaceutical products, consumables and dental materials. With the budgetary means as well as with the support of the Council of Europe (CoE), it has been agreed the purchase of a batch of medical equipment that will include, also the defibrillator and Ambu reanimation balloon, destined for all medical units of the penitentiary system . According to the *Program of professional training within the penitentiary system of the Ministry of Justice for the year 2018*, approved by the DPI (currently – NAP) Order No.18 of 17.01.2018, in all institutions subordinated to NAP there were held general and specialized training sessions attended by civil servants with special status from the respective categories. Thus, by contracting the University Center of Simulation in Medical Training (UCSMT) of the State University of Medicine and Pharmacy "N. Testemitanu ", 60 employees of the service officers and medical staff from the penitentiary administration system were trained in providing first aid (basic vital support) in cases of major medical emergencies. At the same time, it needs to be emphasized that this subject is also included in the initial and further training courses, conducted within the NAP Training Center.

All newly-admitted detainees in penitentiary institutions are placed in caratine cells, where they undergo a complex medical screening. The facts of the examination are included in the medical record of the convict. In preventive detention isolators, HIV testing is proposed for all newly arrived inmates. Screening for TB is mandatory in all preventive detention isolators, and in penitentiaries - with the mobile radiograph 2 times per year. Viral hepatitis testing is also performed on medical advice. For the current 2019 year, are planned to be purchased rapid tests for hepatitis B/C from budget sources.

The NAP medical department acquires tests to monitor methadone treatment, these being allocated for use, including to Penitentiary No.13 Chisinau. Regarding Penitentiary No. 6 Soroca and Penitentiary No.13 Chisinau the Public Institution "Coordination, Implementation and Monitoring Unit of the Health System Projects" has planned monitoring visits in order to asses the implementation of *the needles/syringe exchange* program.

Health care system in detention has been subject of criticism received by the Republic of Moldova in the CPT reports, drawn up following regular visits over the years, pointing out a series of systemic problems, conclusions that are used by the European Court of Human Rights (ECtHR) when examining the applications for inhuman and degrading detention conditions. The

establishment of the unit for directing the health services provided to persons in detention is the primary purpose of the Ministry of Justice and one of the key elements of the Penitentiary System Development Strategy for the years 2016-2020. As a result of numerous meetings held by members of the inter-ministerial Working Group⁷, currently NAP is in the process of finalizing the optimal model agreed by the parties. The Ministry of Health, Labor and Social Protection, as a member of the Working Group, is choosing to create a subdivision subordinated to the Ministry of Justice, which will be accomplished in several stages.

Subsidiary, the accreditation procedure for medical services within the penitentiary administration system was initiated. In order to streamline evaluation and accreditation processes, 1.5 million lei were allocated to repair the material conditions of the medical units. 947.5 thousand lei were allocated for the endowment of medical services with furniture, computers / items of first necessity. Accordingly, in 2019 technical equipment and medical devices amounting to about 6 mln. lei (3 million lei from the NAP budget and 3 million lei from the CoE project) is planned to be purchased. Approximately 12 million lei were allocated for the provision of medical care and the purchase of medicines.

By now, sanitary permits have been obtained for 5 penitentiary institutions (Penitentiary No. 1 - Taraclia, Penitentiary No. 7 - Rusca, Penitentiary No. 8 - Bender, Penitentiary No.11 - Balti, Prison No. 12 - Bender). In the same context, a number of new normative acts on the medical assistance of detainees, including medical assistance in emergency cases, were developed and approved.

Discipline and security:

If the detainee commits very serious disciplinary deviations, he/she may be disciplinary sanctioned with the suspension of the right to meet for a determined period of time, according to Article 245 Execution Code. By applying this sanction, the prisoner is not restricted from the right to telephone calls and letters. The draft of the new Execution Code that is under preparation by the NAP (detailed information will be found under the heading "*Inter-prisoner intimidation and violence* ") provides for the establishment of progressive regimes of custodial punishment which excludes the possibility of sanctioning the detained person with the prohibition of short-term meetings. However, in connection with committing disciplinary deviations, taking into account the principles and criteria for individualisation of sanctions, detained persons may be subject to the temporary interdiction on long-term meetings. We recall that the policy of contact with the outside world of Moldovan people is one of the most permissive in the CoE member countries, especially related to the provision of long-term meetings. Thus, such a form of sanction is admissible and judicious.

In cases of prisoners who have harmed themselves, the psychologists within the penitentiary institutions conduct psychological counseling with prisoners, except when the purpose of the self-harm is manipulation or manifestation of hostility to prison personnel and, accordingly, formulates recommendations for other staff on how to relate and interfere with the detainee. Social reintegration specialists carry out prophylactic conversations with the detainee, assesses

⁷ Inter-ministerial Working Group established by Order of the Minister of Justice No. 424 of 31 May 2018 to identify the mechanisms to ensure the professional independence of medical personnel within the penitentiary system of the RM.

the case and manage it as set out in Annexes 1, 2 of the Instruction on the intervention of penitentiary personnel in cases of self-harm, suicide attempts of the detainees⁸.

With regard to the CPT's recommendation to remedy the deficiencies at Penitentiary No. 13 Chisinau concerning the conditions in the disciplinary isolation cells, so that any cell with the size of less than 6 m² has to be closed or enlarged, please note that the enlargement of the respective spaces proves to be impossible because it is supposed to intervene in the structure resistance of the construction, which is dangerous because of its age.

Updates to the legal framework:

According to the Action Plan for the implementation of the Penitentiary System Development Strategy for the years 2016-2020, one of the main objectives of the Strategy is the establishment of the progressive system of execution through:

- consolidation of the penitentiary authorities role in the execution of the punishment;
- creation of a mechanism for individual assessment and planning of the execution;
- development of the educational function;
- development of methods and techniques of psychosocial intervention, etc.

The progressive regimes of execution provides individualizing the punishment execution along with progressive approaches, security measures and the daily regime of the detainee being adjusted to the degree of risk presented and the progress shown by de convict in changing the criminal behavior. To this end, according to the concept, it is proposed to create a subordinate NAP structure that will provide the convicting's complex initial assessment and establish the initial detention regime in which the convict is placed, as well as decide on changing the detention regime to a more permissive or restrictive, depending on the results of the assessment. The assessment of the convict will involve the investigation of the personality, personal circumstances, reasons and circumstances for committing the offense, as well as of the individual factors that prevent the offense from being committed. In its work, both the assessment and planning structure and the penitentiary staff involved in the convict's assessment process will be guided by scientifically-based results and standards. As a result of the initial evaluation, an individualized plan of education intervention shall be prepared, which will include the intervention measures. The penitentiary institution will be responsible for ensuring the conditions for the plan's implementation, will follow the fulfillment of the planned intervention measures. All intervention measures established in the evaluation process will be recorded in this plan, which will be mandatory for the convicted person.

Thus, the draft law will propose for the prison types to be excluded and create, within penitentiaries, different execution regimes applicable to persons deprived of their liberty. The regimes will be differentiated by the restrictions imposed, applicable safety measures, activities carried out, freedom of movement and other distentions.

⁸ Approved by the DPI Order (currently ANP) No. 256 of 17.10.2012.

Information note

On the implementation of the Project on the New Chisinau Penitentiary Centre

According to the Law no. 295 of 12 December 2013 the Framework Loan Agreement was ratified between the Republic of Moldova and the Council of Europe Development Bank (CEB) in order to achieve the Chisinau Penitentiary Centre Construction Project, signed on October 10, 2013.

Funding plan, according the Agreement:

Loan from the CEB	Euro 39,0 million
Grant from the CEB	Euro 1,0 million
Government contribution	Euro 4,5 million
TOTAL	Euro 44,5 million

Under the Government Decision no.173 of 12 March 2014, the Project Implementation Unit of the Chisinau Penitentiary Centre Construction (PIU) was set up of 9 units (7 - financed from the state budget and/or other donations, 2 - from the Grant account offered, according to The Framework Loan Agreement between the Republic of Moldova and the Council of Europe Development Bank in order to achieve the Chisinau Penitentiary Centre Construction Project).

Under the Law no. 97 of 12 June 2014¹, 44.6 ha of land with special purpose were transferred to the Ministry of Justice for the construction of the penitentiary.

On October 31, 2016 the service contract was signed regarding the design of the new Penitentiary Centre with the winning company.²

The New Chisinau Penitentiary Centre will be built on an area of 11.07 ha, the total area of the buildings will be 44.651 m², and its capacity will include 1536 places, including:

- 1176 places for men with preventive status;
- 140 places for females with preventive status;;
- 128 places for households;
- 36 places for witness protection;
- 56 places in medical blocks (*44 patients for the treatment of somatic diseases and 12 patients for treatment of TB*).

At the same time, the detention facilities will be distributed in residential blocks, in separate (autonomous) holding wings (sections), in the following way:

- a) The A1 residential block - *392 male detainees with preventive status, distributed in 196 cells with the capacity of 2 persons (including 4 cells for people with disabilities);*
- b) The A2 residential block - *392 male detainees with preventive status, distributed in 36 cells with the capacity of 2 persons (including 4 cells for people with disabilities) and 80 cells with the capacity of 4 persons;*
- c) The A3 residential block – *identical to the A2 residential block, respectively 392 male detainees with preventive status, distributed in 196 cells with a capacity of 2 persons (including 4 cells for people with disabilities) and 80 cells with the capacity of 4 persons;*
- d) The B residential block - *140 females detainees with preventive status distributed in 22 cells with the capacity of 2 persons (including 2 cells for people with disabilities) and 24 cells with the capacity of 4 persons. Withal, an area of the B residential block is intended for the detainees from the witness protection category – 36 detainees distributed in 18 cells with a capacity of 2 persons (including 1 cell for people with disabilities);*
- e) The C residential block - *128 detainees from household service, distributed in 12 cells with the capacity of 2 persons and 26 cells with a capacity of 4 persons;*

¹ The Amendment to the Annex to Law no.668-XII of 23 November 1995 for the approval of the List of Units, whose land for agriculture remains the property of the State.

² „Archivolt architecten bv”, in consortium with „Halmos Adviseurs bv” and „IGC Construct SRL”

f) The medical block for the treatment of somatic diseases - 44 patients for the somatic diseases section distributed in 16 rooms with a capacity of 1 person (including 2 rooms for people with disabilities) and 14 rooms with a capacity of 2 persons;

g) The medical block for the TB treatment - 12 patients for the TB treatment distributed in 12 rooms with a capacity of 1 person (including 1 room for people with disabilities).

In drafting the project documentation, Project Implementation Unit (PIU) members were guided by CPT recommendations and European Prison Rules, thus taking care that every person in the custody of the state will have the necessary space to hold, while at the same time providing all necessary facilities for organizing daily activities (*involvement in trainings, cultural and educational, creative, sports, workshops, walks, outdoor sports exercises and games, etc.*). The facilities in question are designed for all residential blocks (A1, A2, A3, B and C), irrespective of the status of the person, subject to point 10 (1) of the Recommendation of the Committee of Ministers of Member States on European Prison Rules (Adopted by the Committee of Ministers on January 11, 2006, during the 952nd Meeting of Delegates Ministers): *The European Penitentiary Rules are applied to persons placed under preventive arrest by a judicial authority or to persons deprived of their liberty following a conviction and paragraph 95(3): In relation to preventive arrests, authorities should be guided by the rules applicable to the assembly of detainees and allow preventives to participate in the activities covered by these rules.*

Therefore, the holding cells are designed according to the point 16 requirements of the European Convention for the Prevention and Control of Torture and Inhuman or Degrading Treatment recommendation (*Strasbourg, December 15, 2015*) and points 17-19 of the European Prison Rules):

- 2 detainees: at list 10m² (6m² + 4m²) of living space + sanitary annex;
- 4 detainees: at list 18m² (6m² + 12m²) of living space + sanitary annex.

At the same time, according to section 25 of the Recommendation of the Committee of Ministers to Member States on the European Prison Rules: *The regime provided for all prisoners shall offer a balanced programme of activities. This regime shall allow all prisoners to spend as many hours a day outside their cells as are necessary for an adequate level of human and social interaction. This regime shall also provide for the welfare needs of prisoners, a particular attention shall be paid to the needs of prisoners who have experienced physical, mental or sexual abuse.*

Respectively, within the new penitentiary centre are provided:

- a) the medical block for somatic diseases treatment with a capacity of 44 beds and medical block for TB treatment and other infections with a capacity of 12 beds (*sections 39-48 of the European Prison Rules*);
- b) a complex of 4 rooms to provide ambulatory medical assistance (*examination and medical care*) for every residential block, this following to be given by a general practitioner and a nurse;
- c) multifunctional rooms for activities (*12 rooms with a capacity of 8 persons in residential blocks A1-A3; 4 rooms with a capacity of 8 persons and 5 rooms with a capacity of 2 persons in residential block B; 1 room with a capacity of 24 persons in residential block C*) – in this rooms will be possible to carry out training activities, cultural and educational activities, chess and draughts games, watching sports, cultural and artistic shows, etc.;
- d) multifunctional workshops (*4 rooms with a capacity of 8 persons in residential blocks A1-A3; 2 rooms with a capacity of 8 persons and 2 rooms with a capacity of 2 persons in residential block B*) - in this rooms will be possible to carry out creativity activities, wood sculpture, painting, blacksmithing, embroidery, etc. (*section 26 of the European Prison Rules*);
- e) fitness rooms (*4 rooms with a capacity of 8 persons in residential blocks A1-A3; 2 rooms with a capacity of 8 persons and 2 rooms with a capacity of 2 persons in residential block B; 1 room with a capacity of 12 persons in residential block C*) – this will be equipped with power and sport equipment for practicing physical exercises;

f) outdoor sports fields (2 fields for residential blocks A1-A3 and B with a capacity of 8-10 persons and 1 field for residential block C with the capacity of at list 12 persons). These will be used for sports games such as: football, volleyball, handball, basketball, etc. (section 27 of the European Prison Rules);

g) courtyards for walk (the capacity of 8 persons - 26 courtyards; 4 persons - 2 courtyards; 2 persons - 12 courtyards and 1 person - 8 courtyards), equipped with sports equipment for practicing outdoor exercises (section 27 of the European Prison Rules), as well as the possibility of sheltering people in case of bad weather. These will ensure for every prevented (detainee) daily outdoor walk for at least one hour a day, and practicing athletic outdoor games for at least one hour a day, 7 days a week, falling within the regime activity of the employees from 08.00 to 17.00;

h) multifunctional gym and auditorium, including stands for 160 persons. This will be for both the staff of the institution and the persons in the custody of the state and will allow organizing and conducting mini-soccer, volleyball, basketball, handball, weightlifting, table tennis, etc.; the unfolding of cultural and educational activities (for example: annual cultural contest Evantai cultural, presentation of theatre plays etc.) dedicated to national and international holidays, etc.;

i) the library of the institution with a book with an area of 41 m² (section 28 of the European Prison Rules);

j) the main room of prayer for representatives of the Orthodox Church with the area of 100 m² and a small room of prayers of 18 m² for representatives of other confessions;

k) rooms for short and long-term visits (room with shower, toilet, kitchen and walk courtyard) and rooms to ensure the lawyer's activity.

In order to ensure the training and the rehabilitation of the detainees within the institution, together with the design of all facilities mentioned above, by the PIU jointly with the Design company and the working group of the Penitentiary No.13 Chisinau, human resource planning was also carried out. Taking into consideration the new status of the penitentiary centre, the personnel status of the institution will consist from 540,5 positons. The planning was focussed on three basic processes within the penitentiary institution, resulting from its status, namely:

- I. primary (security, surveillance, guarding and escort);
- II. secondary (psychological and social assistance, medical care, logistics etc.);
- III. tertiary (administration).

These were in turn distributed by field of activity, constituting:

- | | |
|--|--------------------------|
| a) Providing penitentiary security | - 376 positions (69.6%); |
| b) Psychological and social assistance | - 30 positions (5.6%); |
| c) Educational activity | - 23 positions (4.3%); |
| d) Medical assistance | - 46.5 positions (8.6%); |
| e) Logistics insurance | - 22 positions (4.1%); |
| f) Administration | - 35 positions (6.5%); |
| g) Management | - 8 positions (1.5%). |

To ensure that detainees are involved in a balanced program of daily activities outside the cell (training, work, cultural and educational activities, sports, etc.), 8 hours a day / 7 days a week, principles covered by the Recommendation of the Committee of Ministers to Member States, regarding the European Prison Rules, the coefficient 7/5 has been applied in the personnel planning process.

At the same time, in the process of designing the new penitentiary centre, in order to ensure the personnel's activity for the training and rehabilitation of detainees, additional rooms (offices) were also provided for the individual work with the state custodians, such as the individual consultations office, conducted by the psychologist or the institution's social assistant. During these discussions, a number of issues will be solved with reference to maintaining family ties, perfecting personal documents, subsequent reintegration into society and the work, etc. Also, for the purpose of daily work with detainees, offices for employees of the security service and regime and surveillance were provided, the employees of the education service will perform their activity in multifunctional rooms and workshops, fitness gyms, etc.

It is noted that both the representatives of the Department for the execution of the judgments of the European Court of Human Rights of the Council of Europe in the meeting of October 24, 2018, as well as the CEB mission from 12-14 November 2018, pointed out that the Chisinau penitentiary project is designed in accordance with the European Prison Rules.

On 22.08.2018, the contract was signed for the acquisition of the services for verification and expert examination of the project. Currently, the project documentation from stages RIBA 2 and RIBA 3 is elaborated and presented to the PIU in a volume of 100%, and the RIBA 4 project documentation is coordinated with the PIU and forwarded to the Verification Service in volume of 99,87%.

On December 27, 2018, according to section 4.1.3. of the Framework Loan Agreement, the CEB issued the notification on the non-objection for the documents submitted by the PIU for the organisation of the international tender to contract the Construction Company.

The implementation of the Chisinau Penitentiary Centre Construction Project is behind schedule to the terms set in the Framework Loan Agreement with approximately 54 months. According to the latest evaluations of the Work Chart, carried out jointly by the Design Company with PIU members, at the end of January 2019, the project documentation was submitted to the Service for Verification (274 albums).

Under the provisions of the Project site organisation, construction works will take approximately 36 months (*based on the Feasibility Study estimates, the construction works were planned for a period of 20 months*).

In accordance with the Framework Loan Agreement, construction works were scheduled to be finished on December 31, 2017, the commissioning of the new penitentiary centre being planned for June 30, 2018.

The factors that influenced the delay of starting the construction works and the low level of implementation of the Chisinau Penitentiary Construction Project are:

- (1) The establishment of the PIU and the designation of its members within 10 months from the ratification of the Framework Loan Agreement;
- (2) Repeating the procedure for selecting the Technical Assistance Company for the provision of consultancy services, in the event of the non-selection of the successful bidder, during a period of 12-month;
- (3) failure to contract by the Technical Assistance Company and subsequent termination of the contract (*during 7 months*);
- (4) the Project Drafting by the Design Company in the amount of approximately € 61 million, not respecting the € 37 million set out in the Terms of Reference and adjusting the Draft until July 16, 2017 (*approximately 6 additional months*);
- (5) elaboration of the project documentation of the new Chisinau penitentiary with a delay of about 14 months.

Taking into account the existing conditions, the Ministry of Justice submitted to the Ministry of Finance the reasoned request on the necessity to extend the period of the implementation of the Framework Loan Agreement, the deadline will be extended till December 31, 2022:

- a) January 2019 - July 2019 - selecting and signing service contracts with the Construction Company and the Construction Supervision Company
 - a) July 2019 - June 2022, the development of the construction works;
 - b) June 30, 2022, finishing the construction works and the receipt of the object by the beneficiary;
- c) December 2022, commissioning of the new Chisinau penitentiary.