



CPT/Inf (2023) 32

## **Response**

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

**from 5 to 13 December 2022**

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 2022 visit to Moldova is set out in document CPT/Inf (2023) 27.

Strasbourg, 3 November 2023

**Note:** In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, names of individuals have been deleted.

# **The response of the Government of the Republic of Moldova to the Report of the delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) regarding the visit to the Republic of Moldova**

The Government of the Republic of Moldova highly appreciates the efforts made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter – CPT) and is ready, in the spirit of cooperation, to take the necessary measures to remedy the identified deficiencies. The Government hereby responds to the observations made in the Report prepared by the CPT<sup>1</sup>.

This Response was prepared by the Ministry of Justice based on the information provided by the responsible competent authorities, namely the National Administration of Penitentiaries (NAP) and General Prosecutor's Office. Following the examination of the Report of the CPT delegation following the monitoring visit to the Republic of Moldova, held in December 5-13, 2022, the Government presents the information on the measures taken, recent developments, as well as planned measures to implement the CPT recommendations.

## **Preliminary notes**

**1. The CPT recommends once again that the Moldovan authorities pursue vigorously their efforts to combat prison overcrowding and would like to receive updated information on the measures taken in this regard. In this context, the Committee would like to receive more detailed information on the measures envisaged in the penal policy reform, including those outlined above, and updated information on the adoption of the draft law introducing these amendments (see paragraph 12).**

In order to combat overcrowding in prisons, the Ministry of Justice has drafted amendments to the Criminal Code and the Contravention Code, established special commissions for the implementation of the Law on Amnesty, and plans to increase the use of open prisons and unescorted leaves from prison, ensure a more uniform distribution of prisoners in sectors, and streamline the conditional release mechanism.

In June 2023 the draft Law on amending some normative acts (the Criminal Code and the Contravention Code) was adopted in the first reading by the Parliament. Some changes are intended to reduce the overcrowding of penitentiary institutions, for example:

- extending the applicability of alternatives to prison sentences for all categories of crimes (in particular, Article 92 of the Criminal Code - replacing the unexecuted part of the sentence with a milder punishment - will be applicable for all categories of crimes);
- establishing an express obligation of the courts to examine as a matter of priority and to provide adequate reasoning for the possibility and opportunity of reducing the prison sentence when establishing the criminal sentence, and to extend the application of alternative punishments and measures, in Art. 75 para. (2<sup>1</sup>) of the Criminal Code;
- introducing the possibility of applying Art. 92 of the Criminal Code regarding those sentenced to life imprisonment, after the actual execution of 30 years of imprisonment;
- the application of the open type of penitentiary in the case of punishments for minor crimes;

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<sup>1</sup>Adopted by the CPT on September 13, 2023.

- the obligation to participate in probationary programs of the minor convicted with the conditional suspension of the execution of the sentence.

According to the provisions of the Law no.243/2021 regarding the amnesty in connection with the XXX-th anniversary since the proclamation of the independence of the Republic of Moldova, from the moment of its adoption until October 2, 2023, 3696 people were examined in the special commission, of which:

- Admitted by the commission: 1473 people;
- Rejected by the commission: 2223 people;
- Amnestied by the court: 1323 people;
- Those who benefited from the reduction of the term of punishment: 1176 people.

*Further, the following are planned:*

- *To carry out a study on the effectiveness of the conditional release mechanism with the support of the Office of the Council of Europe (CoE) in Chisinau;*
- *To develop a policy document on reducing overpopulation, with the support of the CoE Office in Chisinau;*
- *To create the infrastructure conditions for the open type and/or resocialization regime;*
- *To streamline the preparation mechanisms for conditional release from punishment before the term, replacing the imprisonment with a milder punishment etc.*
- *To streamline the interaction with the courts and law enforcement bodies in order to reduce the period of time when the convicted persons are placed in criminal detention cells (especially the length of time in the Penitentiary no.13).*

**2. The Committee once again urges the Moldovan authorities to attach a very high priority to the construction of the new remand prison in Chisinau and to decommissioning the existing establishment, given the poor material conditions prevailing therein (see paragraph 12).**

In accordance with the conclusions of the technical monitoring mission of the Council of Europe Development Bank (CEB) from October 2022 and the decision of the Supervisory Committee of the project from 22 December 2022, the construction project of the new prison in Chisinau was subjected to a partial redesign. On January 23, 2023, the primary technical requirements regarding the modification of the technical documentation for the construction project were submitted to the design company. On February 6, 2023, the Specific Requirements regarding the development of the energy efficiency study for this Project were submitted. Following the redesign, the total capacity was reduced from 1536 to 1050 places, by eliminating the A-type block of 392 places and resizing the block B for women and vulnerable groups to 82 places (of which 60 for pre-trial detention of women and 10 standard single-person disciplinary isolation cells, 4 cells for people with mental health needs and 8 cells for protected witnesses). Through the redesign, a photovoltaic park was also included in the project along with other energy efficiency solutions.

Following the redesign and updating of the estimate of expenditure, the total cost of the project was evaluated to 74 million euros. Considering the fact that from the total approved budget, the current balance is 54 million euros, the financing deficit represents 20 million euros. According to the Framework Loan Agreement (which expires on 31.12.2023), in the event of a price increase, the borrower (Republic of Moldova) must cover the difference.

*Further, the following are planned:*

- *Confirmation by the Government (Ministry of Finance) of the availability of additional financial means and the approval of a new budget;*

- *Validation through the Inter-ministerial Strategic Planning Committee of the change in management arrangements by co-opting an international partner;*
- *Sending to CEB the request to extend the term of the project and to make some changes in the Framework Loan Agreement.*

### **3. Presentation of updated information on the implementation of the progressive system of enforcement of sentences, including the expected timeframe (see paragraph 13).**

The draft Law on amending some normative acts (implementation of the progressive system of punishment execution) was finalized by the working group established under the Order of the Minister of Justice No. 305/2022. The draft broadly follows the concept approved in January 2023 by the working group<sup>2</sup>. In addition to the opinions previously received from the experts contracted by the Council of Europe projects, in February 2023 the draft amendment was sent to the German Foundation for International Legal Cooperation (IRZ). The IRZ's opinion was discussed within the working group (June 23, 2023), and the expert's opinions were integrated into the draft.

At the current stage, the draft is undergoing the internal consultation with penitentiary institutions, and subsequently, the initiation of consultations with public authorities and institutions, public associations in the field of observing the human rights and the academic environment shall be considered.

### **4. Presentation of information on any developments concerning the functioning of the compensatory mechanism (see paragraph 14).**

By Law No. 245 of 31 July 2023 amendments have been adopted to Criminal Procedure Code and Contravention Code, thus Improving the compensation mechanism for detention conditions. Following aspects have been covered by the revised regulations: equivalent approach to the form of compensation for prevented vs. convicted offenders; established a new ground of appeal; introduced the mechanism for the admissibility of complaints lodged on detention conditions; it has been expressly specified that persons sentenced to life imprisonment have the possibility to initiate a civil action in court, so that there is an effective remedy of compensation for detention in poor conditions etc. The new regulations are in force from 22 August 2023.

According to the national remedy for ascertaining the merits of the violation of the provisions of Art. 3 of the European Convention on Human Rights, with the granting of adequate and sufficient compensation, under the conditions of Art. 473<sup>2</sup> – 473<sup>4</sup> of the Criminal Procedure Code, we present updated data in table No.1 below. In general, we find that the degree of admissibility in the first instance courts has increased in the last three years, and the degree of admissibility of appeal requests has decreased.

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<sup>2</sup>The Concept in Romanian available at the following link:

[https://justice.gov.md/sites/default/files/document/concept\\_sistemul\\_progresiv\\_de\\_executare\\_a\\_pedepsei\\_rev.2023\\_final.pdf](https://justice.gov.md/sites/default/files/document/concept_sistemul_progresiv_de_executare_a_pedepsei_rev.2023_final.pdf)

in English: [https://justice.gov.md/sites/default/files/document/attachments/concept\\_individualization\\_and\\_progression\\_of\\_punishment.pdf](https://justice.gov.md/sites/default/files/document/attachments/concept_individualization_and_progression_of_punishment.pdf)

in Russian:

[https://justice.gov.md/sites/default/files/document/attachments/koncepciya\\_vvedeniya\\_progressivnoy\\_sistemy\\_ispolneniya\\_nakazaniy\\_v\\_vide\\_lisheniya\\_svobody.pdf](https://justice.gov.md/sites/default/files/document/attachments/koncepciya_vvedeniya_progressivnoy_sistemy_ispolneniya_nakazaniy_v_vide_lisheniya_svobody.pdf)

**Table no.1 - Data on the application of the compensatory mechanism**

	2021	2022	2023	TOTAL
			(01.01- 29.09.2023)	(01.01.2019 - 29.09.23)
<b>Number of complaints filed according to Art. 473/2</b>	4986	5118	2750	26588
<b>Number of complaints filed according to Art. 385 (5)</b>	541	242	172	2633
<b>TOTAL complaints</b>	5527	5360	2922	29200
<b>Number of complaints reviewed</b>	4763	3751	2811	24399
<b>Court decision</b>	4336	3143	2520	17217
<b>Admitted</b>	2118	1692	1483	7315
<b>Partially admitted</b>	521	379	260	2187
<b>Rejected</b>	915	483	409	3914
<b>Closed</b>	132	74	59	647
<b>Declined</b>	650	515	309	3145
<b>Declared inadmissible</b>	0	0	0	9
<b>Number of appeals filed</b>	2242	1942	1617	9671
<b>Number of appeals reviewed</b>	1012	1004	1178	6091
<b>Solution of the courts of appeal</b>	1017	1004	1185	6094
<b>Admitted</b>	396	260	200	1855
<b>Rejected</b>	620	744	985	4236
<b>Closed</b>	1	0	0	3
<b>Number of released detainees</b>	136	91	70	672
<b>Amount of monetary compensation (MDL)</b>	2,770,362	1,596,203	1,274,935	14,862,680
<b>% admissibility total + partial first instance courts</b>	61%	66%	69%	55%
<b>% admitted in the court of appeal</b>	39%	26%	17%	30%

## III-treatment

### *Ill-treatment applied by employees*

5. The CPT would like to receive a detailed account of the steps taken by the prosecutorial authorities to investigate the case and a copy of the final decision issued in the case. It would also like to receive an explanation of the precise legal basis on which the Moldovan authorities have asserted that “such cases cannot be subject to criminal prosecution”. More generally, the Committee recommends that a clear message be delivered to staff at Prison no. 13 in Chişinău that no more force than is strictly necessary should be used to control an agitated, violent and/or recalcitrant prisoner and that once the persons concerned have been brought under control, there can be no justification for striking them (see paragraph 16).

All materials accumulated on cases of the application of physical force, according to Joint Order no.77 of 31.12.2013 for the approval of the Regulation regarding the procedure for identification, registration and reporting of alleged cases of torture, inhuman or degrading treatment, are sent according to the

competence to the Prosecutor's Office of Chisinau municipality, it's Central office. Thus, regarding the detainee on whom physical force was applied by the staff of the penitentiary institution, proceeding from the fact that the employees of Penitentiary no.13 in Chisinau acted legally, as a result of the violation by the detainee Mr. A of the provisions of Art.242<sup>1</sup> pt.1), pt.3), pt.4), pt.10) and Art.242<sup>2</sup> pt.4), pt.21) of the Execution Code, no allegations of torture, inhuman or degrading treatment, but also other objective circumstances that would impose the need to examine the incident based on Art.274 of the Criminal Procedure Code, were identified on the case, the control on this special communication was closed.

The mechanism for verifying information about cases of application of physical force, special means or weapons, communicated under the conditions of pt.9 of the Regulation regarding the procedure for identification, registration and reporting of alleged cases of torture, inhuman or degrading treatment, approved by Joint Order No.77/572/408/639-o/197/1389 of 31.12.2013 of the Prosecutor General, the Minister of Justice, the Minister of Internal Affairs, the Director General of the Customs Service, the Director of the National Anticorruption Centre and the Minister of Health, as well as in the cases notified as provided by Art.167 para.(6) of the Criminal Procedure Code, is regulated by pt.5 of the Prosecutor General's Order No. 81/6/4 of 08.11.2021 regarding the organization of the investigation activity on cases of torture, inhuman and degrading treatment, according to which, upon receiving the information, the prosecutor shall accomplish a prior verification of the circumstances of the intervention by force, as the case may be, by organizing the hearing of the person on whom physical force, special means or weapon were applied. If, following the preliminary verification, the prosecutor does not establish circumstances that provide grounds to assume that the person was subjected to torture, inhuman or degrading treatment, and this person will not show his intention to file a complaint, a reasoned note is drawn up, which together with the accumulated materials, by the resolution of the chief prosecutor or, in his absence, of the deputy chief prosecutor, are kept in a separate case file in the chancellery of the prosecutor's office, including the actions, which were carried out by the prosecutor.

Using the procedures described above, the Chisinau Municipal Prosecutor's Office, its Central Office, also examined the second special communication received from the Director of Penitentiary No.13 in Chisinau on 30.11.2022, which concerns the application of physical force regarding the detainee Mr. A. According to this communication, on 29.11.2022, at 17:30, the inmate Mr. A being in the disciplinary isolation cell, set fire to his personal belongings and damaged the window, showing aggressive and inappropriate behaviour. At the legal demands to quiet down he became more agitated. To the requests of the employees of the penitentiary institution to stop his agitated behaviour, the said person did not react, which is why, being warned that physical force will be applied, the employees proceeded to immobilize his hands behind his back, and he was placed in the box. According to the medical examination, detainee Mr. A was diagnosed with "soft tissue contusion in the right periorbital region".

On 29.09.2023, as a result of the verifications by the Anti-Torture Section of the General Prosecutor's Office regarding the manner in which the circumstances of the case were verified, it was established that, although bodily injuries were identified on Mr. A the prosecutor failed to start an investigation on the basis of Art.274 of the Criminal Procedure Code and to provide a clear answer regarding the incident. Thus, also on 29.09.2023, the Anti-Torture Section of the General Prosecutor's Office intervened with the Chisinau Municipal Prosecutor's Office, its Central Office, in order to start an investigation that shall objectively clarify the events produced, by carrying out a wide spectrum of procedural actions (hearings, medical-legal examinations, etc.).

The staff of the institution is constantly informed and cautioned about minimizing the excess of physical force. All employees are informed that the application of ill-treatment and physical force towards

detainees is investigated by the criminal prosecution bodies, which may entail disciplinary liability, which, as the case may be, does not exclude the criminal liability.

*Further, the following are planned:*

- *Assessing the level of knowledge and basic skills in security matters (procedural and dynamic) and identifying the training needs.*
- *Increasing the number of agents and officers trained within the Training Centre;*
- *Revising the regulation on security in penitentiaries and the standard operating procedures regarding the application of physical force and means of coercion;*
- *Carrying out trainings and practical simulations with situations of confronting violent detainees, taking into account preventive and neutralization techniques (e.g. negotiation, mediation).*

**6. The CPT recommends that it be reiterated to staff at Prisons no. 13 in Chişinău and no. 18 in Brăneşti that verbal abuse of persons held in prison is not acceptable and will be the subject of appropriate sanctions (see paragraph 17).**

In the Penitentiary No.13 in Chisinau, no cases were reported and/or no official investigations were initiated regarding the employees on the bases of alleged verbal abuse of the detained persons. During the professional training sessions with the employees of the Penitentiary No.13 in Chisinau, the provisions of the Code of Ethics of the civil servant with special status in the penitentiary administration system, the provisions of the Statute of executing the sentence by convicts, approved by Government Decision No.583/2006, were studied, and they were also warned not to admit during the exercise of their duties the cases of verbal abuse of the persons detained in the penitentiary, otherwise they shall be subject to disciplinary liability.

The administration of the Penitentiary No.18 in Branesti declares zero tolerance regarding verbal abuse towards the inmates. During the professional training hours, training sessions for day shifts and operative groups, the employees of the institution and those directly involved in daily work, are warned about the non-admission of abuses, acts of torture, irregular relationships, acts of corruption, initiating and provoking artificial conflicts with inmates. Likewise, it should be noted that no notifications were registered from the convicts regarding verbal abuse admitted by the penitentiary employees.

*Further, the following are planned:*

- *Training of first line staff (incl. with external experts) on issues such as:*
  - *De-escalation of conflict situations;*
  - *Penitentiary intelligence techniques and tools, etc.*
  - *Working with people who have mental health problems and personality disorders;*
  - *Effective and assertive communication;*
- *Introducing methods to prevent the burn-out syndrome.*
- *Revising the mechanism for evaluating the performance of employees in order to include the behaviour towards convicted persons;*
- *Promoting changes to the Law No. 300, revising the sanctions and advancement criteria.*

### *Inter-prisoner violence*

**7. The CPT would like to receive information on the outcome of the investigation, including the overview of the criminal and disciplinary sanctions imposed on the perpetrators if any, and any other action taken to prevent such incidents in the future (see paragraph 20).**

The criminal case started on the fact of the altercations from 05.02.2021 (the Penitentiary no.18 in Branesti) was handled by the Criminal Investigation Section of the Orhei Police Inspectorate, which later forwarded the criminal casefile, according to the Criminal Procedure Code of the Republic of Moldova, to the Prosecutor's Office of Orhei for verification and further submitting in the court.

According to the judicial expertise reports, insignificant bodily injuries were caused to the convicts Mr. B, Mr. C, Mr. D, Mr. E, Mr. F Mr. G, Mr. H, Mr. I and Mr. J; light bodily injuries were caused to the convicts Mr. K, Mr. L and Mr. M; according to the forensic expert report No.202125D0019 from 12.02.2021, serious bodily injury was caused to the convict Mr. N in form of closed thoracic trauma, hemopneumothorax on left side (300 ml), fractures of posterior costal arches VIII-IX on the left scapular line with minimal displacement of fragments, branched linear fracture of the right scapula without displacement of fragments, massive hematoma in the region of the right shoulder, massive bruises on the posterior chest; and other convicts had physical pain.

On 21.10.2021, the convicts Mr. O, Mr. P, Mr. Q and Mr. R were charged with committing the offense stipulated under Article 151 paragraph (2) letter d) of the Criminal Code. On 30.06.2022, the criminal case No.2021270066 was sent with an indictment to the court and, currently, it is at the stage of judicial investigation.

Regarding the elucidation of all the factors and circumstances that had a negative influence and had made the altercation between the convicts possible, the identification of deviations from the legal provisions of the actions made by the employees of the Penitentiary No.18 in Branesti, a service inquiry was initiated by the NAP under the provisions of the Order No. 600 of 16.12.2021 "for the approval of the Instruction on the manner of carrying out the service inquiries within the penitentiary administration system", as a result of which the employees who admitted misconduct were disciplinary sanctioned, according to the legal provisions. The administration of the institution undertakes all measures provided by law to enforce the compliance by all convicts in the institution's custody of the detention regime and to ensure safety measures for both convicts and employees.

*Further, the following are planned:*

- *The institutionalization and digitization of the new instrument for assessing the risks and needs of convicted persons (IERN<sup>3</sup>);*
- *Providing the necessary medical and psychological assistance to vulnerable detainees;*
- *Providing with psychiatrists, including training of prison staff in assessing the risk of developing self-harming behaviour.*

**8. The CPT would like to receive information on the outcome of the forensic medical examination, including a copy of the autopsy report, and the steps subsequently taken, if any, to investigate the case or any other follow up given to the case (see paragraph 22).**

During the medical forensic autopsy of the citizen Mr. S, whose death occurred on 18.11.2022 in the Penitentiary No.13 in Chisinau, the following were found: hyperplasia of the thyroid gland, bilateral purulent bronchopneumonia, bilateral hydrothorax, atherosclerotic atherosclerosis, hepatic dystrophy, exophthalmia. During the medical forensic examination of the corpse, the following were found: closed traumatic brain injury (cranio-cerebral trauma) with contusion wound in the parietal region on the left side (clinical), haemorrhages in the pericranial soft tissues in the parieto-temporal region on the left, haemorrhages in the left temporal muscle, subdural hematoma bilateral

<sup>3</sup> A tool developed with the support of the CoE Office in Chisinau

hemispherical (total volume on the right about 50ml, on the left 40ml), parieto-temporal subarachnoid haemorrhages on the right, linear fracture of the temporal bone on the left, cerebral contusion of the temporal lobe on the right, subarachnoid haemorrhages in the bilateral hemispherical region, which has a vital character, was produced about 1-2 days (histologically) before death, by the traumatic action with blunt body(s) or/and when hit by it/them, has a causal connection with the death and qualifies as a serious injury (according to the criterion of danger to life); ecchymosis in the region of the medial malleolus on the right, which has a vital character, was produced by the traumatic action with a blunt object or/and when hit by it, it has no causal connection with the death, it qualifies as insignificant bodily injury. Based on the anatomical location, the mechanism of formation and the morphological character of the body lesions detected, it is possible to form them from a fall from the orthostatic position both with and without acceleration.

The death occurred about 12-14 hours before the medical forensic autopsy. In the medical record, some information is missing regarding the content of ethyl alcohol in the blood of the citizen S at the time of hospitalization. During the toxicological research in the blood sample presented from the dead body of Mr. S, no ethyl alcohol was detected. In the blood sample, presented from this corpse, the following were not detected: barbiturate acid derivatives, amphetamine derivatives, opium alkaloids, heroin, dionine, promedol, ephedrine, tricyclic antidepressants, methadone, cocaine, cannabinoids and synthetic cannabinoids (JWH-018, JWH-073). The determination of other synthetic cannabinoids was not possible due to the lack of standard reference substances. In the blood sample, presented from this corpse, the propofol and diazepam were detected, which were administered during hospitalization and are indicated in the patient's indication file.

According to the minutes of the on-site investigation from 18.11.2022, the lounge cell No.19, of the regime block No.3, of the Penitentiary No.13 in Chisinau, was searched, particularly: the place from where, according to the statements of the inmates from that cell, Mr. S fell from the 2nd level of the bed, the height from which the victim was presumed to have fallen was established as being 1.51m. By the research minutes from 02.03.2023, the video images from 15.11.2022 were researched, captured in the time between 18.57.55-18.59.00, presented by the Penitentiary No.13 in Chisinau, in the images being visualized the inmates from the lounge cell No.19, including Mr. S, who was moving with difficulty and was staggering. Being heard on the side of the forensic report, the forensic expert reported that, during the medical forensic autopsy, the closed cranio-cerebral trauma was detected at Mr. S, and, based on the morphological character of the trauma, it is possible that it was produced as result of falling from a height of 1.5 m.

When the witnesses to the incident (the fellow inmates) were interviewed, it was found that Mr. S had no conflicts with the prison administration or fellow inmates, he was sick, he felt bad, and on the night of 15.11.2022 they were woken up by a noise and found that Mr. S fell from the bunk bed. Since within the criminal process no pertinent and conclusive evidence were established such as that the death of Mr. S was determined by some act of violence or other actions that could possibly be qualified based on a provision from the special part of the Criminal Code, on 29.05.2023 the decision to refuse to start the criminal investigation and to close the criminal process was adopted.

**9. The Committee recommends that the Moldovan authorities take the necessary steps to ensure that the prosecutor's decisions on whether to open a formal investigation into cases of reported injuries are duly reasoned and always based on a rigorous examination of the evidence gathered. Further, the Committee considers that the prosecutor's office should systematically inform the prison concerned as regards the outcome of such cases (see paragraph 23).**

The prosecutor responsible for investigating the cases of torture, inhuman or degrading treatment, on the basis of the complaints through which such facts are reported, proceeds to the immediate examination of the information according to the Criminal Procedure Code, performing in the shortest possible time all the necessary actions to investigate the complained circumstances, identifying and punishing the guilty persons.

The General Prosecutor's Office, through the Anti-Torture Section, ensures control over investigations based on Art.274 of the Criminal Procedure Code on cases of alleged ill-treatment, provides methodical assistance to prosecutors from territorial and specialized prosecutor's offices in the process of examining notifications/complaints about crimes and exercise of criminal prosecution.

On the platform of the General Prosecutor's Office, an inter-institutional working group for the prevention of torture was created, which includes: Ministry of Justice, NAP, Ministry of Internal Affairs, Ministry of Health, Ministry of Education, Promo-LEX, IDOM and the Ombudsman. During the last meeting in September, the Ministry of Justice proposed a mechanism for more effective collaboration between state bodies regarding the case management.

Within this group, it was agreed on drafting of a circular, in the near future, through which the prosecutors will be informed about the need to inform the public authorities about starting investigations regarding their employee and about the decisions adopted on the case, at the same time, reminding them about the importance of starting promptly the investigations under the Art.274 of the Criminal Procedure Code when alleged ill-treatment is complained of, including in cases where bodily injuries are found on persons in state custody.

The administration of the penitentiary institutions analyses all the decisions received by the prosecutor's office sent to the penitentiaries, also on each case of bodily injury, the service inquiries are carried out for the purposes of revealing all the factors that led to the appearance of bodily injuries, and all the evidence being managed on each individual case.

Following the amendments to the Criminal Procedure Code promoted by the Ministry of Justice, which came into force recently, prosecutors will be able to initiate criminal proceedings in the absence of a detainee's complaint. Thus, in article 276 (the initiation of criminal prosecution based on the victim's complaint), a new paragraph was introduced with the following content:

"<sup>(12)</sup> The criminal prosecution shall start in the absence of the victim's complaint if the offense provided for in Art.152 para. (1) or in Art.155 of the Criminal Code No.985/2002 was committed in places of detention."

*Further, the following are planned:*

- *More frequent monitoring and analysis of cases about reported injury and damage;*
- *Conceptualization of a mechanism for prompt reporting, in digital form, to the prosecutor about injury cases;*
- *Cooperation with law enforcement bodies and institutions in order to detect employees involved in acts of violence, corruption and in facilitating illegal acts, and also in order to make special investigative measures more efficient.*

**10. The CPT once again calls upon the Moldovan authorities to take resolute action, without further delay, to tackle the phenomenon of informal prisoner hierarchy and to prevent inter-prisoner violence and intimidation throughout the prison system. To this end, the Moldovan authorities should put in place a clear holistic strategy, with timelines for its implementation which should include the following steps:**

- putting an end to the practice of using informal prison leaders to maintain good order in prison; segregating the informal leaders and their close circle from the rest of the prison population, on the basis of a proper individual risk and needs assessment, as foreseen in the concept of the progressive system of enforcement of imprisonment sentences referred to in paragraph 13, will facilitate these efforts;
- depriving informal prison leaders and their close circles of the privileges which other prisoners do not enjoy, including as regards material conditions;
- depriving informal prison leaders of the possibility to access persons newly admitted to prison and perform their “caste designation”; in this context, it should be reiterated to prison staff that any staff member facilitating such contacts will be sanctioned;
- setting up effective recruitment and training for prison staff and ensuring continuous staff supervision (including at night) in detention areas. This will require significantly increasing the number of custodial staff. Steps should also be taken to abolish the 24-shift pattern for custodial staff;
- providing prisoner accommodation based on smaller living units;
- putting in place a system of appropriate risk and needs assessment, classification and allocation of individual persons held in prison with a view to ensuring that they are not exposed to other prisoners who may cause them harm (duly taking into account the risk certain persons held in prison may pose to other inmates by promoting or imposing the informal prisoner hierarchy);
- in particular, steps should be taken to ensure the management’s full support for persons who are exposed to a particular risk of abuse by other persons held in prison (including persons accused or convicted of sex offences, LGBTQI+ persons, persons with mental health problems or illicit drug use) and those who do not (or no longer) wish to be involved in the informal prisoner hierarchy, including, if they so request, by being accommodated in separate living units (established to this end), ensuring adequate material conditions and regime, and the necessary supervision by staff.

The Committee would like to receive a copy of the strategy and be informed regularly, every six months, about the concrete measures taken to implement it and the results achieved. Further, the Committee would like to be informed of the implementation of the plans to establish separate living units for persons requesting protection under Section 206 of the Enforcement Code, including as regards the concrete establishments in which these units have been or are planned to be set up (see paragraph 36).

The Ministry of Justice admits the need to develop a strategic document to guide the interventions of the authorities in order to combat this phenomenon deeply rooted in the penitentiaries of the Republic of Moldova. In accordance with Governmental Decision No. 386/2020, the policy documents are the Strategy and the program. The strategy is a public policy document that defines and plans the Government's long-term public policy (6-10 years) in one or several areas of the Government's activity, established according to the Law no.136/2017 on Government. The program is a medium-term public policy document (3-5 years), which derives from the strategy and, respectively, contributes to its implementation by detailing and concretizing the actions to be carried out in a field or subfield of activity. Therefore, to address this problem specific to penitentiaries, a program cannot currently be developed, since it is not foreseen or indicated in any strategy.

However, the Strategy on ensuring the independence and integrity of the justice sector for the years 2022–2025 provides as a priority the implementation of the progressive system of

punishment execution<sup>4</sup>. After the promotion of the draft law on the amendment of the criminal-execution legislation (setting up progressive regimes), the Ministry of Justice will develop an implementation program (adaptation of the infrastructure, reorganization of personnel, establishing the risk assessment unit, etc.) of the new execution system.

Additionally, reducing the phenomenon of organized crime in penitentiaries is one of the specific objectives of the Crime Prevention and Combating Program for the years 2022-2025 approved by the Government through its Decision No.948 of 28.12.2022.

The Ministry of Justice evaluated the degree of fulfilling the recommendations from the Baseline Study into criminal subculture in prisons of the Republic of Moldova commissioned by CoE Chisinau office in 2018<sup>5</sup>. Thus, only 20% of the recommendations were implemented. Based on the recommendations of the study and a security audit carried out until the end of 2023, a roadmap for reducing the informal hierarchy will be approved by the Ministry of Justice, which also includes interventions according to the steps recommended in paragraph 36 of the CPT Report. The document is currently undergoing final internal consultations and will be provided for CPT consideration additionally, when reporting on a six-monthly basis, as requested by CPT.

### *Detention according to Art.206 of the Execution Code*

**11. With regard to the situation of persons detained pursuant to Art.206 of the Execution Code, the Committee recommends that the Moldovan authorities take steps to ensure that:**

- **every person newly admitted to prison is properly informed by staff, including in writing, of the possibility to request measures under Section 206 of the Enforcement Code;**
- **all requests for measures under Section 206 are treated as confidential by staff, in line with the relevant legislation; in this context, it should be reiterated to prison staff that revealing such information or enabling access of informal leaders or their close circles to persons requesting this measure is unacceptable and that any staff member doing so will be sanctioned accordingly;**
- **persons held in prison are not discouraged by staff from requesting such measures and are under no circumstances threatened by staff that they will be placed in the general prison population as an informal punishment for having exercised their right to complain to staff;**
- **acts of self-harm are no longer subjected to disciplinary punishment in prisons (and do not negatively influence the possibility of an early release from prison) and self-harming persons are not requested to pay for the healthcare provided to them. (see paragraph 37).**

Employees are warned about taking measures to ensure the personal security of inmates when problems related to the abuse of certain categories of inmates are reported. At the stage of receiving and assigning detainees in penitentiary or criminal detention cell, as a rule, the legal rules for separating detainees according to Art.205, Art.206 and Art.309 of the Execution Code are followed. According to the NAP Order No.369 of 23.07.2021 regarding the approval of the informative program for adaptation to the prison environment for newly arrived inmates, upon arrival at the institution, inmates are informed against their signature in the language they know regarding their rights, obligations and prohibitions, observance of general rules of behaviour during the detention based on a minutes, which is attached to the personal file. At the same time, they are informed about the right to personal security

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<sup>4</sup> Law No. 211/2021 on approving the Strategy on ensuring the independence and integrity of the justice sector for the period 2022- 2025 and the Action Plan to implement the Strategy, available in Romanian at the following link:

[https://www.legis.md/cautare/getResults?doc\\_id=129241&lang=ro](https://www.legis.md/cautare/getResults?doc_id=129241&lang=ro)

<sup>5</sup>Baseline study into Criminal Subculture in Prisons in the Republic of Moldova [4 Study EN.indd \(coe.int\)](#)

and are informed with notification about the provisions of Art.10 of the Law No.50/2012 on preventing and combating the crime (annex to NAP Order No.16 of 11.03.2021). The requests submitted by detainees pursuant to Art.206 of the Execution Code are treated confidentially by employees.

Self-harming acts committed by detainees are examined according to the procedure approved by the Regulation on the manner and conditions of applying disciplinary sanctions, incentive measures and keeping records in the disciplinary procedure, approved by NAP Order No.551 of 24.12.2020, taking into account the individualization of disciplinary liability.

Prisoners who have committed self-mutilation are medically examined in the Medical Ward in privacy. In the medical examination report, the reason for the self-mutilation is indicated, if the detainee provides this information and requests it at his own will. Appropriate medical assistance is provided, documented by photography, as appropriate.

*Further, the following are planned:*

- Improving the material and enforcement conditions for persons separated for personal protection according to Art.206 of the Execution Code;
- Ensuring the confidentiality of all demands/requests submitted by convicts regarding the separate detention pursuant to Art.206 of the Execution Code;
- Developing an instruction on informing inmates newly arrived in the penitentiary regarding the rights, obligations and prohibitions during the execution of the sentence, including provisions on the possibility of requesting security measures, pursuant to Art.206 of the Execution Code;
- Ensuring the confidentiality of all demands/requests submitted by convicts regarding the request for separated detention pursuant to Art.206 of the Execution Code;
- Warning the employees regarding the inadmissibility of threats or pressure regarding the convicts who request separate detention pursuant to Art.206 of the Execution Code;
- Intensifying the implementation of group activities with the involvement of convicts who request separate detention under Art.206 of the Execution Code;
- Revising the sanctioning procedure following the amendments to the Execution Code that are being promoted in Parliament (adopted in first reading).

**12. The CPT recommends that the Moldovan authorities continue their efforts to ensure that former disciplinary isolators are not used for accommodation of persons segregated under Section 206 of the Enforcement Code. The CPT recommends that the Moldovan authorities take urgent steps to ensure that the accommodation areas for these persons have sufficient capacity and provide adequate material conditions and regime, in particular:**

- every person accommodated in a multiple-occupancy cell should be provided at least 4 m<sup>2</sup> of living space (not counting the area taken by the in-cell sanitary facilities);
- in-cell sanitary facilities in multiple-occupancy cells should be fully partitioned;
- cells should enjoy good access to natural light (see paragraph 38).

The Ministry of Justice ordered an analysis of the categories and characteristics of persons detained according to Art.206 of the Execution Code, in order to identify the best solutions for relocation and transfer. According to the situation on 7.08.2023, 55% of the persons detained under Article 206 of the Execution Code (218 out of 400 persons) are detained in disciplinary isolation facilities, 90% referred to debts as grounds for separation.

The barrack-type cells constitute about 60% of the detention premises. However, convicts in prisons have daily access to the open air from waking up to lights-out, where they can do sports and physical

exercise during their free time. Gyms, an outdoor stadium and a covered stadium are set up in the penitentiaries.

*Further, the following are planned:*

→ *Transferring the persons detained according to Art.206 of the Execution Code to separate residential areas, with secure controlled access, with access to activities and open air (for disciplinary sanctioned persons), until the end of 2023.*

## Detention conditions

a. material conditions

**13. Until the new penitentiary becomes operational (see paragraph 12), the CPT once again recommends that the Moldovan authorities pursue their efforts to improve material conditions of detention in the current premises of Prison no. 13 in Chişinău. In particular, measures should be taken to ensure that:**

- **cell occupancy rates are reduced so that the cells provide at least 4 m<sup>2</sup> of living space per person in multiple-occupancy cells (not counting the area taken by the in-cell sanitary facilities);**
- **all cells are maintained in an adequate state of repair and hygiene and regular disinfestation of the premises is carried out;**
- **in-cell sanitary facilities in all multiple-occupancy cells are fully partitioned (that is, from floor to ceiling);**
- **narrow cells located in the basement of Block 2 are taken out of service as prisoner accommodation until they are enlarged and have adequate access to natural light. (see paragraph 39).**

Taking into account that Penitentiary No.13 in Chisinau is overcrowded, to ensure at least 4 m<sup>2</sup> of living space per person in the cell is difficult. During the current year, current and necessary capital repairs were carried out in about 188 cells, of which 104 cells were completely repaired and 84 cells were currently repaired. Carrying out the capital repair works consists in changing the windows, bars, separating the sanitary block by a wall up to the ceiling and installing the PVC doors, plastering the walls, ceiling and floor, laying out the engineering networks (electricity, sewerage, aqueduct and heat supply) and furnishing with new furniture. Carrying out current repair works consists of plastering the walls, ceiling and floor, repairing or laying engineering networks (electricity, sewerage and aqueduct), etc.

The employees of the Medical Ward and of the Logistics and Administration Section permanently check the sanitary-hygienic condition of the premises and measures are taken to maintain hygiene in the penitentiary, but the inmates also have their rights and obligations provided for in the criminal execution legislation, which stipulates that the convict is obliged to comply with the sanitary-hygienic rules and personal hygiene, to have a neat exterior, to properly maintain the goods provided by the prison administration and to permanently maintain cleanliness in the detention premises.

It should be noted that, within the institution during the period 01.01.2019-01.07.2023, 454 cases of damaging or non-returning the institution's assets were registered in a total amount of 279,406.49 lei. On those cases, the damage assessment documents were drawn up and the necessary materials were submitted for recovering the damage caused. Annually, the Penitentiary No.13 in Chisinau concludes a contract for the provision of deratisation and disinsection (pest control) services with the specialised economic agents, who provide these kind of services periodically and as needed.

*Further, the following are planned:*

- *Drawing up a plan regarding the modernization of penitentiary institutions in accordance with establishing differentiated security levels and progressive execution regimes;*
- *Compartmentalization of detention premises with a capacity higher than 15 places in spaces with lower capacity.*

**14. The CPT recommends that the Moldovan authorities take steps to ensure that, at Prison no. 4 in Cricova and Prison no. 18 in Brănești:**

- **every person held in a multiple-occupancy cell/dormitory is provided at least 4 m<sup>2</sup> of living space (not counting the area taken by the in-cell sanitary facilities, where applicable); persons held in prison should be fairly distributed throughout the available accommodation (see paragraph 43);**
- **cells and dormitories are kept in an adequate state of repair and are clean, suitably equipped and sufficiently lit. (see paragraph 40)**

Cells and premises in the Penitentiary No.4 in Cricova are arranged according to the minimum standards, and the cosmetic and current repairs are carried out if necessary. Once every three months, the entire penitentiary is subject to deratisation and disinsection (pestcontrol), and even more often if necessary. The staff of the Safety and Penitentiary Regime Section, together with the employees of the competent sections/services, regularly review the detention facilities of the detainees in the penitentiary, for providing the right accommodation, ensuring equal detention space and conditions for all detainees, including for the "humiliated" category. At the same time, during the distribution of newly arrived detainees in the penitentiary, care is taken to avoid overcrowding of convicts throughout the housing sectors and their uniform distribution throughout detention sections.

The distribution of the inmates in the available accommodation spaces takes place according to the Order No.38 from 31.05.2023 "on setting up the detention sectors and numbering the detention premises with the assignment of a unique number at the institution level within the Penitentiary No.18 in Branesti". The administration of the institution monitors this process and sanctions, as appropriate, the convicts who decide by their own to leave the place of residence indicated by the administration and to move to another housing sector without announcing and requesting this from the decision-makers, according to the legal provisions. Each person detained in a large-capacity cell is entitled to at least 4 m<sup>2</sup> of living space (not counting the area for sanitary facilities in the cells, where applicable).

Also, all the cells are cosmetically repaired every year, they have natural lighting, provided by PVC windows, according to the established norms, and artificial lighting, provided by lighting fixtures connected to the 220 V network.

*Further, the following are planned:*

- *Drawing up a plan regarding the modernization of penitentiary institutions in accordance with establishing differentiated security levels and progressive execution regimes;*
- *Compartmentalization of detention premises with a capacity higher than 15 places in spaces with lower capacity.*

**15. The CPT recommends that the Moldovan authorities take steps, without further delay, to ensure that communal toilet facilities at Prisons no. 4 in Cricova and no. 18 in Brănești are cleaned, refurbished and maintained in an adequate state of repair and hygiene (see paragraph 41).**

The common bathroom in the Penitentiary No.4 in Cricova underwent capital repair in 2021. The sanitary blocks (common toilets) in the institution in all three housing areas underwent capital repair and are currently maintained in adequate condition. In the Penitentiary No.18 in Branesti, the necessary measures are planned to be taken to remedy the sanitary condition of the common toilets by the end of 2023.

**16. The CPT recommends that the Moldovan authorities take steps to ensure that all persons held in prison are treated equally and benefit from similar material conditions (see paragraph 42).**

In all penitentiary institutions, actions regarding the revision of the detention facilities are constantly undertaken to ensure equal accommodation and detention conditions for all detainees. Detainees are also regularly informed about the restriction to change their place and/or sector of residence without notifying the administration and receiving permission from it.

At the same time, during the distribution of newly arrived inmates in the penitentiary, care is taken to avoid overcrowding of convicts throughout the housing sectors and their uniform distribution throughout housing sections. Measures are taken regularly to keep the housing cells and sections in good sanitary condition. Cells that require repair are included in the work plan, and upon purchase or receipt of construction materials, the repair is initiated.

**17. The CPT reiterates its recommendation that steps be taken in the prisons visited (and, as appropriate, in other prisons in Moldova) to ensure that incarcerated persons are provided free of charge with adequate quantities of essential personal hygiene products (including sanitary towels for women) and cleaning product (see paragraph 43).**

Every month, all convicts are provided free of charge with personal hygiene, toilet and cleaning products according to the minimum norms established in the Government Decision No. 609 of 29.05.2006 (Annex No.7 to the Decision). Likewise, penitentiary institutions also frequently benefit from donations in the form of clothing, toiletry and housekeeping products that are taken record of and distributed in addition to those provided for by legislation according to the need and season.

*b. regime*

**18. The CPT recommends that the Moldovan authorities take immediate steps to ensure that the prisoner in a wheelchair held at Prison no. 18 in Brănești, as well any other prisoner in a wheelchair in any other prison, is held in conditions which enable them to uphold their dignity, in particular to access the toilet and shower, as well as to move in and out of their dormitory, autonomously (see paragraph 44).**

Urgent measures are being taken in the Penitentiary No.18 in Branesti, a room has been identified where repair and re-equipping work has started, to create living conditions for convicts with special needs, especially with locomotor deficiencies. The room will be equipped with a toilet and shower adapted for people who use wheelchair.

*Further, the following are planned:*

→ *The construction of a slope that will facilitate access for people using wheelchair in that room. The room will be put into operation at the end of the current year.*

**19. The CPT notes with interest these plans and would like to be informed of the adoption of the new legislation and its implementation (see paragraph 45).**

Currently, the consultation and opinion gathering process on the draft law regarding the involvement of convicts in the labour activity is taking place. The time for enforcing it is extended until obtaining positive opinions from all competent institutions.

*Further, the following are planned:*

- *Drawing up portfolios at the level of each penitentiary institution, which include the number of convicts who can be involved in labour activities, the area and number of rooms that can be given in tenancy, the specific fields where the inmates can be involved);*
- *Covering on the [anp.gov.md](http://anp.gov.md) page and in mass media outlets the relevant information regarding the legal facilities that economic agents that use the labour force from among detainees can benefit from;*
- *Identification of all normative acts that need to be modified;*
- *Establishing a working group for drawing up the draft law for facilitating the jobs;*
- *Drawing up the draft law "for facilitating the jobs";*
- *To study the possibility of creating divided sectors for convicts involved in remunerated work;*
- *Carrying out the works for separating the identified sectors.*

**19. The Committee trusts that the imperative to provide all incarcerated persons, including those held on remand, with a programme of meaningful out-of-cell activities of varied nature will be duly taken into account in the planning and construction phase of the new facility. In the meantime, the Committee recommends that the Moldovan authorities explore ways in which persons held on remand at Prison no. 13 in Chişinău could at least be offered more out-of-cell time, for example within their respective units (see paragraph 47).**

It is important to mention that the major structural deficiencies of the Penitentiary no.13 in Chisinau (lack of rooms specially designed for carrying out activities and programs, high fluctuation of inmates - create impediments in ensuring the continuity of educational activities, the lack of staff with supervisory, guarding and safety duties, but also overcrowding) makes it impossible to secure and engage the inmates in a special program outside the cell. The institution has the status of a criminal detention centre, and the detainees are detained in common cells, in compliance with the main requirements of the detention regime regarding the isolation, guarding and permanent supervision of detainees, as well as the rules of separate detention.

In relation to the submitted recommendation, the management of the penitentiary institution intervened with a series of measures in order to expand the activity program outside the cell as follows:

- Extending the time allowed for daily walks by an additional hour;
- Intensification of identifying and training of detainees for remunerated/unremunerated work;
- Increasing the number of detainees involved in resocialization activities (educational, psychosocial and moral-spiritual).

**20. The CPT would like to receive confirmation that all juveniles held on remand at Prison no. 13 in Chişinău have now been transferred to Goian Juvenile Prison (see paragraph 48).**

During 2023, all juvenile detainees were transferred to the Penitentiary No.10 in Goian, for further detention/execution of the criminal sentence. Currently, in the Penitentiary No.13 in Chisinau, there are no detainees who have not reached the age of majority.

**21. The CPT recommends that the Moldovan authorities redouble their efforts to increase the number of persons held at Prisons no. 4 in Cricova and 18 in Brănești in organised activities. The aim should be to ensure that all persons held in prison (including those on remand) spend a reasonable part of the day (that is, eight hours or more) outside their cells and have equitable access to purposeful activities of a varied nature, such as work (preferably with vocational value), education, sport and recreation/association (see paragraph 49).**

In the Penitentiary No.4 in Cricova every convict has the opportunity to participate in resocialization programs and educational activities, taking into account the offer of programs carried out in the institution. It was planned to participate during the year in the informative Program for adaptation to the penitentiary environment for newly arrived detainees, the "Active Citizenship" Program, the informative Program for getting involved in working activities, the Professional Training Program and the "Literacy" Program.

Additionally, according to the program offer, convicts can participate in the Artistic Creation Program and in the "Pro-sport" Program. Within the Technical Vocational School 80 convicts were enrolled in the studying process for the specialties: electric welder for manual welding, construction electrician, locksmith, sanitary technician and tiler.

Also, cultural measures were carried out with the involvement of convicts from different housing sectors. People who are detained for personal security, according to Art.206 of the Execution Code, were involved in sports activities and programs in 13 educational activities.

In the Penitentiary No.18 in Branesti measures are being taken with the aim of motivating and involving as many inmates as possible in work education activities and in recreational sports activities.

*Further, the following are planned:*

- *Encouraging the business circles to get involved in creating jobs with the involvement of convicts by facilitating access to the resources of the penitentiary administration system;*
- *Estimating the need for professional training in relation to labour demand.*

## Healthcare services

**22. The CPT recommends that the Moldovan authorities take steps to ensure that the vacant posts of a TB specialist, a nurse and a laboratory worker at Prison no. 13 in Chișinău are filled. Further, the CPT once again recommends that the number of nurses be increased (see paragraph 51).**

The Medical ward in the Penitentiary No.13 in Chisinau has senior and middle medical staff: civil servants with special status (12 positions: 1 head of ward, 4 main officer positions: 2 doctors in general medicine; 1 psychiatrist doctor; 1 physiologist doctor; 7 medical assistants positions, main agent. At the moment, 10 positions are filled, 1 is vacant: main officer, doctor in general medicine) as well as contractual medical staff (14 positions: 1 salary for internist; 0.5 salary for dentist, gynaecologist, ophthalmologist, dermatovenerologist, radiologist, pharmacist, radiologist technician, 3 medical assistants positions, laboratory assistant - 1.5 salary).

The prison administration makes every effort for the employment of a phthisiatric doctor (phthisiopneumology), by publishing in the media outlets, including on the official page NAP –

<https://www.anp.gov.md> the announcements about holding the contest for filling the public position with special status.

The human resources department organizes and regularly conducts contests for the filling the medical specific positions. In order to motivate the existing medical staff, but also to attract new specialists, the Annex 6 of the Law No.270/2018 on salaries was amended, specifically: the salary classes for public positions with special status with duties in the medical field in the NAP, in penitentiary institutions and subordinate subdivisions are increased compared to those established in the table, as follows:

- by 3 successive classes – for management positions with special status;
- by 6 successive classes – for execution positions with special status.

**23. The CPT recommends that the Moldovan authorities give the highest priority to filling the vacant posts of general practitioners at Prisons no. 4 in Cricova and no. 18 in Brănești. As an immediate measure, consideration should be given to ensuring a regular presence of a GP in the establishments in cooperation with the local hospitals. Further, steps should be taken to fill the vacant posts of nurses in both establishments and the posts of a psychiatrist and a pharmacist at Prison no. 18 in Brănești (see paragraph 52).**

In the Penitentiary No.4 in Cricova the position of therapist (doctor in general medicine) is monthly put up for contest, but no candidates are identified. That position has been vacant since 2014.

According to the NAP Order No.324 of 20.06.2022 regarding the modification of the Order of the National Administration of Penitentiaries No.441 of 31.12.2019 regarding the approval of the staff of the Penitentiary No.18 in Branesti, the position of doctor (in general medicine) of the Medical Ward, due to its vacancy for a long period (more than 3 consecutive years), was reduced, and the position of Specialist for moral and spiritual education of the Social Reintegration Section was established. Periodically, the positions of principal agent, medical assistant/nurse of the Medical Ward and the head of the Medical Ward are put up for contest, but no application for participation in the contest has been submitted. The main reasons for the refusal are the low salaries compared to the activity in the medical sector in civil institutions, the geographical location, the lack of public transport in Branesti village where the penitentiary institution is located and the risks to which they are subjected arising from the specifics of the activity that involves daily interaction with persons deprived of liberty.

The Human Resources Department organizes and conducts contests for filling vacant public positions with special status, including in the medical field, based on the demarches from the heads of subordinate institutions. And the modification or completion of the staff in medical wards within the institutions is carried out when necessary and in coordination with the head of the Medical Directorate of the NAP. Thus, on the basis of the demarche, the proper changes are made (pt.3 provides it in detailed way).

**24. The CPT requests information on the recruitment of medical staff and the outcome of the Ministry of Justice's consultations with the Ministry of Health on this issue (allocation of USMF graduates) (see paragraph 53).**

The draft for the modification of some Government Decisions (regarding the mechanism for assigning medical personnel to public authorities that have medical services under their subordination) was developed. At the same time, through letter No.03/5279 of 20.06.2023 it was sent for prior coordination to the relevant institutions. The draft is to be finalized after receiving the opinions.

Also, a request was sent to the Ministry of Health regarding the urgent need to fill vacant positions within the penitentiary administration system with medical personnel. Thus, after completing the residency

studies, 2 young specialists were assigned for employment in the vacant positions within the penitentiary institutions, notably, a psychiatrist and a laboratory doctor.

**25. The CPT recommends that the shortcomings be remedied: ensuring the functioning of the defibrillators in the Penitentiary no.13 in Chisinau and in the Penitentiary no.18 in Branesti; lack of oxygen equipment in all 3 visited institutions (see paragraph 54).**

Currently the Penitentiary No.4 in Cricova has a functional oxygen device. The medical ward of the Penitentiary No.13 in Chisinau is making use of an automatic defibrillator, which is at the disposal of all the medical staff in the institution. It also has an oxygen concentrator (powered by a 220 V power source) and 100 sterile oxygen masks. The ward does not have portable medical oxygen cylinders.

At the time of the CPT's visit to the Penitentiary No.18 in Branesti, the defibrillator's battery had not been connected to a power source for a long time, for this reason it was not possible to connect the device. At the moment it is functional. In the same way, the medical ward is equipped with a set of functional AMBU Bag for artificial ventilation until the arrival of the emergency crew.

**26. The CPT recommends once again that the Moldovan authorities take the necessary steps (including through the issuance of instructions and the provision of training to relevant staff) to ensure in the three prisons visited and, as appropriate, in other prisons in the country that:**

- **the record drawn up after the medical examination of a person held in prison contains: (i) a full account of objective medical findings based on a thorough examination, (ii) an account of statements made by the person which are relevant to the medical examination (including their description of their state of health and any allegations of ill-treatment), and (iii) the healthcare professional's observations in the light of (i) and (ii), indicating the consistency between any allegations of ill-treatment made and the objective medical findings. The record should also contain the results of additional examinations performed, detailed conclusions of specialised consultations and a description of treatment given for injuries and of any further procedures performed;**
- **any traumatic injuries observed in the course of medical examination are photographed in detail and that the photographs are kept, together with the "body charts", in the person's individual medical file;**
- **the results of every examination, including the above-mentioned statements and the healthcare professional's conclusions, are made available to the person concerned and, upon their request, to their lawyer (see paragraph 56).**

Each detainee has an Individual Medical File-record in which all medical examinations carried out during the entire period of detention in the penitentiary are stipulated. This file also includes the reports of the medical examinations regarding the bodily injuries of the inmates and the photo table of the bodily injuries, treatment and post-trauma monitoring. Upon the detainee's request, a medical extract with the diagnoses from the Individual Medical File is issued.

Upon entering the penitentiary, newly arrived persons undergo a primary medical examination by the medical staff, with an entry in the personal medical file (card/record).

The medical file includes the identity data of the person examined, the address, and the date of the examination. Objective and subjective data are entered in the medical file, under the standard printed headings: height, weight, blood type, morbid/allergic anamnesis, communicable diseases suffered. The primary examination includes: accusations, anamnesis, general state of organs and systems, diagnosis.

Following the primary medical examination, the medical staff, based on a presumptive medical conclusion, proposes recommendations.

Following the medical examination, the medical staff, in the presence of the examined person, draws up a medical act "Medical examination for bodily injuries". The act includes: identity data of the examined person, type of examination, examination conditions, as well as detailed examination data: history of the injury, patient's accusations, general state of the organs and systems, characteristics of the injuries, location with description of the affected localis status, medical conclusion, medical assistance as well as medical recommendations. Map of the human body with front and back views, for marking the locations of lesions. Confidential Questionnaire with Indexes on alleged acts of torture. The data of the medical staff who drew up the act, the date and time of drawing it up. The last page contains the report to the director of the penitentiary regarding the examination of a person for bodily injuries. The act of medical examination for injuries is registered in a Log with serial number and is attached to the detainee's outpatient medical file-record.

All employees within the medical services are trained in the qualitative documentation of any traumatic injuries detected among the inmates with recording the photos and the detailed description of the injuries in the outpatient medical file.

**27. The CPT recommends that the Moldovan authorities take steps to ensure that opioid agonist therapy can be prescribed without delay upon admission to prison (see para.57).**

Persons arriving in prisons who are under substitution therapy are included in treatment without delay and benefit from the Methadone Substitution Pharmacotherapy Program and tab. Buprenorphine. The inmates are examined by the psychiatrist, and following the medical conclusion it is established whether they meet the requirements or there are truthful indications and recommendations for initiating the FTS with methadone. Detainees transferred from the Ministry of Health are immediately included in FTS with methadone with the dosage of taking equal to the one taken previously.

**28. The CPT calls upon the Moldovan authorities to ensure that, at Prison no. 13 in Chişinău, all medical examinations of persons held in prison (whether upon arrival or at a later stage) are conducted out of the hearing and – unless the healthcare professional concerned requests otherwise in a particular case – out of the sight of custodial staff. Further, steps should be taken at Prison no. 13 in Chişinău to enable persons held in prison to contact the healthcare service on a confidential basis, that is, without the requests being seen by non-healthcare staff. The dedicated letterboxes for requests for medical consultations should be managed directly by healthcare staff (see paragraph 58).**

The Penitentiary No.13 in Chisinau strictly complies with the provisions of Order of the Ministry of Justice No.343 of 29.12.2022 regarding the approval of the Regulation on the organization of medical assistance for detainees in penitentiary institutions, according to which detainees benefit from medical assistance in the volume established by the Single Program of mandatory insurance for medical assistance, in accordance with the legislation in force, whenever needed as well as on request. Medical assistance is provided in the medical ward of the penitentiary institution after prior registration and according to a schedule approved by the head of the penitentiary, except in cases of emergency (para. (2) and para. (3) Art.230 of the Execution Code). Medical examinations are carried out confidentially, except in cases where medical personnel request the presence of another non-medical person for personal security. In accordance with para.(4) Art.232 of the Execution Code, and the NAP Order No.32 of 22.01.2021 for the approval of the Regulation on ensuring the detainee's access to the services of a private doctor on his/her own account, detainees can also benefit from the medical services of a private doctor on their own account.

**29. The CPT recommends that the Moldovan authorities take steps to ensure that clothes worn by healthcare staff at Prison no. 13 in Chişinău are distinct from custodial staff uniforms, with a view to avoiding confusion about the respective roles of those two categories of staff and guaranteeing the perception of the professional independence of healthcare staff (see paragraph 59).**

Civil servants with special status from Penitentiary No.13 in Chisinau are equipped with service uniform based on the Government Decision No.945 of 17.11.2014 for the approval of the Regulation regarding the uniform and insignia of penitentiary system employees and the Norms regarding the endowment of penitentiary system personnel.

Following this recommendation, the medical personnel in all institutions are currently equipped with white coats, and during the service they have the obligation to wear the coat and badge, in order to avoid confusion and guarantee the perception of the professional independence of the medical staff.

**30. The CPT notes in this regard that the policy trend in Europe has favored prison healthcare services being placed, either to a great extent or entirely, under the responsibility of the Ministry of Health. In principle, the CPT supports this trend. In particular, it is convinced that a greater participation of health ministries in this area (including as regards recruitment of healthcare staff, their in-service training, evaluation of clinical practice, certification and inspection) will facilitate the provision of good quality healthcare for persons held in prison, as well as implementation of the general principle of the equivalence of healthcare in prison with that in the wider community (see paragraph 60).**

The Council of Europe responded to the request submitted by the Ministry of Justice for contracting the subject-matter experts for the purpose of studying the best models for organizing medical assistance for detainees, including the national context and identifying the optimal solution for the penitentiary system in the Republic of Moldova.

With reference to the recruitment of medical personnel, for the year 2022, in the penitentiary medical service, the Ministry of Health assigned 3 young medical specialists. Thus, the process of assigning young specialists to the penitentiary system was unblocked.

In order to motivate the existing medical staff, but also to attract new specialists, the Annex 6 of the Law No.270/2018 on salaries was amended, precisely: the salary classes for public positions with special status with attributions in the medical field in the National Administration of Penitentiaries, penitentiary institutions and subordinate subdivisions are raised compared to those established in the table, as follows:

- by 3 classes successively - for management positions with special status;
- by 6 classes successively - for execution position with special status.

During the year 2023, an infectious disease physician, main officer of the NAP Medical Directorate, on-call doctor and imaging doctor were employed in the Penitentiary No.16 in Pruncul.

For the purpose of continuous training, increasing the performance of medical personnel, continuous medical improvement courses were contracted in the amount of 278,968.0 MDL. During the year 2023, 13 nurses and 25 doctors benefited from continuous medical training courses.

On 12.06.2023, the Medical Ward of the Penitentiary No.4 in Cricova received an accreditation certificate valid until 17.11.2027, being the 14<sup>th</sup> outpatient medical ward that was medically accredited

by the National Health Evaluation Commission. Accreditation of medical wards demonstrates the efficiency, quality and equivalence of medical services provided to detainees.

*Further, the following are planned:*

- Identifying the possibility of separating vulnerable detainees, including LGBTQI+, sex offenders, those suffering from mental illness/learning difficulties or other vulnerabilities, to protect them from potential abuse by other detainees;*
- Providing the necessary medical and psychological assistance to inmates from among the identified vulnerable groups;*
- Providing psychiatrists, including training of prison staff in assessing the risk of developing self-harming behaviour.*